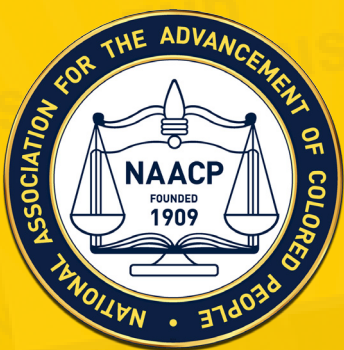


September 2014

BORN SUSPECT

Stop-and-Frisk Abuses & the Continued
Fight to End Racial Profiling in America

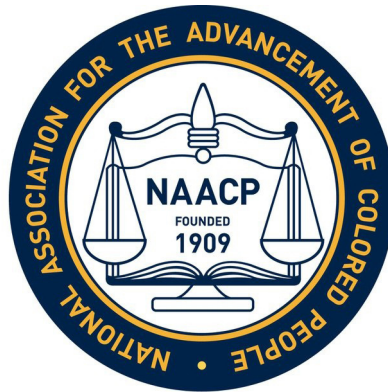


www.naacp.org

NAACP's groundbreaking report opens a renewed dialogue about racial profiling by law enforcement in America. This conversation includes a call to action for NAACP members to work toward ending this ineffective policing practice across the country.

BORN SUSPECT:

Stop-and-Frisk Abuses & the Continued Fight to End Racial Profiling in America



Cornell William Brooks
President and Chief Executive Officer

Roslyn M. Brock
Chairman, National Board of Directors

Barbara Bolling-Williams
Criminal Justice Committee Chairman, National Board of Directors
President, NAACP Indiana State Conference

September 2014

First Edition



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

4805 MT. HOPE DRIVE • BALTIMORE, MD 21215-3297 • (410) 580-5777

CORNELL WILLIAM BROOKS
President & Chief Executive Officer

ROSLYN M. BROCK
Chairman, Board of Directors

September 25, 2014

Dear NAACP Family and Supporters,

The NAACP is pleased to release “Born Suspect: Stop-and-Frisk Abuses & the Continued Fight to End Racial Profiling in America.” This report is an analysis of the fight to end racial profiling in New York and the potential for nationwide implementation of these efforts in every jurisdiction across the country.

The report highlights the need for more effective anti-profiling legislation in every state and at the federal level through passage of new policies or strengthening of existing legislation.

We ask you to review this report to gain a clearer understanding of the magnitude and impact of racial profiling in urban communities and to take decisive action to remove this pervasive discriminatory practice.

The report concludes with several important and valuable resources to help advocates build and manage campaigns to increase police accountability and enact community policing strategies that eliminates the practice of racial profiling by law enforcement.

The survival of our republic depends on our success. Our children deserve a future where they are not judged and stereotyped by their race, ethnicity, nationality, religion, gender, gender identity, or other inherent or immutable characteristics.

Thank you for your continued support of our efforts to end racial profiling, to create “a more perfect union” and a just society for all.

Sincerely,

Roslyn M. Brock
Chairman
NAACP National Board of Directors





NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

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CORNELL WILLIAM BROOKS
President & Chief Executive Officer

ROSLYN M. BROCK
Chairman, Board of Directors

September 25, 2014

Dear NAACP Members and Friends,

As we release this report, sweeping in analysis and prescription, calling for greater law enforcement accountability and an end to racial profiling, our communities mourn the loss of Eric Garner, Mike Brown and so many like them – unarmed people of color shot down and killed by those who have taken an oath to protect the public.

The overwhelming majority who take such an oath fulfill it with a sincerity and seriousness equaling the solemnity of responsibilities embodied in it. And yet widespread racial profiling by some narrows the freedom enjoyed by law-abiding citizens and communities of color, often cutting short the lives of those who are guilty of nothing more than being in the wrong place at the wrong time.

Racial profiling is a daily reality with often deadly consequences for communities of color, young people, the LGBT community and other minority groups in the U.S. And despite the constitutional guarantee of equal protection under the law, and even with continued police killings of unarmed people of color in recent years, this country lacks any meaningful policy banning racial profiling, and there exists little recourse for action for those victimized by this abusive practice.

The NAACP is pleased to release *Born Suspect: Stop-and-Frisk Abuses & the Continued Fight to End Racial Profiling in America*. Grounded in the Association's work to end stop-and-frisk abuses – by the New York State Conference, the National Office and other allied organizations involved in the campaign – the report provides a critical analysis of advocacy efforts, offering lessons learned and recommendations for advocates across the country. *Born Suspect* also contains a review of every state racial profiling law, breaking each down to better understand the law's effectiveness and to identify where improvements are needed. It is a travesty that in 2014, not one state in the United States has a law that can be hailed as a sufficiently strong model for effectively ending racial profiling. And Congress has yet to pass the federal End Racial Profiling Act (ERPA).

We ask you to use the resources provided in this report – including best practices, effective campaign strategies, and a model anti-racial profiling bill – to advocate for policy change both nationally, and on the state and local level. With your support we can help end racial profiling in America and bring the country in line with the basic human rights and constitutional standards of equality, justice and fairness.

Sincerely,

Cornell William Brooks, Esq.
President and CEO





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ROSLYN M. BROCK
Chairman, Board of Directors

V

September 25, 2014

Dear NAACP Family and Allies,

As Chairman of the Criminal Justice Committee of the NAACP National Board of Directors, I am honored to present *Born Suspect: Stop-and-Frisk & the Continued Fight to End Racial Profiling in America*. This report documents the NAACP's most recent efforts to end racial profiling and to work towards more effective policing practices.

As leaders of the nation's largest and oldest civil rights organizations, it is our goal to help end race-based discrimination, rooted in this nation's history of slavery and Jim Crow laws. An unfortunate and persistent reality of our history is the fact that people of color continue to be profiled and viewed as criminally suspect based on their race and ethnicity. And as we have witnessed throughout American history, particularly in the last several decades, this type of profiling can also be based on various other characteristics including (but not limited to) nationality, religion, gender, gender identity, sexual orientation, and housing status.

The NAACP believes that law enforcement officers have an important and noble role to play in every community across the country. And we appreciate the great work done by the majority of officers who uphold their commitment to equality and fairness. Yet, the prevalence of so many incidents of police brutality, police killings, and racial profiling—particularly of young men of color—serves to undermine the entire system of policing and damages the credibility of police work. Racial profiling further creates a deep divide between communities and law enforcement officers. It breeds mistrust, and ultimately leads to decreased public safety for all. Getting it wrong costs lives and the price is too high for us not to get this right.

Born Suspect highlights the work of the NAACP and its partners in fighting stop-and-frisk abuses in New York City. It offers best practices, lessons learned, and provides a number of important tools for advocates who want to take up the fight to eradicate racial profiling in their communities.

We hope you find this report useful and that you join us in working to end racial profiling at every level of American law enforcement.

Sincerely,

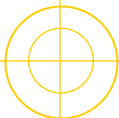
Barbara Bolling Williams

Barbara Bolling-Williams, Esq.

Chairman, Criminal Justice Committee, National Board of Directors

NAACP





Members of the Criminal Justice Committee of the NAACP National Board of Directors

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About the NAACP

Founded in 1909, the NAACP is the nation's oldest and largest civil rights organization. Its members and supporters throughout the United States and the world are premier advocates for civil rights in their communities. This army of democracy conducts voter mobilization and monitors equal opportunity in the public and private sectors.

About the Criminal Justice Program

Established in 2009, the NAACP National Criminal Justice Program works to ensure that justice is dispensed equally for all communities in America. We work to:

- End disproportionate incarceration, racial profiling and mandatory minimum sentences
- Remove employment barriers for people with criminal records
- End the death penalty, and
- Reduce the over-reliance on incarceration

This will not only ensure a reduction in the number of people going into prisons and jails, but also that all of our communities are safer.

Born Suspect Staff

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New York State Leadership

A very special thanks goes out to Dr. Hazel N. Dukes, NAACP New York State Conference President and member of the National Board of Directors, for her leadership and that of her team in fighting stop-and-frisk abuses and racial profiling in New York.

Acknowledgments

This report was made possible by the generous support of the Arcus Foundation and the Tides Funds for Fair and Just Policing.

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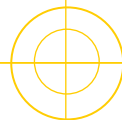
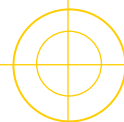
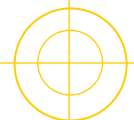


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Executive Summary

For more than a century the NAACP has been engaged in the fight for a more fair and effective system of policing in America. Indeed, the first case the Association took on after its inception in 1910 involved defending a sharecropper from an illegal police raid on his farm. And to date, there are more than a dozen national resolutions that emphasize the organization's commitment to advocate for greater law enforcement accountability. Yet, the recent death of young men of color, including Eric Garner in Staten Island, New York and Michael Brown in Ferguson, Missouri—both unarmed African American men—at the hands of police officers reveals that the battle for justice and accountability continues.

In 2012, following the death of teenager Trayvon Martin, and building on the renewed national conversation about racial profiling that ensued as a result of this tragedy, and also on the momentum of decades of advocacy to fight stop-and-frisk abuses in New York City, the NAACP helped leverage a successful collaborative campaign to pass anti-racial profiling and police accountability measures in New York City. In *Born Suspect*, the New York campaign is used as a framework to open a dialogue on racial profiling across the country. To do this, the NAACP conducted the most up-to-date analysis of state racial profiling laws, analyzing these policies to ascertain whether they include the necessary components to make these policies effective and enforceable. This analysis found that:

- 20 state laws do not explicitly prohibit racial profiling
- 30 states have some form of racial profiling laws on the books
- 17 state laws ban the use of pretextual traffic stops
- 16 states criminalize violations of their anti-profiling laws
- 3 states allow individuals to seek injunctive relief to stop officers or police departments from racial profiling
- 18 states require mandatory data collection for all stops and searches; 15 require analysis and publication of racial profiling data
- 18 states require the creation of commissions to review and respond to complaints of racial profiling
- No states meet all of the NAACP criteria of an effective racial profiling law

Born Suspect also focuses on successful efforts in passing legislation in the New York City Council to determine and recommend effective campaign building tools and strategy components for advocates across the country. These include:

- *Diverse and Strategic Coalition Building* that highlights the need for building a campaign collaboratively with all stakeholders and impacted communities
- *Grassroots Mobilizing and Advocacy* that speaks to the need for activating and empowering community members to serve as change agents
- *Grasstops Advocacy* that ensures strategic participation of high-level, well-recognized community leaders, public figures, and opinion makers
- *Legislative Advocacy* that highlights the need to connect voters to their elected official to advocate for the passage of reform bills
- *Media & Social Media Strategy* that describes the importance of a well-planned and well thought out communications plan that relies on both social and traditional media



In addition to providing information on state laws and a roadmap for planning a successful anti-racial profiling campaign, *Born Suspect* also makes several specific recommendations for advocates, including:

- Advocating for Passage of the national End Racial Profiling Act (ERPA), first introduced in both houses of the United States Congress in June of 2001. The bill aims to:
 - Ban racial profiling at all levels of government
 - Provide provisions for data collection and monitoring
 - Include enhanced and funded training on racial profiling
 - Provide for sanctions and remedies for violations of the law
- Calling on the Department of Justice to update the *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*, first issued in June of 2003. Though a good first step at the time, the *Guidance* is long overdue for an update to address its many shortcomings. Specifically, the NAACP calls for an updated *Guidance* to:
 - Cover profiling based on national origin, religion, sexual orientation, gender, and gender identity
 - Eliminate loopholes allowing profiling to occur under the guise of “national security” and at US borders
 - Apply to all federal law enforcement activity, including actions by Immigration and Customs Enforcement (ICE) and by the Transportation Security Administration (TSA)
 - Apply to every state or local agency receiving funds from, or working in cooperation with, federal law enforcement agencies
 - Explicitly state that the ban on profiling applies to data collection analysis, assessment, and predicated investigations carried out by law enforcement agencies subject to the DOJ Guidance
 - Include enforcement mechanisms
 - Advocate for strengthening existing anti-racial profiling policy or introducing new measures at the state and local levels

Born Suspect also provides several other resources for advocates including:

- A detailed description of various components of an effective anti-profiling law
- A model racial profiling bill
- An Action Alert on the End Racial Profiling Act
- Components of an effective Civilian Police Review Board
- A sample Police Misconduct Incident Documentation form

Introduction

3



On July 17, 2014 a young unarmed African American named Eric Garner died as the apparent result of the use of a banned chokehold by officers in the New York Police Department (NYPD).¹ Officers claimed they targeted Mr. Garner for allegedly selling loose or untaxed cigarettes. Captured on a video by a passerby, Mr. Garner's tragic death shows that for communities of color, including women and LGBT people of color, immigrants and low income communities, racial profiling² has been and continues to be a constant reality of life, often with tragic and deadly consequences.³

At its core, racial profiling is based on the assumption that people of specific groups are more likely to commit certain kinds of crimes than others. Be it the targeting of motorists for "driving while black or brown" (DWB), stopping, questioning and searching pedestrians, targeting individuals for extra screening at airports, or conducting unconstitutional and unsubstantiated surveillance of people in their home, places of worship or within their communities, these abuses are all too commonplace and wrongly accepted as an inevitable and necessary strategy of law enforcement in America. Yet, there was a time, before the tragic attacks of September 11, 2001, when concrete change and effective reform were within reach—reforms that would have both increased police accountability and created greater public safety for all communities. And although much ground was lost following the September 11 attacks, continued efforts by communities of color and advocacy organizations, as well as a series of recent high profile tragedies, provide a window to make progress possible yet again.

A Glance at History: Pre-September 11, 2001

Racial profiling by law enforcement—the targeting of individuals as suspicious based on a set of characteristics they believe to be associated with crime, rather than credible evidence or information linking a specific type of person to a specific criminal incident—is a deeply rooted phenomenon in America, dating back to the days of colonial armies, slavery, Jim Crow, and segregation. In 1963, in his "I Have a Dream Speech" Dr. Martin Luther King addresses the issue of police misconduct and brutality:

We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality.... Some of you have come from areas where your quest for freedom left you battered by the storms of persecution and staggered by the winds of police brutality.⁴



In the decades following the civil rights movement, lawmakers and advocates made gradual strides towards passing legislation and implementing programs to help curb racial profiling by law enforcement. Community policing programs aiming to strengthen the bonds of trust between police and the community were among the most discussed and commended initiatives.⁵ In the early 1990s the Community Oriented Policing Services (COPS) office was established under the Department of Justice (DOJ) with the primary function of promoting and awarding grants to police departments engaged in this policing strategy.⁶

In 1991, following a high-speed car chase, a witness videotaped several officers in the Los Angeles Police Department (LAPD) beating Rodney King while other officers watched. In the aftermath, the NAACP organized a series of national hearings on the issue of police and community relations in communities of color. These findings were compiled and published by Charles Ogletree and Abbe Smith in *Beyond the Rodney King Story: An Investigation of Police Conduct in Minority Communities*. The book made several key recommendations on how to end racial profiling, curb police misconduct, and improve relations between communities of color and law enforcement. More than twenty years later, however, many of those recommendations remain un-enacted or unimplemented.⁷ One key effort—the End Racial Profiling Act (ERPA)—was introduced in June of 2001 by Senator Russell Feingold (D-Wisconsin) and Congressman John Conyers Jr. (D-Michigan) and seemed likely to become federal law, prohibiting police reliance on race, ethnicity, nationality, and other inherent or immutable characteristics without cause.⁸ And in 2001, President Bush pledged to end racial profiling in America.⁹

Much of the progress made was due to a decade of intense advocacy and awareness following a number of highly publicized police misconduct cases—all involving unarmed people of color—that attracted national attention and garnered outrage in many communities across America, including:

- The 1991 beating of 26-year-old African American Rodney King by police officers in Los Angeles County¹⁰
- The 1995 killing of 31-year-old African American Jonny Gammage by police officers in the suburbs of Pittsburgh, following a traffic stop that led to Mr. Gammage being asphyxiated as a result of pressure placed on his upper body when he lay handcuffed on the ground¹¹
- The 1997 arrest of 30-year-old Haitian immigrant Abner Louima which led to him being sodomized with a broomstick by New York City police officers in a police station bathroom¹²
- The 1999 shooting death of 23-year-old Guinean immigrant Amadou Diallo by police in New York as he was standing inside the vestibule of his residence—riddling him with 41 bullets—and the ensuing *Daniels et. al v. New York City* lawsuit¹³
- The 2001 shooting death of 19-year-old African American Timothy Thomas by police officers in Cincinnati following a foot pursuit¹⁴

Additionally, allegations of police targeting motorists for DWB (driving while black) in Maryland,¹⁵ New Jersey and elsewhere made national headlines, becoming the subject of several lawsuits and DOJ consent decrees.¹⁶ Around the same time, profiling of women of color at the nation's airports grabbed national attention, and was the subject of a report by the US General Accounting Office.¹⁷

A Glance at History: Post-September 11, 2001

The momentum which had built to enact reforms following these well-publicized police brutality cases, racial profiling lawsuits, and related advocacy efforts was abruptly put to an end in the aftermath of the attacks of 9/11. In fact, after the attacks, law enforcement on the local, state, and federal levels relied heavily on the use of race, ethnicity, nationality, and religion to round up suspects in the name of the “war on terror.”

Immediately following the attacks on the World Trade Center in New York City, the US government put into effect measures targeting Arab and Muslim immigrants, resulting in the detention of more than 1,200 individuals in New York City.¹⁸ Although it proved to be an inefficient and ineffective tactic for identifying potential terrorists, in June 2002 the National Entry-Exit Registration System (NEERS) was implemented to

keep tabs on foreign visitors who might pose national security threats. Under this policy foreign visitors from designated countries were required to register with immigration offices at either ports of entry or exit.¹⁹ NEERS also required domestic registration of men 16 years of age or older already in the United States from twenty-five predominantly Muslim or Arab countries to participate in “special registration” and to report to their local immigration office, be photographed, fingerprinted, and interrogated.²⁰ Failure to comply could mean penalties including criminal charges and deportation. More than 80,000 men showed up voluntarily for this “special registration” process, and many were then subject to interrogations and detentions. This form of racial profiling, as with most other cases in American history, proved to be a waste of law enforcement time and resources as not one “terrorist” was identified through the process.²¹

Another group similarly affected by racial profiling and harassment at the hands of law enforcement is the LGBT community.²² There exists an abundance of research and writing on the effect of racial profiling on communities of color and young people (particularly youth of color). But in recent decades, largely due to advocacy efforts to advance the human and civil rights of LGBT communities, there has been increased awareness about how racial profiling impacts this group.²³ Be it harassment at the hand of law enforcement to the profiling of LGBT individuals by border patrol agents, the experience of profiling for the LGBT community is just as real and just as devastating as that of other minority groups in America. In her congressional testimony, Rachel B. Tiven, the Executive Director of Immigration Equality, frames the commonality of this experience by stating, “The LGBT community has suffered a long history of being targeted by law enforcement simply because of who we are....Law Enforcement should never rely on a person’s race, religion, ethnicity, national origin, or perceived LGBT identity.”²⁴

Thus, racial profiling continues to plague communities who had traditionally been impacted prior to 9/11—primarily African American and Latina/o and Native communities—but at the start of the 21st century, the net was cast even wider to more explicitly include people of Muslim or Middle Eastern descent.²⁵ In the post 9/11 era, as it became publicly acceptable to racially profile certain communities again, profiling impacted policing in all communities and efforts to promote community policing and improve relations between communities of color and police were greatly scaled back. Although many police departments continue to use community policing, many of these programs are either greatly underfunded or remain unimplemented.

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Local advocates in New York and elsewhere continued their efforts to end racial profiling over the last thirteen years, but to the general population, it appeared that the fight to end racial profiling had come to a halt since September 11, 2001. But the 2012 shooting death of unarmed teenager Trayvon Martin by armed neighborhood watch member George Zimmerman thrust the issue back into the national spotlight. This tragic incident and the media attention it garnered helped highlight in a very tangible way the impact of implicit bias and racial profiling—especially as exercised by law enforcement, armed individuals, or others in positions of authority—on families and communities of color. The sad reality is that even prior to Trayvon’s death, this nation had decades of experience that should have taught us the ineffectiveness of racial profiling as a law enforcement tactic.



# The Futility of Racial Profiling

6

**P**roponents of racial profiling often argue that it is an effective tool for finding individuals or groups engaged in criminal activity. Yet relying on race, ethnicity, nationality, religion, gender, gender identity, sexual orientation or other inherent/immutable characteristics has proven time and again to be an ineffective, and often costly, tactic. Empirical data from across the United States proves this point.

## Profiling on the New Jersey Turnpike

In the early 1990s, racial profiling by the New Jersey State Police gained national attention as internal police records showed that officers had for years engaged in large-scale racial profiling of motorists along Interstate 95, also known as the New Jersey Turnpike.<sup>26</sup> A 1995 study by John Lamberth, *Driving While Black*, showed that 35% of motorists stopped on the Turnpike were African American, yet African Americans only made up 13.5% of the area's population and only 15% of those found speeding on the road; African American drivers were nearly five times more likely than other drivers to be stopped. These numbers led to a Superior Court finding that the New Jersey officers were engaging in racial profiling.<sup>27</sup> This resulted in the New Jersey State Police being placed under a federal consent decree that lasted more than a decade.<sup>28</sup> Yet even more disturbing is the elaborate cover up efforts of the New Jersey State Police. Internal police records released in 2000 showed that leadership in the state police department withheld information from federal civil rights investigators sent in by the Department of Justice.<sup>29</sup>

## Profiling on Maryland I-95

In 1998, as a result of widespread complaints about traffic stops on Interstate 95, the ACLU and the NAACP Maryland State Conference brought a class action lawsuit against Maryland state troopers for a pattern and practice of race-based stops along the highway. The lawsuit revealed that between 1995 and 1997, 73% of people pulled over, searched, and detained were African American, yet people of color were only 20% of drivers on the interstate. More importantly, highlighting the ineffectiveness of racial profiling, the numbers also showed that despite the high number of stops, African Americans were no more likely than other drivers to be caught with drugs or illegal contraband.<sup>30</sup>

## Profiling on Arizona Highways

A 2006 study of stops in Arizona by the ACLU of Arizona between 2006 and 2007 showed that African Americans, Hispanics, Native Americans, and persons of Middle Eastern descent were more likely to be stopped and searched by law enforcement. Of those stopped, Native Americans were 3.25 times more likely to be searched; African Americans and Hispanics were 2.5 times more likely to be searched. The disparate rates of stops and searches did not coincide with higher rates of finding contraband or with discovering illegal activity. In fact, whites were on average more likely to be found with contraband than Native Americans, Middle Easterners, Asians, or Hispanics. And while African Americans were searched twice as often as whites, the rate at which contraband was found on each group was similar.<sup>31</sup>

## Drug War Profiling

Nowhere is the prevalence and ineffectiveness of racial profiling more apparent than in the United States "war on drugs." Throughout US history, law enforcement has used drug laws to target specific communities of color: in the 1870s, anti-opium laws were used against Chinese immigrants; in the early 1900s African American men were targeted by anti-cocaine laws in the South; and in the 1910s and 1920s, the first marijuana laws were used against Mexican migrants in the Southwest. But the war on drugs as we know it today was initiated by President Nixon in 1971 as he declared drug use in America "public enemy number one." This was followed by a shift in both federal and state laws increasing enforcement and punishment, and enacting mandatory minimum sentencing associated with the sale and use of drugs.<sup>32</sup>



Although drug sales and use are similar across racial lines, communities of color have borne the brunt of drug law enforcement—they are more likely to be stopped, searched, arrested, convicted, and sentenced to longer sentences than their white counterparts. The disparity in federal sentences associated with crack vs. powder cocaine is one area where this inequality has been most glaring. Beginning in the 1980s, users of crack cocaine, disproportionately African Americans and other people of color, received sentences 100 times harsher for the same amount of drugs than users of powder cocaine, leading to disparate and lengthier sentences for members of these communities. Although this sentencing disparity has been lowered in recent years, sentences triggered by crimes involving crack cocaine are still 18 times longer than those for powder cocaine.<sup>33</sup>

In 2000, a two-year investigation of the US Customs Service by the US General Accounting Office into allegations of racial profiling of women of color at US airports revealed both the prevalence of profiling and its ineffectiveness. The report showed that African American women at international airports—presumed by airport security to be potential drug mules—were disproportionately targeted by customs inspectors for strip searches and x-rays. For example, in 1998, 11% of African American women selected for searches at airports were subject to more intrusive strip searches compared to only 6% of all other passengers. Yet the additional scrutiny did not lead to recovery of more contraband. On the contrary, strip searches of African American women were less likely than those of other passengers to lead to law enforcement finding illegal contraband.<sup>34</sup>

The impact of racial profiling is also evident in the enforcement of marijuana laws. *The War on Marijuana in Black and White*, a 2013 national report by the ACLU, found that marijuana arrests make up nearly half of all drug arrests across the country and that these arrests negatively impact African American communities disproportionately. According to the report, despite comparable rates in drug use, African Americans are 3.7 times more likely to be arrested for marijuana use than whites. In counties with the worst disparities, African Americans were up to 30 times more likely to be arrested for marijuana offenses.<sup>35</sup>

Yet, despite this “tough on crime” approach to the war on drugs, not much has changed: rates of drug use and abuse remain steady.<sup>36</sup> The failed war on drugs has, however, resulted in an enormous increase in incarceration rates (of mostly people of color) and is a leading cause of the United States becoming the world’s leader in incarceration—with 5% of the world population and 25% of its prisoners.<sup>37</sup>

## Post 9/11 Profiling

In efforts to identify those responsible for the September 11 attacks, and to identify potential new terrorist plots, the US government promptly enacted several policies after 9/11. In New York City, law enforcement swept the streets and detained more than 1,200 individuals of Muslim, Middle Eastern, or South Asian descent. No terrorist related crimes were discovered through this effort; reports have shown that the only charges brought against anyone detained through this program were for minor immigration violations.<sup>38</sup> Similarly, of the more than 80,000 people who registered the NSEERS Program—requiring foreign visitors to report to immigration offices to register, be photographed, fingerprinted and interrogated—there is no evidence that a single person was identified as a “terrorist.”<sup>39</sup>

## Unlearned Lessons from History

A number of relevant historical examples have also shown that racial profiling is a poor substitute for effective policing tactics and that racial profiling ultimately makes us less safe. Nearly a decade ago, Amnesty International USA published an extensive report, *Threat and Humiliation: Racial Profiling, Domestic Security, and Human Rights in the United States*, with examples from throughout American history that have proven racial profiling to be both ineffective and a waste of precious and limited law enforcement resources.<sup>40</sup>



- In 1901, President McKinley was assassinated by Leon Czolgosz, a white American concealing a weapon inside bandages wrapped around his hand. Czolgosz was able to go unnoticed in the security line because secret service agents in charge of searching visitors later admitted that they were focused on the “dark complexioned man” in line behind him. The man they focused on turned out to be African American former constable Jim Parker who would have saved President McKinley from being shot by a third bullet. The agents stated that they felt suspicious of Parker and did not like his “general appearance.”<sup>41</sup>
- In 1942, after the attack on Pearl Harbor in World War II, President Roosevelt called for the removal and internment of all Japanese and Japanese Americans on the west coast of the United States. The internment camps lasted until 1946, imprisoning more than 110,000 people. Yet, during the entire war, only 10 people were ever convicted of spying for Japan, and none were of Japanese ancestry.<sup>42</sup>
- In 1995, after the bombing of the federal building in Oklahoma City, Timothy McVeigh, the white assailant responsible for the attack, fled while police were reportedly focusing on finding an “Arab terrorist” who they thought had planted the bomb.<sup>43</sup>
- In 2002, during the sniper attacks in Washington, DC, relying on the standard profile of a serial killer, law enforcement looked for a white man acting alone or with an accomplice, driving a white van. Plans were also being made by the FBI to question Al-Qaeda prisoners held in Guantanamo Bay, Cuba for possible connections. In the meantime, the African American man and youth responsible for the attacks were able to go un-apprehended despite coming into contact with law enforcement at least ten times.<sup>44</sup>

# National Data on Racial Profiling



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Silent March to End Stop and Frisk,  
June 17, 2012, New York City

**A**ccess to and analysis of data is a powerful tool for understanding social issues and designing strategic and effective campaigns to advocate for reform. The national data on racial profiling is limited, both in numbers and in scope.

In their 2004 report, *Threat and Humiliation*, Amnesty International USA (AIUSA) released national polling numbers on racial profiling, measuring the problem as it took place in a variety of contexts, going beyond the often typical analysis of only pedestrian and traffic stops. The poll showed that approximately thirty-two million people—a number equivalent to the population of Canada—reported having experienced racial profiling. AIUSA also calculated that unless substantial steps are taken to end the practice, an estimated eighty-seven million people in America are at risk of being profiled in their lifetime. Furthermore, the organization found that racial profiling happened to men, women, and children of all ages and socio-economic backgrounds, and in virtually every context of people's lives: on the streets, inside cars, at home, at airports, at shopping centers, and at places of worship.<sup>45</sup>

More recently, the Department of Justice (DOJ) Police-Public Contact Survey presented a national audit of traffic and pedestrian stops in 2011. The numbers showed that 13% of African American drivers, 10% of white drivers, and 10% of Hispanic drivers reported having been pulled over by police in a traffic stop; however, African Americans, whites, and Hispanics were equally likely to be stopped in a street stop (less than one percent each). Among those involved in street or traffic stops, African Americans were less likely than whites and Hispanics to believe the police behaved properly during the encounter. Roughly 3% of drivers in traffic stops and 19% of persons involved in street stops were searched or frisked by police. White drivers involved in traffic stops were searched at lower rates (2%) than African American (6%) and Hispanic (7%) drivers. During both traffic and street stops, the majority of persons who were searched or frisked did not believe the police had a legitimate reason for the search.<sup>46</sup>

Since the 2004 AIUSA poll on racial profiling and the 2011 DOJ survey of traffic and pedestrian stops, no new data on profiling on a nationwide level exists. Many police departments, either voluntarily or to meet specific legislative mandates or other legal obligations, collect data on racial profiling. However, this data is not always readily available to the public and it is not compiled to offer national statistics. Often, these numbers can be accessed on a local level—usually through years of advocacy and submissions of Freedom of Information Act requests. The fight to end racial profiling in New York City, in fact, was based on the data that advocates were able to access on stop-and-frisk numbers spanning over a decade.





# New York's Stop, Question, and Frisk Abuses

10

**T**he fight against racial profiling has never abated for civil and human rights organizations across the United States. In New York, the NAACP and its partners have been steadfast proponents of reform pre- and post- 9/11. The diverse and multi-faceted coalition in New York developed into Communities United for Police Reform (CPR), a network of advocates representing people of color, youth, diverse faith-based groups, and LGBT communities. The breadth and diversity of these advocates can be seen in the formation of a campaign that encompasses all of the different communities, groups, organizations, and stakeholders fighting for law enforcement accountability over the last several decades.<sup>47</sup>

The renewed national conversation about the profiling brought on by the death of Trayvon Martin, coupled with national attention drawn to stop-and-frisk abuses by the New York Police Department (NYPD), breathed new life into the movement nationally. Local, regional, and national advocates convened and recommitted themselves to strengthened advocacy strategies to better take advantage of the heightened atmosphere of awareness about racial profiling.<sup>48</sup>

The fight to end racial profiling and longstanding stop-and-frisk abuses by the NYPD has perhaps been the most tangible and visible campaign in the nation's recent history. It is a fight largely propelled by access to police department data and rooted in nearly a decade of work by the New York Civil Liberties Union (NYCLU) in filing FOIA requests, and the Center for Constitutional Rights (CCR) litigating constitutional claims concerning the NYPD's stop-and-frisk policy. Accessing and analyzing this data ultimately revealed that not only was stop-and-frisk not working to reduce crime, it was disproportionately impacting millions of innocent people, largely from communities of color.<sup>49</sup>

The increased and systematic use of stop-and-frisk was an NYPD program implemented by Mayor Giuliani (1994-2001) and Police Commissioner William Bratton, and expanded during the administration of Mayor Michael Bloomberg (2002-2013). The Bloomberg administration and Police Commissioner Ray Kelly increased the quotas of stop, question, and frisks, falsely believing it would help reduce violence in targeted high-crime neighborhoods. The practice entailed officers stopping, questioning, and searching hundreds of thousands of pedestrians in hopes of finding weapons or other illegal contraband. In practice, stop-and-frisk tactics impacted an overwhelmingly large number of young people of color and other minority groups in New York City.

## History of New York Stop-and-Frisk Law

Sponsored by Julius Volker, a member of the New York State Assembly, New York's stop-and-frisk law was first passed in 1964, with the goal of making it easier for evidence that came from stops based on less than "probable cause" to be considered in court. The law would also allow police officers to prevent crimes and increase public safety in New York City.<sup>50</sup> African American communities have since challenged the law as a form of racial profiling that allows officers to more easily target and harass communities of color.

The US Supreme Court has also addressed the question of stop-and-frisk. In 1968, in *Terry v. Ohio*, the Court ruled that stopping and frisking are constitutional if done under certain conditions. Specifically, the Court said that in order for a police officer to stop an individual, the officer only needs "reasonable suspicion" that an individual is committing or about to commit an illicit activity. However, for a police officer to then lawfully frisk an individual, somewhere between the "reasonable suspicion" standard and the "probable cause" standard required for search warrants is necessary—where a police officer either witnessed or was informed that a suspect is armed and poses an immediate threat to the officer.<sup>51</sup>

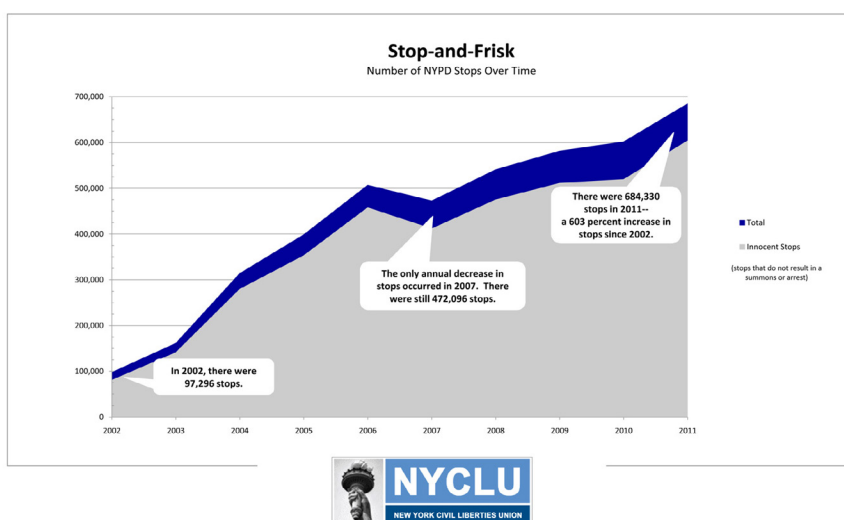
However, in 2013 a federal court found that the NYPD's use of stop-and-frisk reflected a widespread pattern and practice of stops that did not meet the legal standard of "reasonable suspicion" put forth by *Terry*. In fact, data indicated that many of the stops by the NYPD over the last decade failed to meet even this lower

standard. For example, in 2009, officers failed to cite an acceptable “suspected crime” for the stop 36% of the time.<sup>52</sup> And in 2011, over half of the stops conducted were for “furtive movements”—an abstract, relatively subjective, and meaningless basis for a stop—although one that the courts have not yet taken a firm stance against.<sup>53</sup> The court also found a widespread pattern and practice of racially discriminatory stops and frisks, in violation of the 14<sup>th</sup> Amendment.

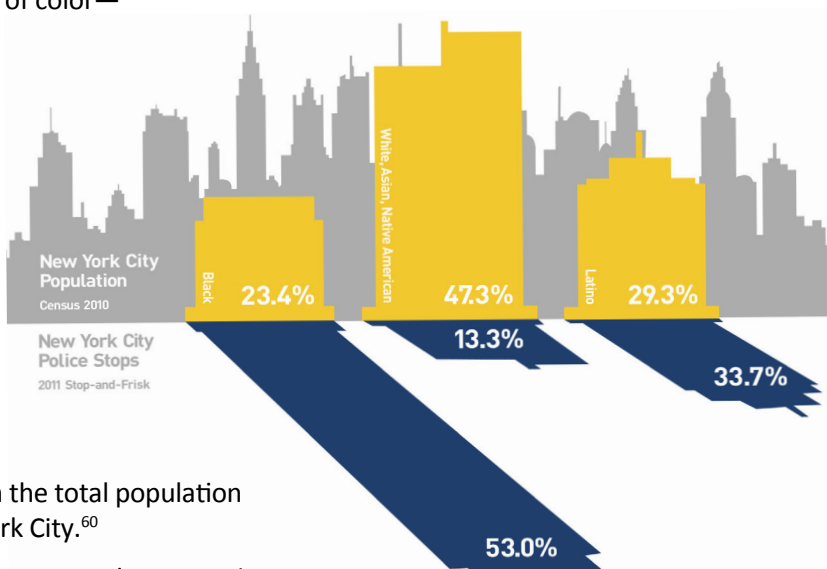
A closer look at the statistics for stop-and-frisk throughout the last decade can shed further light on the NYPD’s abuse of this tactic, the negative impact it has had on communities, and ultimately serve as further evidence of the futility of racial profiling as a tool for effective law enforcement.

### Stop-and-Frisk Numbers in New York City

In 1999, the office of Attorney General Elliot Spitzer issued a report detailing a troubling trend in policing tactics in New York City, both with regard to the increasing reliance on stop-and-frisk and also the disparate impact it had on communities of color.<sup>54</sup> Despite the findings and recommendations of the report, the problem continued to expand. Between 2002 and 2011, the number of stops and frisks conducted by the NYPD increased 600% due to the Bloomberg administration increasing the quotas for stop, question, and frisk.<sup>55</sup> In 2002, the first year of Bloomberg’s mayoral term, the NYPD conducted 97,296 stops in New York City; of those, 82% led to no arrest or summons.<sup>56</sup> Those numbers increased each year, without any improvement on the “hit rates”—the rate at which illegal activity or contraband is found by law enforcement. In 2011, the NYPD conducted a total of 685,724 stops; of which 88% (nine out of ten) did not result in arrest or issuance of a summons.<sup>57</sup>



Consistently throughout the years, people of color—particularly African American and Latina/o communities in New York City—have borne the burden of stop-and-frisk abuses. At the height of its prevalence in 2011, 53% of stops were of African Americans, 34% were of Latina/os, and 54% were of young people between the ages of 14–24.<sup>58</sup> Young African American and Latino men in that age range made up only 4.7% of New York City’s population, yet accounted for 41.6% of those stopped in 2011.<sup>59</sup> The NYPD had conducted more stops and frisks of young African American men than the total population of young African American men in New York City.<sup>60</sup>



Despite the low hit rates that the police department’s stop-and-frisk program yielded year after year, Mayor Bloomberg and Police Commissioner Ray Kelly attributed the drop in crime rates in the city primarily to increased use of stop-and-frisk. Yet data from the NYPD itself showed no correlation.

Of the 685,724 people stopped in 2011, a weapon was found only 0.2% of the time.<sup>61</sup> And since the use of stop-and-frisk intensified starting in 2002, police have found no probable cause to arrest or even issue a summons in nine out of ten stops.<sup>62</sup> Although the numbers demonstrated the abuses of stop-and-frisk tactics to be a seemingly colossal waste of law enforcement time and resources, Mayor Bloomberg and Commissioner Kelly continued to stress the importance of stop-and-frisk tactics in the gradual decrease in crime in New York City. But New York was not the only large US city to experience a gradual decline in violence during this period. Of the twenty-five largest cities in the United States, twenty experienced a decrease in crime over the last several decades, many in a similar pattern to New York City, yet none did so by abusing stop-and-frisk tactics in the same way.<sup>63</sup> If, in fact, the prevalence of stop-and-frisk was responsible for the drop in crime rates in New York City, then the fact that New York City continues to see a gradual dip in crime statistics in the last year when stop-and-frisk numbers have also declined remains a mystery.<sup>64</sup>

# The Human Impact of Racial Profiling & Stop-And-Frisk

**T**his nation has had numerous opportunities to learn about the futility of racial profiling. Yet, law enforcement officers continue to practice racial profiling with tragic consequences for people of color, young people, the LGBT community, and other minority groups in the United States.

Over the last several years, many who have been impacted by this practice have shared their personal experiences with stop-and-frisk abuse. Their stories highlight the devastation and humiliation experienced by individuals, families, and communities as a result of racial profiling. The examples below, collected in New York City, highlight the effect of racial profiling and the collateral consequences associated with this form of abusive policing.<sup>65</sup>

## Profiling: Race & Ethnicity

*Kasim* is a 17-year-old African American young man from Flatbush (Brooklyn), NY who has been stopped and frisked at least 7 times. When he was 13 years old, Kasim was waiting for his friend outside of his friend's home to meet with and go to school together. A police officer approached Kasim, searched his bag, asked him questions, became rough with him, and threatened that he would end up in jail if he did not cooperate. The officer also turned out Kasim's pockets, turned him around, pushed him, and kicked his legs open. The officer gave no reason for the stop-and-frisk and Kasim was not arrested or given a summons. This experience made Kasim feel frightened, confused, embarrassed, and dehumanized.

*Manny* is a 14-year-old South Asian young woman from Jamaica (Queens), NY who has been stopped and frisked numerous times. On the way home from high school, Manny was walking with friends and was stopped by a police officer, telling her to put her hands up as he proceeded to check her pockets. The officer did not provide a reason for the stop-and-frisk, found nothing on Manny and did not arrest her nor give her a summons.

*Sierra* is a 15-year-old Latino young man from the Bronx, NY who has been stopped and frisked on numerous occasions. When Sierra was 14 years old, he was in a public park with friends playing football. Two police officers pulled up and checked their pockets. Sierra asked the police officers why they were stopped and frisked. One of the officers replied, "Because you are young, out of control, and colored." The other officer said, "Get you're a\*\* home before I show you what it means to be in jail." The officers gave no valid reason for the stop-and-frisk and neither Sierra nor his friends were arrested or given a summons. The incidents have left him feeling dehumanized, hurt, and sad about this experience.

*Karma* is an adult African American woman from Brooklyn, NY. In October of 2012, as she was walking home, Karma was stopped and frisked by police officers a few feet from the entrance to her building. Police found a closed bottle of liquor in the pocket of her clothes. Her daughter witnessed the frisk and rushed down with her mother's identification card. However, when her daughter arrived on the scene, officers aggressively restrained her daughter's hand. Karma reports that officers then beat her and punched her daughter in the face. The incident was captured by Karma on camera. Both Karma and her daughter were arrested and given summonses. While being arrested, Karma says she was handcuffed by officers who pulled her arms back, causing her extreme pain. This incident left her feeling upset, hurt and disrespected.

*Alvin* is a 17-year-old biracial Latino/African American young man from Harlem, NY who has been stopped and frisked multiple times. One day in 2011, as Alvin walked through his neighborhood, a police car pulled up and two officers came out of the vehicle. The officers proceeded to frisk his pockets and his backpack; they told him they stopped him and might arrest him because he looked suspicious. When Alvin tried to respond, one of the officers pushed him and threatened to slap him, break his arm, punch him in the face, and put him in jail if Alvin talked back. No illegal contraband was found on Alvin and he was neither arrested nor issued a summons. In the end, one of the officers pushed Alvin down the street and told him to get lost. Less than thirty minutes later, the same officers stopped Alvin; Alvin asked why he was stopped again. The officers told him he is a mutt and looks



suspicious wearing a hoodie over his head. Alvin had previously aspired to becoming a police officer, but has changed his mind after this experience.

### Profiling: LBGT Status

*Antonia* is a transgender Latina woman from Jackson Heights (Queens), NY who has been stopped, frisked, profiled, and arrested multiple times for allegedly being engaged in prostitution. One day Antonia was walking in her neighborhood with two other transgender women. While outside of one of their homes, two police officers pulled up in a police car, stopped them, and told them to go home. The officers then drove around the block and saw Antonia and her friends again. This time they did not ask; they just stopped and frisked them. Police told them they were looking for condoms, and that they stopped her and her friends for prostitution. No condoms were found but Antonia was arrested and taken to the detention center, where she was strip searched to the point that she was nearly naked as officers reportedly laughed at her. As a result, Antonia feels falsely accused, violated, and humiliated.

*Enrique* is a gay Latino man from Jackson Heights (Queens), NY who was stopped and frisked as he and his boyfriend waited for the train at the Junction Boulevard train station. As the train was arriving, Enrique grabbed his boyfriend's hand and the two men kissed. An officer then emerged from the station, approached and pulled them to the side, and asked for their IDs. Enrique provided his, but his boyfriend did not have his ID on him, and was then arrested and put in a police van. When Enrique asked why his boyfriend was arrested the officer reportedly told him to shut up and called him a "f\*\*\*\*t." Upon inquiring about the reason for the detainment, Enrique was told by the officer that he would also be arrested if he did not leave. This incident has left Enrique afraid to show any affection in public for fear that he or his boyfriend will be harassed, stopped and arrested by police officers.

*Gisele* is a 20-year-old lesbian Latina woman from New York City. One night Gisele and her girlfriend were sitting next to each other and riding home on the train. Gisele had her head down and was taking a nap when an NYPD officer tapped her, woke her up, and told her to get off the train. He then frisked her and asked her for her ID. The officer did not give her a reason for the stop-and-frisk, so Gisele refused to show him her ID. The officer then arrested and manhandled her. Gisele was held at the police station and was not released until her girlfriend continued to inquire about the arrest. Gisele is upset and feels that the only reason the police targeted her is because she is a lesbian Latina.

*Trina* is a 17-year-old transgender woman of color from New York City. One night, Trina was standing on the street talking with some friends outside of an LGBT community event in the West Village of Manhattan. An officer approached her and asked for her ID. Trina provided the officer with her ID and the officer began calling her a man and a "f\*\*\*\*t". The officer took a picture of Trina's ID and sent it to the precinct to identify any outstanding warrants. The dispatcher told the officer that Trina's record was clear, but instead of letting her go, the officer wanted to see inside Trina's purse. Trina did as she was asked. The officer saw two condoms in her purse and called the precinct back to request for a police car. When Trina asked the officer if she was getting locked up for carrying condoms, the officer replied, "You are getting locked up for prostitution." Trina was taken to the precinct and locked up with the men. This experience made her feel harassed, deceived, disrespected, and criminalized for being transgender.

*Don* is a young African American lesbian from NYC. One night Don was leaving an African American LGBT club in the West Village of Manhattan with a group of friends who were transgender women and gay men. As they left the club, they were stopped by police, saying they were conducting a "routine search" and telling them to put their hands on the wall. Don and the group did what the police told them to do. The police patted Don's arms down, ran their hands across her chest, patted her pockets, and then went inside her pockets, pulled her wallet out, and checked her ID. The officers also checked to see if anyone in the group had any outstanding warrants. The officers then told the group they were free to go, but that they better not be around when the police come around again. Don and her friends then got on the train and left the area. This experience left Don feeling violated and demoralized. She feels that the police took something from her and she felt scared that they would lock her up for being outside.



## Profiling: Law Enforcement Officers and Public Officials

*Blanco* is a black Dominican New York City police officer from the Bronx, NY who has been stopped himself, while off duty, by other police officers. Blanco says that superior officers imposed a quota system, in which all officers are required to make one arrest, issue twenty summonses, and conduct five stop-question-and-frisks per month. The turning point for Blanco was when his commanding officer stopped a group of adolescents on a street corner, telling Blanco to handcuff a 13-year-old young man for no reason. When the boy's brother showed up and asked why his brother was handcuffed, the commanding officer told Blanco to handcuff the brother as well. Blanco's questions were discouraged and the commanding officer said he would figure out a valid reason for the arrest later. Based on his personal experience as a victim of stop-and-frisk as well as his experiences as a police officer, Blanco does not believe that stop-and-frisk abuses make the community safer, but actually make the community feel disrespected and oppressed.

*The Honorable Jumaane Williams*, a member of the New York City Council, District 45, is a 37-year-old African American from Flatbush (Brooklyn), NY. In 2013, Councilmember Williams and a few colleagues were participants in the 44<sup>th</sup> Annual West Indian Day Parade in Brooklyn. Thirty minutes after the parade ended, they walked to the location for city officials, passing through two security checkpoints by displaying their City Council credentials. Police officers at the third checkpoint would not accept their credentials and would not let them pass, saying they had to check with their supervisors before allowing them through. When Councilmember Williams attempted to speak to one of the high-ranking officers, he was pushed. When he tried to call the Police Chief, the commanding officer twisted his arm behind his back and handcuffed the Councilmember. A friend of the Councilmember also tried to provide ID, but was not acknowledged and thrown to the ground. Councilmember Williams and his colleagues were not arrested or given summonses and the officers never gave a reason for their actions. Jumaane Williams has continued his work against racial profiling and was the lead sponsor and champion of the Community Safety Act in the New York City Council.

## Profiling and Surveillance: Muslims, South Asians & People of Middle Eastern Descent

Although people of Muslim or Middle Eastern descent have consistently been targets of racial profiling, in the thirteen years after the attacks of September 11, 2001, law enforcement engaged in an expanded, systemic, and targeted effort to profile Muslim communities, South Asians communities, and people of Middle Eastern descent. The National Security Entry-Exit Registration System (NSEERS) and other programs that targeted these communities became synonymous with "national security" and largely accepted as a reliable policing tool. This type of profiling is exemplified by the blatant and egregious tactics used by the NYPD to engage in surveillance and mapping of the activities of Muslim community members at their homes, at stores, in places of worship, and other community settings.



In 2003, working closely with officers from the Central Intelligence Agency (CIA), the NYPD created the Demographics Unit (later renamed as the Zone Assessment Unit) to conduct targeted surveillance on people of 28 "ancestries of interest" and to identify ordinary locations where would-be "terrorists" could be hiding amongst community members. The work of this unit included sending plainclothes officers to speak with community members to gauge their beliefs towards a multitude of issues, including views about the United States and its foreign policies. In the decade that the unit existed, law enforcement mapped activities of members of these communities, including identifying where they worshipped, where they shopped, where they played soccer, and other mundane activities. The work of the Zone Assessment Unit was highly controversial and was the subject of numerous complaints and two federal lawsuits claiming constitutional violations. As with other policing tactics that rely on racial profiling, a decade of law enforcement activity, time and resources devoted to this unit were ultimately deemed a waste and generated no potential leads to

any criminal activity. The unit was finally disbanded in April of 2013 and its only impact has been alienating communities, sowing mistrust between police and community members, and damaging the psyche of those groups subjected to this surveillance program.<sup>66</sup>

### Profiling: The Impact on LGBT Communities

As a number of the human impact stories above show, members of the LGBT community, particularly LGBT people of color, face discrimination at every stage of the criminal justice system. A 2014 national survey indicates that 73% of LGBT people and people with HIV report having had face-to-face contact with the police.<sup>67</sup> In another study, a quarter of LGBT people and people with HIV who reported in-person contact with law enforcement said they experienced one form of harassment or misconduct—including profiling, verbal or physical assault, sexual harassment, or assault and false arrest.<sup>68</sup> In a separate survey of transgender discrimination, 22% of transgender individuals who had police interactions reported harassment, 6% reported physical assault and 2% reported being sexually assaulted by officers.<sup>69</sup>

This community faces profiling based on actual or perceived sexual orientation, gender, gender identity or expression, or HIV status. This discrimination is often multi-layered when LGBT individuals are also people of color, youth, a different nationality or religion, or profiled based on their perceived immigration or socio-economic status.<sup>70</sup> And as the above stories describe, the experience of this community with discriminatory policing tactics are devastating and the fight to end racial profiling must include a conscious effort to end profiling of LGBT communities.<sup>71</sup>

Chris Bilal of Streetwise and Safe, a New York City initiative focused on LGBTQ youth of color who experience criminalization, sums up the efforts of LGBT communities leading up to the “Silent March to End Stop and Frisk,” a citywide multi-organization network and coalition mobilization of over 300 organizations that took place at the height of the advocacy efforts in New York in 2012:

Our participation in this historic march is not just a question of expressing solidarity with communities of color who are experiencing discriminatory and abusive policing in New York City—we are a part of communities of color and have always been, and from Bayard Rustin to Miss Major, from James Baldwin to Sylvia Rivera, to Audre Lorde, we have been outspoken members of movements to challenge profiling and police abuse. Gay men of color, along with women and transgender people of color are among the black and Latina/os disproportionately subjected to more than 685,000 stops and frisks by the NYPD last year. I know because I am one of them.<sup>72</sup>

In New York City, the LGBT community played a pivotal role in the fight to pass legislation to help curb stop-and-frisk abuses and continues to be a key partner in the fight for civil and human rights in the city and across the country.

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As these stories and numerous other experiences reveal, racial profiling can never be an effective law enforcement tool or a viable replacement for evidence-based policing practices. The human impact of bias-based policing is undeniable: it leaves individuals and communities—most of whom are law-abiding residents—feeling violated, humiliated, and oppressed. But its negative consequences go beyond the stigmatization of the impacted communities. Racial profiling breeds mistrust of law enforcement by members of the community, making it difficult—and at times impossible—to work together to solve crimes and reduce violence. Furthermore, racial profiling serves to delegitimize the entire criminal justice system, both because it creates a divide between communities and the public representatives of the system who are sworn to protect them, and because racial profiling has repeatedly proven to be an ineffective tool of law enforcement that has never helped create greater public safety.

A Lack of Meaningful Anti-Profilng Laws

Despite the gravity of abuses and the sad history of racial profiling in America, the country has yet to pass meaningful federal legislation to deal with the problem effectively. To better understand the legal and constitutional parameters of this issue, it is helpful to take a closer look at a number of relevant cases and constitutional standards that deal with racial profiling.

17

The US Constitution & Racial Profiling

Two amendments in the US Constitution—the Fourth and Fourteenth—offer protection from racially biased policing and other forms of profiling. The Fourth Amendment guarantees people protection against unreasonable searches and seizures, stating:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause....⁷³

The Fourth Amendment guarantees that no person or group be denied equal protection under the law:

[No] State [shall] deprive any person of life, liberty, or property without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws.⁷⁴

Yet the Supreme Court and other lower courts have weakened both of these provisions through a series of key decisions that essentially prevent successful challenges to acts of profiling in the court system, except in extremely egregious circumstances where intentional discrimination can be established.

First, in 1968 the Supreme Court dealt a blow to the Fourth Amendment by establishing a lower standard than “probable cause” for police to stop, question and frisk individuals. Officers can stop and question individuals solely based on “reasonable suspicion” that an individual has committed or is about to commit a crime, and to frisk individuals who they reasonably suspect to be armed and present a danger to the officer’s safety.⁷⁵ This lower threshold allows officers a great deal of unchecked discretion as to who to stop, question, and frisk, and ultimately has left the door open for systemic racial profiling of communities of color. In fact, other subsequent Court decisions allow the use of race as one of many factors involved in making a stop.⁷⁶

For example, in *United States v. Martinez-Fuerte*, involving a case of undocumented immigrants entering the United States, the Supreme Court held that the United States Border Patrol could set up permanent or fixed checkpoints on public highways leading to or away from the Mexican border, and that these checkpoints do not violate the Fourth Amendment. The Court went on to say that it would be impracticable for the officers to seek warrants for every vehicle searched and that to do so would eliminate any deterrent towards smuggling and illegal immigration. The Court felt that any intrusion to motorists was a minimal one and that the government and public interest outweighed the constitutional rights of the individual. Here, the Court allowed for the proliferation of racial profiling by stating that stops were constitutional even if largely based on *apparent Mexican ancestry*.⁷⁷

In *United States v. Brignoni-Ponce*, the Supreme Court determined it was a violation of the Fourth Amendment for a roving patrol car to stop a vehicle *solely* on the basis of the driver appearing to be of Mexican descent. A roving patrol car must have articulable facts beyond apparent ethnicity that allow for an officer to have a reasonable suspicion that the vehicle is carrying undocumented immigrants.⁷⁸ Despite the seemingly favorable ruling, this decision still allows profiling to continue if race is used as *one of other factors* by law enforcement to target individuals.

Racial profiling claims relying on the Fourteenth Amendment often prove challenging in court. To comply with



legal standards of proof, persons claiming racial profiling must show that the discrimination was intentional,⁷⁹ or that the impact of profiling was a result of discriminatory hostility by law enforcement.⁸⁰ Hence, proving racial profiling requires showing that law enforcement conduct took place “*because* it would have [a negative] effect and not “in spite of” such impact on the victim(s).⁸¹

Racial Profiling Policies on the Federal Level

In June 2001, at the height of the movement to improve law enforcement accountability and end racial profiling, the End Racial Profiling Act (ERPA) was introduced in both houses of Congress.⁸² The bill had bipartisan support and aimed to ban racial profiling at all levels of government, provide provisions for data collection and monitoring, include training, and offer sanctions and remedies for violations of the law. The NAACP, along with a broad range of coalition partners, supported the bill, which at that point seemed likely to pass. Following the attacks of September 11, 2001, the bill lost momentum and with it the chance of passage for more than a decade. ERPA has been repeatedly introduced in Congress; without the level of support it enjoyed in 2001, its passage remains challenging. One roadblock is the false claim often used by political leaders that racial profiling is a necessary tool for enhancing national security.

However, during this same period, leaders from the top ranks of several administrations have also verbally committed to ending racial profiling. In February of 2001, President George W. Bush promised to end racial profiling in America in an address to Congress:

Earlier today I asked John Ashcroft, the Attorney General to develop specific recommendations to end racial profiling. It’s wrong and we will end it in America.⁸³

Two years later, in June 2003, the Department of Justice issued the *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*.⁸⁴ Although the guidance was a good first step in meeting the Bush Administration’s promise, it fell short in many ways that have not been addressed to date and the policy still stands as is almost 6 years into the Obama Administration.⁸⁵ Specifically, the *Guidance*:

- Does not apply to local or state agencies
- Does not protect people from being profiled on the basis of religion or national origin
- Does not include a private right of action, fiscal sanctions or any other enforcement mechanisms
- Does not offer penalties for officers found in violation of the provisions
- Has a blanket exception for “enforcing laws protecting the integrity of the Nation’s borders,” and “threats to national security and other catastrophic events.”⁸⁶

More recently, during an address at the 2013 NAACP National Convention, following the verdict in the case of George Zimmerman for the shooting death of Trayvon Martin, Attorney General Eric Holder touched upon the problem of racial profiling. In his address, Holder shared personal stories of being profiled as a young adult, including being stopped and searched by police on the New Jersey Turnpike. Holder also recounted conversations his father had with him about how to properly conduct himself as an African American man with law enforcement—conversations he finds himself having with his son.⁸⁷ Holder reiterated:

[W]e must confront the underlying attitudes, mistaken beliefs, and unfortunate stereotypes that serve too often as the basis for police action, and private judgment.⁸⁸

In addition to advocating for the passage of ERPA, over the last decade advocates have also waged a campaign to update the Federal Guidance and to eliminate its shortcomings. In 2012, more than 225 groups, including the NAACP, signed a letter urging the Attorney General to update the *Guidance* to:

- Ban profiling based on religion or national origin.
- Close the “national security” and “border integrity” loophole.

- Apply profiling ban to data collection assessments and investigations carried out by law enforcement and to include the mapping of communities as demonstrated by the NYPD's Demographics Unit.
- Create enforceable standards to be met by law enforcement agencies.
- Prevent federal agencies from working with state and local departments that do not have racial profiling policies meeting the standard of the renewed *Guidance*.⁸⁹

An updated *Guidance* is expected in the near future, and it is expected that it will expand the prohibited profiling categories to include national origin, religion, gender, and sexual orientation. Initial reports indicate, however, that it will not ban the use of nationality to map communities stereotypically thought more likely to commit certain kinds of crime.

Despite the existence of constitutional protections, a partial federal guidance, and numerous promises by officials over several presidential administrations, the country continues to grapple with solving the problem of racial profiling and preventing abuses of power by law enforcement.

State Laws & Racial Profiling

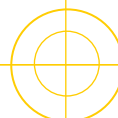
State racial profiling laws have the potential to provide remedies to claims of racial profiling. However, the current status of laws across the fifty states leaves little hope for a meaningful solution to this problem.

Currently, 30 states in the country have one or more anti-racial profiling law on the books.⁹⁰ However, not one adequately meets all the provisions required for an effective law, making them inadequate tools to significantly curb the practice of racial profiling.⁹¹ Most state laws do not include a definition of profiling that is inclusive of all significantly impacted groups. They also tend to lack a ban on pretextual stops of pedestrians and motorists—where officers use minor violations such as not using a seat belt or jay walking as a pretext to search for illegal contraband. In addition, most state laws do not include a provision allowing individuals to seek court orders to stop police departments from engaging in racial profiling or obtain remedies for violations.

State laws tend to vary widely, from that of Connecticut and Rhode Island, which are amongst the most comprehensive—yet Connecticut lacks a specific private right of action and Rhode Island lacks a good enforceable definition—to that of Kentucky, which basically lacks all of the necessary components for a good law. Consider some of the following facts about the current status of state anti-profiling laws:

- 20 states do not explicitly prohibit racial profiling⁹²
- 17 states ban the use of pretextual traffic stops⁹³
- 16 states criminalize violations of their anti-profiling laws⁹⁴
- 3 states allow individuals to seek injunctive relief to stop police departments from racial profiling⁹⁵
- 18 states require mandatory data collection for all stops and searches; 15 require analysis and publication of racial profiling data⁹⁶
- 17 states require the creation of commissions to review and respond to complaints of racial profiling⁹⁷

It is important to note that separate from the state laws, many localities have passed anti-racial profiling measures to end the practice in their jurisdiction. Local efforts are crucial and often help bolster reform efforts on the state level. Given the current status of state racial profiling laws, there is much room for improvement, both in states that currently have policies and those that do not.⁹⁸ The recent campaign in New York City and the success in achieving policy reform provide important lessons for advocates working to strengthen anti-profiling laws across the country.



Advocacy Success in New York City

20

A large crowd of people, including men and women of various ages and ethnicities, are gathered for a protest. They are holding a large yellow banner that reads "End 'Stop & Frisk' Stop Racial Profiling". In the background, there are trees and buildings, and several smaller signs are visible, some with the NAACP logo and others with text like "THIS IS SILENCE MARCH" and "STOP RACIAL PROFILING".

End "Stop & Frisk" Stop Racial Profiling

Silent March to End Stop And Frisk,
June 17, 2012, New York City

On June 17, 2012, in response to the local and national outcry over the racial disparities and the depth of stop-and-frisk abuse in New York City, and fueled by the national outrage about the profiling and shooting of Trayvon Martin and alongside more than 50,000 activists and 300 partner organizations, the NAACP helped lead the “Silent March to End Stop and Frisk.” Modeled after the silent marches held by the Association to protest lynchings in the early 1900s, this march was aimed at bringing continued attention to racial profiling by the NYPD and creating public pressure on lawmakers to implement reforms.

The mobilization captured national and international attention in both traditional and social media outlets and ultimately strengthened existing advocacy efforts to pass legislation that will help end racial profiling and stop-and-frisk abuses in New York City. Building on the foundation created by decades of advocacy by the New York City coalition, the march armed activists with renewed energy and moved forward collaborative efforts with members of the City Council. This, in turn, led to the passage of a set of bills known as the Community Safety Act (CSA) in the 2013 City Council legislative session.

A set of four bills, the CSA is a law enforcement reform legislative package that aims to create greater accountability by the NYPD. The four parts of the CSA included legislation that would: protect New Yorkers against discriminatory profiling by the NYPD, and expand the scope of protected groups; establish independent oversight of the NYPD; protect New Yorkers against unlawful searches; and require police officers to identify and explain themselves when conducting a stop.⁹⁹ In the 2013 City Council session, two of the bills—the End Discriminatory Profiling Act and the NYPD Oversight Act—moved forward and passed.¹⁰⁰

To pass these bills, advocates from the NAACP and other local and national organizations engaged in a campaign that entailed several key components, including:

- *Diverse and strategic coalition building* A key component of New York City’s successful anti-profiling advocacy has been the sheer diversity of the coalition involved in the movement. Groups

and leaders representing the African American, Latina/o, Middle Eastern, Muslim, Asian, South Asian, labor, LGBT, and other impacted communities collaborated to fight for an end to profiling and stop-and-frisk abuses that have impacted their communities for generations. It is important to note that many of these groups, including the NAACP New York State Conference, have worked together toward police reform for over a decade. Their efforts built a foundation that made the passage of the Community Safety Act possible.

- *Grassroots organizing and advocacy* As with any advocacy initiative, an essential piece of the campaign involved ensuring the voice and demands of the communities most impacted are heard by the general public and by lawmakers. Community education and community organizing is key. In New York City, this entailed a myriad of activities including: organizing town hall meetings to hear from community members and advocates; holding training sessions that provided educational materials, factsheets, and talking points for use by community members; organizing and implementing local “cop watch” efforts; and holding rallies, press conferences, lobby days, and other public events to amplify the voice of those targeted by discriminatory policing practices, and community members, advocates, and local and national figures.
- *Grasstops organizing and advocacy* In any successful campaign, lawmakers and public officials not only need to hear from members of impacted communities, but also from notable and publicly recognized local and national leaders. In New York City, this included lawmakers meeting with and hearing from top leaders and influential figures from key stakeholder groups. It also entailed inviting leaders to speak at rallies, press events, and other public forums related to the campaign. Additionally, regular strategy meetings were held by key leaders to ensure that leadership was staying on target and on message with each other and the larger coalition.
- *Legislative advocacy* In addition to community and grasstops mobilization, prior to the vote in the City Council, a call center was set up using the Voter Activation Network (VAN) system to connect registered voters to their representatives in the City Council, urging them to vote in favor of the CSA.¹⁰¹ The call center operations targeted specific Councilmembers whose votes for the CSA were not believed to be secure or who needed a showing of public support to vote in favor of the bills. Lawmakers not only heard from their constituents via the call center, but also through letters, calls, and meetings with leaders at the NAACP and ally organizations. The lobbying component of this initiative was rolled out in several phases in New York City. Because a veto by then Mayor Bloomberg was essentially guaranteed, the strategy also included making sure that Councilmembers not only voted for the passage of the CSA, but that they also remain engaged and vote to override a guaranteed mayoral veto.¹⁰² The CSA was passed by the City Council in June 2013 and vetoed by the Mayor in July of the same year; the New York City Council voted to override the Mayor’s veto on August 22, 2013.¹⁰³
- *Media & Social media strategy* The importance of social and traditional media in any successful campaign cannot be overstated. Communications experts from the major organizations involved in the New York City campaign were in regular contact with issue experts, policy experts, and campaign organizers and developed a shared set of messages, talking points, and factsheets to be distributed among all advocates. Other key communications tactics included:
 - Press conferences organized at key moments throughout the campaign, highlighting the voices of impacted individuals and raising the profile of the stop- and-frisk issue (i.e. the daily press conferences and events throughout the *Floyd* trial¹⁰⁴) and lawmakers, grasstops leaders, as well as other public figures whose voices lent further credibility and brought additional attention to the campaign (i.e. entertainers, artists, actors, and other public personas).
 - Press releases issued when key developments occurred or progress was made throughout the campaign.
 - Media interviews set up with key media outlets and leaders from the NAACP and other organizations to ensure that the issue was branded as a priority issue for the organizations.



- Public service announcements and awareness building spots through a local radio station to promote key campaign messages to listeners on select radio programs and via the radio station twitter and facebook accounts, as well as through the station's smart phone app. This part of the campaign was timed to help keep the conversation in the public sphere after the passage of the CSA, leading up to the 2014 Mayoral election in hopes of ensuring the incoming administration would grasp the importance of these reforms for communities of color and other impacted groups.
- Social media campaigns through facebook, twitter, and other social media outlets were used to publicize press coverage, important developments, and generally conduct public education and awareness building. Some of the most successful social media campaigns included: use of hashtags #ChangeTheNYPD, #MoreThanAQuota, and #WhereIAmGoing and asking people to share their pictures online, holding a sign that read, "I am more than a profile, I am..." The text and image-based social media campaigns put a human face on the stop-and-frisk issue, using social media to directly engage the public in large numbers that only social media allows.¹⁰⁵

The New York City campaign also involved a series of legal challenges that garnered national attention adding to the momentum for reform of New York City's policing practices. The key class action lawsuit involving stop-and-frisk abuse, *Floyd, et al. v. City of New York, et al.*, was brought against the NYPD by the Center for Constitutional Rights (CCR). The suit challenged racial profiling and stop-and-frisk abuse as a constitutional violation that led to a major increase in "suspicion-less-stop-and-frisks" in New York City, with a dramatic disparate impact on communities of color. *Floyd* led to a major victory against racial profiling in August 2013 when federal Judge Shira Scheindlin found the NYPD liable for constitution violations and a pattern and practice of racial profiling in communities of color in New York City. Judge Scheindlin ordered a number of remedies, including a joint remedies process through which law enforcement is to work with impacted communities to put an end to abusive stop-and-frisk practices, rebuild community trust, and create effective policing policies that do not violate the basic constitutional rights of New Yorkers. Mayor Bloomberg brought forth an appeal to Judge Scheindlin's ruling, but under the newly elected administration of Mayor Bill DeBlasio, the city has agreed to drop this appeal and begin the remedies process ordered by Judge Scheindlin; as of the writing of this report, this process is still in a holding pattern.¹⁰⁶

Despite these initial advocacy victories, more remains to be done. For instance, the remedies process ordered by Judge Scheindlin has been delayed in its implementation because the reforms are currently stayed by the court. Thus, there can be no lasting movement forward on stop-and-frisk until the stay is removed.¹⁰⁷ Additionally, although stop-and-frisk numbers have decreased drastically since Mayor DeBlasio began his term in January 2014, there has been at least a 300% increase in arrests on the subways for minor violations/low-level misdemeanors since the beginning of 2014—a development some advocates have termed "stop-and-frisk 2.0." This is due to NYPD Police Commissioner Bill Bratton's "broken windows" policing policy, which entails stopping petty crimes in an effort to reduce larger crimes. Under the new administration, for example, arrests of subway peddlers and panhandlers have already tripled.¹⁰⁸ These types of low-level arrests are also happening in public housing and other residential areas of New York City. The application of these policies, like stop-and-frisk, has had a continued disparate focus on communities of color, LBGT, and other minority communities in New York City. As a result, this policy has had a negative impact on these communities, especially on youth, many of whom may not be well versed about the workings of the system and discard or misplace summonses issued for petty offenses, which then becomes a crime in itself. Hence, "broken windows" policing in New York City appears to be the new form of profiling, relying on over-aggressive policing of vulnerable and already impacted populations, continuing their disproportionate involvement in the criminal justice system.¹⁰⁹

Not Just a New York Problem

Although the problem of racial profiling and stop-and-frisk abuses in New York City has received a great deal of national attention, it would be false to assume that it is the only jurisdiction in this country where these abuses occur. For a time, a common belief was that New York City is the only police department that regularly collects data on stop-and-frisk practices. In 2014 report by David A. Harris, *Across the Hudson: Taking the Stop and Frisk Debate Beyond New York City*, a survey of fifty-five of the largest police departments in the United States shows that “more than twenty of the police departments surveyed record some data on stops and frisks.”¹¹⁰ It may be that these agencies engage in the practice differently than New York City. It may also be that access to this data will require advocacy efforts as well as litigation and FOIA requests—as was done in New York City. Yet, the existence of this data alone provides an opportunity to understand how this practice is being used by law enforcement in other areas of the country.¹¹¹

What is important to note, however, is that the apparent problems with stop-and-frisk are not only New York City-based. A brief glance at recent reports and data from other cities show that this is an issue that all communities of color are faced with across the United States.

Miami Gardens, Florida

A new report from *Fusion*, a digital news network, shows that between 2008 and 2013 police officers in Miami Gardens, a majority African American community in Florida, stopped and questioned 65,328 people. Of those stopped, 56,922 were released without being arrested. Further analysis of the nearly 100,000 police “field contact reports” reveals more troubling trends. The data shows that of all the stops made by the police department in that time frame, 8,489 were children and 1,775 were senior citizens; 1,000 people were stopped more than 10 times.¹¹² The report also cites many incidents that reveal the damaging human impact of these violations:

In the Summer of 2010, a young black man was stopped and questioned by police on the streets of Miami Gardens, Florida. According to the report filed by the officer, he was “wearing gray sweatpants, a red hoodie and black gloves” giving police “just cause” to question him. In the [police] report, he was labeled a “suspicious person.”

He was an eleven-year-old boy on his way to football practice.¹¹³

Another African American resident, Earl Sampson, reports being stopped by Miami Gardens Police Department more than 200 times. In addition, he was arrested 111 times, 71 of which were for trespassing at his place of work at the 270 Quickstop.¹¹⁴

The drastic increase in the rates of police stops in Miami Gardens, coincides with the 2008 adoption of a Zero Tolerance policy by the Miami Gardens Police Department. Reminiscent of “broken windows” policing, the Zero Tolerance policy is based on the false and unproven allegation that stopping suspected loiterers and trespassers near local businesses will lead to a reduction in the crime rate. The implementation of this policy was tied to more than 15 federal grants, which ultimately led leadership from within the police department to demand that officers increase the number of stops they make by focusing on African American men. One police officer from the department told *Fusion*, “My major walked in and verbally told us, he wants all black males stopped...between the ages of 15 and 30 years old.”¹¹⁵

Newark, New Jersey

In February of 2014 the American Civil Liberties Union of New Jersey released a report analyzing stop-and-frisk numbers by the Newark Police Department for the last six months of 2013. Although data from a six-month period is nowhere near as comprehensive as the more than a decade of numbers available in New York City, the numbers from New Jersey paint a troubling picture.

Not surprisingly, the data show that Newark PD conduct stop-and-frisk tactics that disproportionately target people of color. According to the ACLU-NJ, from July to December 2013, police officers stopped nearly one person out



of every ten residents, or 91 people per 1000 residents. This is a higher number of stops in comparison to their neighbors in New York City, where officers made eight stops per 1000 residents.¹¹⁶ And although African Americans make up roughly 52% of Newark residents, they comprise nearly 75% of those stopped. Of all those stopped in Newark during this period, 75% were never arrested or issued a summons.¹¹⁷

The human impact of these practices in Newark is summed up by Gemar Mills, principal at the local Malcom X Shabazz High School:

It reduces your self-confidence.... It's no different than getting robbed. Getting put up against the wall, it's no different than someone stealing your stuff. It can be traumatizing. For the police, they let you go, it's no harm no foul. But it can make children feel the community has given up on their chances to be successful.¹¹⁸

As a result of these findings, in July, 2014 the DOJ announced its intention to appoint an independent monitor to oversee changes in this jurisdiction.¹¹⁹

Baltimore, Maryland

In November 2013, advocates in Baltimore began to question the controversial tactic of stop-and-frisk. The ACLU of Maryland expressed concern that the tactic was being used improperly and ineffectively. Advocates are concerned that law enforcement officers are not following the law and are stopping individuals without proper “reasonable suspicion.” According to data collected, the Baltimore Police Department made over 123,000 stops in 2012. These stops resulted in 494 searches, and only 20 of those stops led to the discovery of any illegal contraband. In other words, 123,000 stops led to the confiscation of 9 guns, 10 illegal forms of drugs, and one knife.¹²⁰

As with problems with stop-and-frisk abuse elsewhere, the practice in Baltimore does not seem to be effective at preventing crime, since the hit rate for the stops is so low—only 20 out of 123,000 stops. Advocates in Maryland are also concerned that the Baltimore PD is doing a poor job keeping accurate records of exactly how many people are stopped, for what reason, if they were searched, and the outcome of the police encounter.¹²¹ Reviews of current data indicate, for example, that not all the stops made by the Baltimore PD were properly recorded in the police database.¹²²

Following the court decision in the class action lawsuit in New York City, the ACLU of Maryland has requested access to records from Baltimore PD to better gauge the breadth and depth of stop-and-frisk abuse in Baltimore.¹²³

Philadelphia, Pennsylvania

In 2009, police in Philadelphia stopped 253,333 pedestrians, an increase from 102,319 stops in 2005. Data shows that more than 70% of those stopped were African American (although African Americans make up 43.4% of the population in Philadelphia) and only 8.4% of the stops led to an arrest.¹²⁴

In 2010, the ACLU of Pennsylvania brought a class action lawsuit against the Philadelphia Police Department on behalf of eight African American and Latino men who were stopped by the police on the basis of their race. The lawsuit claimed that police illegally stopped, frisked, and detained thousands of people each year as a result of an abusive policing policy. In 2011 the City of Philadelphia and the ACLU reached a settlement mandating the Philadelphia Police Department to collect and maintain electronic data on all stop-and-frisks conducted by officers. The agreement furthermore called for the analysis of the collected data by a court-appointed monitor with the ability to make recommendations for change, as well as enhanced training of law enforcement officers on stop-and-frisk practices.¹²⁵ Additionally, officers found engaging in abusive stop-and-frisk practices could be subject to discipline and retraining.¹²⁶

However, in 2013 problems with stop-and-frisk abuses have persisted. The ACLU of Pennsylvania had expressed concerns that although the number of stops were down by 15% in 2013, a large number of stops—45%—were being made without “reasonable suspicion,” deeming the stops potentially unconstitutional. The ACLU contended that not only were stops being made illegally, but also that there were disparities for certain stops and arrests—for example, arrests for marijuana possession. African Americans comprise 43.4% of the city’s population but made up 84.4% of marijuana arrests in 2012—compared to their white counterparts who are 36.9% of the population and are only

5.8% of those arrested for marijuana possession.¹²⁷

In a recent case involving Philadelphia's stop-and-frisk practices, Darrin Manning, a 16-year-old African American honor roll student claims that upon his return from a basketball game with a group of his teammates, he was stopped and frisked by two officers, who allegedly mistook their scarves for ski masks. Darrin claims he was so aggressively handled by the officer frisking him that it ruptured his genitals. Manning says, "She patted me down and then she touched my butt and my private parts.... And then she grabbed and squeezed and pulled my private parts and I felt something pop."¹²⁸

San Francisco, California

Although San Francisco has never adopted an official policy of increasing stop-and-frisk practices, it came close to doing so. In June of 2012, presumably persuaded by New York City Mayor Bloomberg and Commissioner Kelly, and others crediting the drop in crime rates in New York City to the use of abusive stop-and-frisk practices, San Francisco Mayor Ed Lee announced that he was considering implementing the tactic in San Francisco. "This is under consideration as a way to make sure that we keep homicides and some of these other violent crime(s) down," Lee said.¹²⁹

The announcement shocked many advocates and civil rights leaders in San Francisco and across the nation. Mayor Lee, recognizing the controversy around stop-and-frisk tactics, proceeded with caution and did not move forward without meeting with community leaders, including NAACP San Francisco Branch President Rev. Amos Brown. And although the Mayor had planned to gain the support of Rev. Brown and other community advocates, fortunately they were able to convince the Mayor that stop-and-frisk was not the answer to the city's crime problem.¹³⁰ In a statement, Rev. Brown says:

We are vehemently and adamantly opposed to any practice of "stop and frisk" in San Francisco and nationwide. It is our unwavering position that "stop and frisk" is a violation of civil rights and creates the atmosphere for mistrust and suspicion of law enforcement officers and is the breeding ground for police misconduct, racial profiling, and divisiveness to already challenged and marginalized communities.¹³¹

In the end, due to advocacy efforts of leaders from across the country, Mayor Lee abandoned his plans to import stop-and-frisk tactics from New York City and decided to move instead towards more proven tactics. His office stated that, "He didn't want to implement any program or policy that would have the unintended consequences or any kind of possibility of racial profiling or violating constitutional rights."¹³²

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The success in preventing the importation of stop-and-frisk abuse to San Francisco, the fact that Baltimore Police Commissioner Anthony Batts has strongly agreed with advocates on the need to fix stop-and-frisk abuse, and the milestone victories in New York City are all testament to the important role that advocates can and must play in the fight to end racial profiling across the United States. In addition, the survey conducted by David Harris, *Across the Hudson: Taking the Stop and Frisk Debate Beyond New York City* shows that stop-and-frisk practices are common in many jurisdictions, indicating the need for leaders across the country to advocate for more transparency and a better understanding of the impact of these practices.

In the next section NAACP branches, community leaders, and advocates can find recommendations for action and resources that will be useful in creating and executing campaigns to fight racial profiling and other forms of police misconduct locally, statewide, and on the national level. Though this list is by no means a comprehensive collection of every feasible and effective strategy component, it is based on lessons learned in the fight to end stop-and-frisk abuses in New York City. Advocates are encouraged to tailor the plan to their own jurisdictions according to what makes the most strategic sense in their area. A key factor that must be emphasized is the important role funders can play in supporting and uplifting the work of advocates who use these effective strategies and ultimately help build successful movements that lead to lasting change.

**review of advocate success in New York City and in several other campaigns in which the NAACP has played**



# Recommendations for Advocates

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**A** **a key role**, as well as the current state of play in the fight against racial profiling, reveal a number of key strategies used by advocates fighting to end racial profiling in America. This section describes several recommendations and suggested campaign components for NAACP leaders interested in creating an issue-based initiative on racial profiling.

## Advocate for Passage of the National End Racial Profiling Act

The End Racial Profiling Act (ERPA) was initially introduced in both houses of the United States Congress in June of 2001. The bill has been introduced with bipartisan support numerous times since then and aims to ban racial profiling on all levels of government, provide provisions for data collection and monitoring, include training, and offer sanctions and remedies for violations of the law. The NAACP and its partners have been strong proponents of ERPA and continue to push for its passage. Most recently, ERPA has been reintroduced in the US Senate by Senator Cardin (MD) (S. 1038) and in the US House of Representatives by Congressman John Conyers, Jr. (MI) (H.R. 2851). If passed, ERPA would be the first national legislation that would comprehensively address the issue of racial profiling by law enforcement at the federal level.<sup>133</sup>

NAACP members and other advocates can contact their US Senators and members of the House of Representatives to ask them to co-sponsor ERPA. Please see Appendix IV for an NAACP Action Alert on how to advocate for the passage of the End Racial Profiling Act.

## Call on the Department of Justice to Update the Federal Racial Profiling Guidance

In June 2003 the Department of Justice (DOJ) issued the *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*.<sup>134</sup> The guidance was a good first step in meeting a promise made by the Bush administration to end racial profiling. However, as noted earlier, it had several shortcomings that make it imperative for the DOJ to update the *Guidance*. The NAACP and its allies continue to call on the DOJ to update the *Guidance*.<sup>135</sup> Revisions of the *Guidance* should:

- Cover profiling based on national origin, religion, sexual orientation, gender, and gender identity
- Eliminate loopholes allowing profiling to occur under the guise of “national security” and/or at US borders<sup>136</sup>
- Apply to all federal law enforcement activity including actions by Immigration and Customs Enforcement (ICE) and by the Transportation Security Administration (TSA)
- Apply to every state or local agency receiving funds from or working in cooperation with federal law enforcement agencies
- Include enforcement mechanisms

## Advocate for Strong Anti-Racial Profiling Bills on the Local and State Level

Only 30 states in the US have anti-profiling legislation. Of those, none include all of the necessary components required for an effective policy. There are many opportunities for NAACP leaders across the country to fight racial profiling by passing new or strengthening existing legislation. Policies can and should be pursued on both the local and state level. First, check the state laws chart in Appendix I to learn about the current status of the state law or do additional research to find out about the local racial profiling policy. If there is no law in the state or locality on racial profiling, partner organizations and trusted community leaders should discuss the feasibility of recruiting a lawmaker who supports this issue and can introduce a bill. If the jurisdiction already

has a bill, make sure it is strong enough to be effective by meeting all the necessary components of an effective racial profiling policy; these components are listed in Appendix II.

To support the efforts of NAACP branches, advocates, and community leader in creating policy change, the NAACP has crafted a model anti-profiling bill that can be found in Appendix III. Advocates should use this model legislation as a guiding document and tailor it to meet the needs of their jurisdiction and current realities.

## Components for Effective Advocacy Strategies

Any successful campaign has to start off with a well thought out strategy and timeline. Below are several key components that have proven effective in recent NAACP successes.<sup>137</sup>

### *Diverse and Strategic Coalition Building*

When building a coalition, it is important to invite the right stakeholders and community leaders. In order to do this, consider the following questions:

- Who are the key civil and human rights organizations in the area?
- Who are the key faith leaders in the community?
- Which communities are impacted by racial profiling?
- Who are well-recognized and influential community leaders (both influential with the public, with lawmakers, and opinion makers in the media)?
- Which lawmakers are your allies and which are potential oppositions?
- Are there impacted individuals and communities who are willing to share their stories in public forums (media, town hall, or legislative hearings)?
- Does the coalition have diversity (African Americans, Latina/os, people of Middle Eastern/Muslim/South Asian descent, men, women, young, old, people from the LGBT community, and others who make up the community)?
- Are there law enforcement officers who are willing to stand publicly and oppose racial profiling? Keep in mind these allies can come from different ranks within law enforcement including current officers, law enforcement executives, and police retired officers.<sup>138</sup>

### *Grassroots Mobilizing & Advocacy*

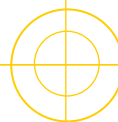
Mobilizing members of impacted communities is key as they elect public officials and lawmakers. This often starts with creating educational material, factsheets, talking points, and resources to build awareness among community members. Also crucial is holding community forums that allow for members of impacted communities to share their experiences—these can be rallies, town hall meetings, or press conferences. And finally, lawmakers must hear from their constituents directly in order to feel a responsibility to create reforms—this can be done through letter writing campaigns, visits with lawmakers, email campaigns, or setting up phone banks to connect constituents to their elected officials.

### *Grassroots Advocacy*

In any community, there are key influential public figures who must add their voice to that of the community in order to impact change. These figures include NAACP Branch or State Conference Presidents, presidents of other community organizations, thought leaders or scholars, heads of local unions, faith leaders, and others in positions of power in the community. These individuals must participate in select community forums and also be willing to connect with lawmakers and ask them to change or to create policy to end racial profiling.

### *Legislative Advocacy*

Legislative advocacy entails pushing for the passage of a new law or strengthening existing policy on racial profiling through legislative reform. Legislative advocacy is an important piece of any racial profiling campaign. This can be done in a number of ways.<sup>139</sup> Phone banking is an effective tool for helping voters to connect to



their elected officials who advocate for the passage or reform of a bill that has been introduced. The NAACP has successfully utilized the Voter Activation Network (VAN) system to conduct legislative advocacy—driving direct patch-through calls connecting voters to their elected officials in order to push for a specific policy.<sup>140</sup> Lobby days and visits with lawmakers, letter/email writing campaigns, and mobilizing communities to connect with their lawmakers to demand change are also important steps in pushing for reform.

### *Media & Social Media Strategy*

A good campaign engages a well thought through traditional media and social media strategy. A strong communications campaign ensures that the public, the media, and lawmakers understand the importance of a campaign and also recognize that the campaign is a priority for the NAACP and its partners. A comprehensive and cohesive communications strategy also ensures that all NAACP and partner advocates are speaking with one voice, relying on one set of talking points to communicate the core messages of a campaign. This strategy should include:

- Developing a shared set of talking points and messages with partner organizations
- Organizing press conferences that highlight key voices and messages at essential moments during a campaign
- Issuing press releases for press conferences and for any important developments in the campaign
- Setting up media interviews with key media outlets and NAACP and other community leaders to ensure the issue remains visible
- Recording public service announcement that air on targeted media stations to create greater awareness, and
- Strategically and continuously relying on facebook, twitter, and other social media outlets to promote media hits about key developments throughout the course of a campaign.

# Conclusion

**T**he fight for better policing and greater accountability is one in which the NAACP has been engaged since its inception. In fact, the first case handled successfully by the Association in 1910 entailed defending Pink Franklin, a sharecropper, from an illegal police raid on his farm.<sup>141</sup> Sadly, more than a hundred years later, it is a fight we must continue to wage. Though it may take different forms, racial profiling continues to devastate communities of color, youth, LGBT communities, religious minorities, and other marginalized populations in America. Yet, with recent advocacy successes, heightened awareness, and an increased and ever-diverse community engagement, the time is ripe to recommit to this century-long battle.

This report and the resources contained within it are meant to provide the foundation for civil and human rights leaders across the country to design and execute strategic and thoughtful campaigns. The NAACP Criminal Justice Program, NAACP Field Directors, the NAACP Washington Bureau, and other National Staff can help provide guidance and additional technical assistance as capacity allows. Please keep the NAACP staff informed of your efforts to end racial profiling and advocate for a more just, effective, and humane system of policing: [CriminalJustice@naacpnet.org](mailto:CriminalJustice@naacpnet.org)

As Alice Huffman, President of the California/Hawaii NAACP State Conference and a member of the NAACP Board of Directors, eloquently states:

A call to end racial profiling is not just a call to end bad public policy. It is a call to save lives. If we do not stand up and end racial profiling, other young African American men will die. The time is now to finish what many of us started when Rodney King's rights were so brutally violated twenty years ago.... For if we truly want a better tomorrow, we must demand more of each other.<sup>142</sup>





## Appendix I: State Racial Profiling Laws

| Components of Racial Profiling Laws by State |                                                                                                                                                                                                        |                                                                                                                                                             |                                                                                                                                           |                                                                                                                                    |                                                                                                                                                                                                    |                                                                                                                                                            |                                                                                                                                                                          |                                                                                                                      |                                                                                                                      |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| State                                        | Racial Profiling Legislation                                                                                                                                                                           | Racial profiling prohibition defined: Includes a comprehensive definition of racial profiling (see Appendix II of this report for comprehensive definition) | Bans pretextual stops of pedestrians and motorists in virtue of race, ethnicity, gender, national origin, sexual orientation, or religion | Criminalizes violations of the racial profiling ban and specifies penalties for officers who repeatedly engage in racial profiling | Requires mandatory data collection for all stops and searches. Data includes perceived race, gender, age, English language proficiency and whether immigration status was inquired during the stop | Requires data analysis and publication of data collected, complaints of racial profiling, and regularly publish results of racial profiling investigations | Creates independent commission to review and respond to complaints of racial profiling and regularly publish results of racial profiling investigations                  | Allows individuals to seek court orders to stop individual departments from continuing to engage in racial profiling | Provides funds for periodically retraining officers and installing in-car video cameras for monitoring traffic stops |
| Alabama                                      | Alabama Code §32-5B-8 [Enacted 1991]                                                                                                                                                                   | No                                                                                                                                                          | No                                                                                                                                        | No                                                                                                                                 | Yes, but no identifying factors                                                                                                                                                                    | Yes, Law Enforcement Agency                                                                                                                                | Yes, the Department of Public Safety and the Attorney General                                                                                                            | No                                                                                                                   | No                                                                                                                   |
| Arizona                                      | Executive Order 2006-12 Governor's Citizen Traffic Stop Advisory Board [Enacted 2006]                                                                                                                  | No                                                                                                                                                          | Yes                                                                                                                                       | No                                                                                                                                 | No                                                                                                                                                                                                 | No                                                                                                                                                         | Yes                                                                                                                                                                      | No                                                                                                                   | No                                                                                                                   |
| Arkansas                                     | Arkansas Statutes Annotated Section A.C.A. § 12-12-1401, § 12-12-1402; A.C.A. § 12-12-1403; A.C.A. § 12-12-1404 [Enacted 2003]; A.C.A. § 12-12-1405 [Enacted 2009]; A.C.A. § 14-14-1314 [Enacted 2007] | Yes (A.C.A. § 12-12-1401, 1403, and 1404)                                                                                                                   | Yes (A.C.A. § 12-12-1401 and 1403)                                                                                                        | Yes (A.C.A. § 12-12-1401 and 1403)                                                                                                 | No                                                                                                                                                                                                 | No                                                                                                                                                         | Yes, The Division of Legislative Audit and the Attorney General (A.C.A. § 12-12-1401, 1403, and 1405)                                                                    | No                                                                                                                   | Yes (A.C.A. § 14-14-1314 and A.C.A. § 12-12-1401, 1403 and 1404)                                                     |
| California                                   | Section 13519.4 of the California Penal Code [Enacted 2004]                                                                                                                                            | Yes                                                                                                                                                         | Yes                                                                                                                                       | No                                                                                                                                 | Yes                                                                                                                                                                                                | Yes, Legislative Analyst                                                                                                                                   | Yes                                                                                                                                                                      | No                                                                                                                   | Yes (only training)                                                                                                  |
| Colorado                                     | Colorado Revised Statute Sections 24-31-309 Profiling [Enacted 2001]                                                                                                                                   | No                                                                                                                                                          | Yes                                                                                                                                       | No                                                                                                                                 | No                                                                                                                                                                                                 | No                                                                                                                                                         | No                                                                                                                                                                       | No                                                                                                                   | Yes (only training)                                                                                                  |
| Connecticut                                  | Public Act 99-198 [Enacted 1999 and 2000] and Public Act 12-74 [Enacted 2012 and 2013]                                                                                                                 | Yes (Public Act 12-74)                                                                                                                                      | Yes (Public Act 99-198)                                                                                                                   | Yes (Public Act 99-198)                                                                                                            | Yes (Public Act 99-198 and Public Act 12-74)                                                                                                                                                       | Yes, Dept. of Public Safety (Public Act 99-198 and Public Act 12-74) in conjunction with the Racial Profiling Prohibition Advisory Board                   | Yes, Dept. of Public Safety and the Chief State's Attorney (Public Act 99-198 and Public Act 12-74) in conjunction with the Commission on Human Rights and Opportunities | No                                                                                                                   | Yes (only training)(Public Act 12-74)                                                                                |
| Florida                                      | F.S.A. Section 316.614 subsection 9 [Enacted 2005]                                                                                                                                                     | No                                                                                                                                                          | No                                                                                                                                        | Yes                                                                                                                                | Yes                                                                                                                                                                                                | Yes, Law Enforcement Agency                                                                                                                                | No                                                                                                                                                                       | No                                                                                                                   | No                                                                                                                   |

## State Racial Profiling Laws continued

| State Racial Profiling Laws continued |                                                                                                                                       |                                             |                        |                                                                                                   |                                                 |                                                                    |                                                                                                                       |                        |                                                           |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|------------------------|---------------------------------------------------------------------------------------------------|-------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------------------------------------|
| <b>Illinois</b>                       | 20 I.L.C.S. Sections 2715/1, 2715/5, 2715/15, 2715/10, 2715/40, 2715/99 [Enacted 2008] and 625 ILCS 5/11-212 [Enacted 2010]           | No                                          | No                     | No                                                                                                | Yes (625 ILCS 5/11-212)                         | Yes, The Illinois Department of Transportation (625 ILCS 5/11-212) | No                                                                                                                    | No                     | No                                                        |
| <b>Kansas</b>                         | K.S.A. § 22-4606, 4609, 4610, and 4611 [Enacted 2005]                                                                                 | Yes (K.S.A. § 22-4606 and 4609)             | Yes (K.S.A. § 22-4609) | Yes (K.S.A. § 22-4610)                                                                            | No                                              | Yes (K.S.A. § 22-4610)                                             | Yes, Attorney General and the Kansas commission on peace officers' standards and training (K.S.A. § 22-4610 and 4611) | Yes (K.S.A. § 22-4611) | Yes (only training)(K.S.A. § 22-4610)                     |
| <b>Kentucky</b>                       | K.R.S. Section 15A.195 [Enacted 2001]                                                                                                 | No                                          | No                     | No                                                                                                | No                                              | No                                                                 | No                                                                                                                    | No                     | No                                                        |
| <b>Louisiana</b>                      | L.S.A.-R.S. 32:398.10 [Enacted 2001]                                                                                                  | No                                          | No                     | No                                                                                                | Yes                                             | Yes, Department of Public Safety and Corrections                   | No                                                                                                                    | No                     | Yes (only training)                                       |
| <b>Maryland</b>                       | Article - Transportation Section 25-113 Annotated Code of Maryland [Enacted 2011]                                                     | No                                          | Yes                    | No                                                                                                | Yes                                             | Yes, Maryland Statistical Analysis Center                          | No                                                                                                                    | No                     | Yes                                                       |
| <b>Massachusetts</b>                  | Chapter 228 [Enacted 2000] and ALM GL ch. 90C, § 2 [Enacted 1982], ALM GL ch. 90C, § 2A [Enacted 2006]                                | No                                          | No                     | No                                                                                                | Yes                                             | Yes,                                                               | No                                                                                                                    | No                     | Yes (only training)                                       |
| <b>Minnesota</b>                      | M.S.A. Section 626.8471, M.S.A. Section 626.9517, and M.S.A. Section 626.9514 [Enacted 2001] and M.S.A. Section 13.871 [Enacted 1991] | No                                          | No                     | No                                                                                                | Yes (M.S.A. Section 13.871)                     | No                                                                 | Yes, Attorney General (M.S.A. Section 626.9514)                                                                       | No                     | Yes (M.S.A. Section 626.8471 and M.S.A. Section 626.9517) |
| <b>Missouri</b>                       | Missouri Revised Statutes 304.670 [Enacted 1999] and § 590.050, § 590.650, and § 590.653 R.S.Mo. [Enacted 2001]                       | Yes (§ 590.653 R.S.Mo and § 304.670 R.S.Mo) | Yes (§ 590.650 R.S.Mo) | Yes (No criminal liability but penalties applied through disciplinary measures) (§304.670 R.S.Mo) | Yes (§ 590.650 R.S.Mo and and § 304.670 R.S.Mo) | Yes, Attorney General (§ 590.650 R.S.Mo)                           | Yes, Attorney General and Civilian Review Board (§ 590.650 and § 590.653 R.S.Mo)                                      | No                     | Yes (§ 590.050 and § 590.650 R.S.Mo)                      |
| <b>Montana</b>                        | Montana Code Annotated § 44-2-117 [Enacted 2003]                                                                                      | No                                          | Yes                    | Yes                                                                                               | Yes                                             | No                                                                 | Yes, Law Enforcement Agency Designated Person                                                                         | No                     | Yes                                                       |



## State Racial Profiling Laws continued

|                       |                                                                                                                                                                                                                                                                                                                                                                        |                        |                                                                                          |                                                  |                                                                |                                                                                                 |                                                                                                                                     |                                                  |                                       |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|---------------------------------------|
| <b>Nebraska</b>       | Nebraska Revised Statute R.R.S. Neb. § 20-501, R.R.S. Neb. § 20-502, R.R.S. Neb. § 20-503, R.R.S. Neb. § 20-504, R.R.S. Neb. § 20-505 [Enacted 2001]                                                                                                                                                                                                                   | No                     | Yes (R.R.S. Neb. § 20-501 and § 20-502)                                                  | Yes (R.R.S. Neb. § 20-504)                       | Yes (R.R.S. Neb. § 20-504)                                     | Yes (R.R.S. Neb. § 20-504 and § 20-505)                                                         | Yes (The Nebraska Commission on Law Enforcement and Criminal Justice)(R.R.S. Neb. § 20-504 and § 20-505)                            | No                                               | No                                    |
| <b>Nevada</b>         | Assembly Bill No. 500 An Act Relating to Law Enforcement [Enacted 2001] and Nev. Rev. Stat. Ann. § 289.820 [Enacted 2001]                                                                                                                                                                                                                                              | No                     | No                                                                                       | No                                               | Yes (Assembly Bill No. 500 An Act Relating to Law Enforcement) | Yes (Assembly Bill No. 500 An Act Relating to Law Enforcement)                                  | Yes, Attorney General (Assembly Bill No. 500 An Act Relating to Law Enforcement)                                                    | No                                               | No                                    |
| <b>New Jersey</b>     | N.J.S.A. Section 2C:30-5 [Enacted 2003]                                                                                                                                                                                                                                                                                                                                | No                     | Yes                                                                                      | Yes                                              | No                                                             | No                                                                                              | No                                                                                                                                  | No                                               | No                                    |
| <b>New Mexico</b>     | 29-21-1 through 29-21-4 N.M.S.A. 1978 [Enacted 2009]                                                                                                                                                                                                                                                                                                                   | Yes (29-21-2 N.M.S.A.) | Yes (29-21-2 N.M.S.A.)                                                                   | Yes (29-21-3 N.M.S.A.)                           | No                                                             | No                                                                                              | Yes, Attorney General (29-21-3 and 29-21-4 N.M.S.A.)                                                                                | No                                               | Yes (only training)(29-21-3 N.M.S.A.) |
| <b>North Carolina</b> | N.C.G.S.114-10.01 [Enacted 2000]                                                                                                                                                                                                                                                                                                                                       | No                     | No                                                                                       | No                                               | Yes                                                            | No                                                                                              | No                                                                                                                                  | No                                               | No                                    |
| <b>Oklahoma</b>       | 22 O.S. Sections 34.3, 34.4, 34.5 [Enacted 2000]                                                                                                                                                                                                                                                                                                                       | No                     | Yes (22 O.S. Section 34.3)                                                               | Yes (22 O.S. Sections 34.3)                      | No                                                             | No                                                                                              | Yes, Oklahoma Human Rights Commission (22 O.S. Sections 34.4 and 34.5)                                                              | No                                               | No                                    |
| <b>Rhode Island</b>   | Gen.Laws 1956, Section 31-21.1-2 [Enacted in 2000], Rhode Island R.I. Gen. Laws § 31-21.1-1, § 31-21.1-2, § 31-21.1-3, § 31-21.1-4, § 31-21.1-5, and § 31-21.1-7 [Enacted 2000], R.I. Gen. Laws § 31-21.2-1, § 31-21.2-2, § 31-21.2-3, § 31-21.2-4, § 31-21.2-5, § 31-21.2-6, § 31-21.2-7, and § 31-21.2-8 [Enacted 2004] and R.I. Gen. Laws § 42-137-5 [Enacted 2003] | No                     | Yes (R.I. Gen. Laws § 31-21.1-5, § 31-21.1-2, § 31-21.2-1, § 31-21.2-2, and § 31-21.2-5) | Yes (R.I. Gen. Laws § 31-21.2-7 and § 31-21.1-6) | Yes (R.I. Gen. Laws § 31-21.2-6, § 31-21.2-7, and § 31-21.1-4) | Yes, Rhode Island Justice Commission (R.I. Gen. Laws § 31-21.2-6, § 31-21.2-7, and § 31-21.1-6) | Yes, Police Department and the Select Commission on Race and Police-Community Relations (R.I. Gen. Laws § 31-21.2-8 and § 42-137-5) | Yes (R.I. Gen. Laws § 31-21.2-4 and § 31-21.1-7) | Yes (R.I. Gen. Laws § 31-21.2-5)      |
| <b>Tennessee</b>      | T. C. A. Sections 45-6-223 [Enacted 2001]                                                                                                                                                                                                                                                                                                                              | No                     | No                                                                                       | Yes                                              | No                                                             | No                                                                                              | No                                                                                                                                  | Yes                                              | No                                    |

| State Racial Profiling Laws continued |                                                                                                                                                                                                                                                          |                                                                                                                                                             |                                                                                                                                           |                                                                                                                                    |                                                                                                                                                                                                    |                                                                                                                                                            |                                                                                                                                                         |                                                                                                                      |                                                                                                                      |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| State                                 | Racial Profiling Legislation                                                                                                                                                                                                                             | Racial profiling prohibition defined: Includes a comprehensive definition of racial profiling (see Appendix II of this report for comprehensive definition) | Bans pretextual stops of pedestrians and motorists in virtue of race, ethnicity, gender, national origin, sexual orientation, or religion | Criminalizes violations of the racial profiling ban and specifies penalties for officers who repeatedly engage in racial profiling | Requires mandatory data collection for all stops and searches. Data includes perceived race, gender, age, English language proficiency and whether immigration status was inquired during the stop | Requires data analysis and publication of data collected, complaints of racial profiling, and regularly publish results of racial profiling investigations | Creates independent commission to review and respond to complaints of racial profiling and regularly publish results of racial profiling investigations | Allows individuals to seek court orders to stop individual departments from continuing to engage in racial profiling | Provides funds for periodically retraining officers and installing in-car video cameras for monitoring traffic stops |
| Texas                                 | Tex. Code Crim. Proc. art. 2.131, 2.132, 2.134, and 2.135 [Enacted 2001], Tex. Code Crim. Proc. art. 3.05 [Enacted 2001] Tex. Educ. Code § 96.641 [Enacted 1997], Tex. Occ. Code § 1701.253 [Enacted 1965], and Tex. Occ. Code § 1701.402 [Enacted 1965] | No                                                                                                                                                          | Yes (Tex. Code Crim. Proc. art. 2.131 and 2.132)                                                                                          | Yes (Tex. Code Crim. Proc. art. 2.132)                                                                                             | Yes (Tex. Code Crim. Proc. art. 2.132)                                                                                                                                                             | Yes (Tex. Code Crim. Proc. art. 2.134)                                                                                                                     | Yes, The Commission on Law Enforcement Officer Standards and Education (Tex. Code Crim. Proc. art. 2.134)                                               | No                                                                                                                   | Yes (Tex. Code Crim. Proc. art. 2.132, Tex. Educ. Code § 96.641, and Tex. Occ. Code § 1701.402 and § 1701.253)       |
| Utah                                  | §17-22-2 [Enacted 2002] and §53-8-104 [Enacted 2002]                                                                                                                                                                                                     | No                                                                                                                                                          | Yes (§53-8-104)                                                                                                                           | Yes (§17-22-2)                                                                                                                     | No                                                                                                                                                                                                 | No                                                                                                                                                         | No                                                                                                                                                      | No                                                                                                                   | No                                                                                                                   |
| Virginia                              | Code of Virginia Chapter 490 Section 9.1-102 [Enacted 2002]                                                                                                                                                                                              | No                                                                                                                                                          | No                                                                                                                                        | No                                                                                                                                 | No                                                                                                                                                                                                 | No                                                                                                                                                         | No                                                                                                                                                      | No                                                                                                                   | Yes (only training)                                                                                                  |
| Washington State                      | RCW § 43.101.410 [Enacted 2002] and § 43.43.490 [Enacted 2000]                                                                                                                                                                                           | No                                                                                                                                                          | No                                                                                                                                        | Yes (RCW § 43.101.410)                                                                                                             | Yes (RCW § 43.101.410)                                                                                                                                                                             | No                                                                                                                                                         | No (Citizen Complaint Review Process)(RCW § 43.101.410)                                                                                                 | No                                                                                                                   | Yes (only training)(RCW § 43.101.410)                                                                                |
| West Virginia                         | W. Va. Code § 30-29-10 [Enacted 2002] and W. Va. Code § 17G-2-3 [Enacted 2004]                                                                                                                                                                           | No                                                                                                                                                          | Yes (W. Va. Code § 17G-2-3)                                                                                                               | Yes (W. Va. Code § 30-29-10)                                                                                                       | Yes (W. Va. Code § 17G-2-3)                                                                                                                                                                        | Yes, Governor's Committee on Crime, Delinquency and Correction (W. Va. Code § 17G-2-3)                                                                     | Yes, No commission (W. Va. Code § 30-29-10)                                                                                                             | No                                                                                                                   | Yes, (only training)(W. Va. Code § 30-29-10)                                                                         |
| Wisconsin                             | Executive Order No. 387 [Enacted 2000] and Executive Order No. 1 [Enacted 2001]                                                                                                                                                                          | No                                                                                                                                                          | No                                                                                                                                        | No                                                                                                                                 | No                                                                                                                                                                                                 | No                                                                                                                                                         | Yes, Governor's Task Force on Racial Profiling (Executive Order No. 1)                                                                                  | No                                                                                                                   | Yes (only training)(Executive Order No. 1)                                                                           |



## Appendix II: Components of an Effective Racial Profiling Law

For a racial profiling law to be effective, the law must:

- Include a comprehensive definition and an effective ban on racial profiling. A comprehensive definition would prohibit the profiling of individuals and groups by law enforcement agencies even partially on the basis of race, ethnicity, national origin, religion, gender identity or expression, sexual orientation, immigration or citizenship status, language, disability (including HIV status), housing status, occupation, or socioeconomic status except when there is trustworthy information, relevant to the locality and time frame, which links person(s) belonging to one of the aforementioned groups to an identified criminal incident.
- Ban pretextual stops—those instances in which police use minor/common traffic violations to inquire about drugs, guns, or other breaches of the law—of pedestrians and motorists.
- Outlaw violations of the racial profiling ban and specify penalties for officers who repeatedly engage in racial profiling.
- Require mandatory data collection for all stops and all searches (traffic and pedestrian) in all circumstances (warnings and citations given). Such data would include perceived race, perceived gender, perceived age, perceived nationality, and whether immigration status was inquired about during the stop.
- Require data analysis and publication of the data collected on racial profiling and regularly publish results of racial profiling investigations.
- Create an independent commission to review and respond to complaints of racial profiling and regularly publish results of racial profiling investigations.
- Allow individuals to seek legal relief through the court to stop individual law enforcement officers and departments from engaging in racial profiling.
- Provide funds for periodically retraining officers and installing in-car video cameras, body-worn cameras, and gun cameras for monitoring traffic stops and other police interactions.

## Appendix III: Anti-Racial Profiling Model Bill

### A Law to Prohibit Profiling/Discriminatory Policing Practices by Law Enforcement Officers.

*Be it enacted by the [Name of Government Body] as follows:*

#### Section 1. Declaration of Legislative Intent and Findings.

- (a) The [Name of Government Body] finds that profiling/discriminatory policing practices endangers the long tradition of law enforcement officers serving the [Applicable State or Locality] community in order to cultivate a welcoming place for people of all backgrounds. The [Legislative Assembly/Local Council] further finds that the people of [Applicable State or Locality] are in great debt to the hard work and dedication of police officers in their daily duties. The name and reputation of these officers should not be tarnished by the actions of those who would commit discriminatory practices.
- (b) Profiling/discriminatory policing practices by the police alienates communities from law enforcement, violates rights and freedoms, and is a danger to public safety. By passing this legislation, it is the intent of the [Name of Government Body] to prohibit profiling/discriminatory policing practices and to create a safer state/city/community for all.

#### Section 2. Profiling/Discriminatory Policing Practices Prohibited.

- (a) Definitions. As used in this section, the following terms have the following meanings:
  1. “Law enforcement officer” means
    - (A) a peace officer or police officer as defined in the law who is employed by the [State/ Locality]; or
    - (B) a special patrol officer appointed by the police commissioner/chief to carry out law enforcement duties.
  2. “Law enforcement action” means any action carried out by law enforcement agencies and officers that involve apprehending people who break the law.
  3. “Specific suspect description-based notification” means reasonably detailed physical descriptions of the personal identifying characteristics of potential suspects (including age, sex, ethnicity or race) by law enforcement officers instead of law enforcement officers acting based on a generalized assumption about persons of different races. Description-based notification is not a violation of the prohibition on profiling/discriminatory policing practices when it includes race, ethnic appearance, etc.
  4. “Profiling/discriminatory policing practices” means any law enforcement action against an individual by a law enforcement officer that relies, to any degree, on actual or perceived race, color, ethnicity, religion, national origin, gender identity or expression, sexual orientation, immigration or citizenship status, language, disability (including HIV status), housing status, occupation, or socioeconomic status in initiating law enforcement action against an individual, rather than any law enforcement action that relies on a specific suspect description-based notification, an individual’s behavior or other trustworthy information or circumstances, relevant to the locality and timeframe, that links a person or persons to suspected unlawful activity.
  5. A “pretextual” stop involves a police officer stopping a pedestrian for a violation of the [State/ Locality] Penal Law or a driver of a motor vehicle for a traffic violation, minor or otherwise, to allow the officer to then investigate a separate and unrelated, suspected criminal offense.
  6. “Housing status” means the character of an individual’s residence or lack thereof, whether publicly or privately owned, whether on a temporary or permanent basis, and shall include but



not be limited to:

- (A) an individual's ownership status with regard to the individual's residence;
- (B) the status of having or not having a fixed residence;
- (C) an individual's use of publicly assisted housing;
- (D) an individual's use of the shelter system; and
- (E) an individual's actual or perceived homelessness.

(b) Prohibition.

1. Every member of the law enforcement agency (including other law enforcement officers, civilian employees, and parties contracted by the law enforcement agency) shall be prohibited from engaging in profiling/unlawful discriminatory practices as defined in Section (c)(3).

(c) Enforcement.

1. An individual subject to profiling/discriminatory policing practices or an organization whose interests are germane to the purpose of this section, may enforce this section in a civil action for any or all of the following remedies: compensatory and punitive damages; injunctive and declaratory relief; and such other relief as a court deems appropriate.
2. In an action brought under this section, relief may be obtained against:
  - (A) any governmental body that employed any law enforcement officer who engaged in profiling/unlawful discriminatory policing practices;
  - (B) any law enforcement officer who engaged in profiling/unlawful discriminatory policing practices and any person with supervisory authority over such law enforcement officer;
  - (C) any civilian employee who is employed with a law enforcement agency who engaged in profiling/unlawful discriminatory policing practices and any person with supervisory authority over such law such civilian employee; and
  - (D) any party contracted by the law enforcement agency who engaged in profiling/unlawful discriminatory policing practices.
3. An unlawful discriminatory practice is established under this section when:
  - (A) an individual or organization brings an action demonstrating that a law enforcement officer has, or law enforcement officers have, intentionally engaged in unlawful profiling of one or more individuals; and
  - (B) the governmental body, law enforcement officer, or supervisor against whom such action is brought fails to prove that:
    - i. such profiling or discriminatory policing practice is necessary to achieve a compelling governmental interest, and
    - ii. the practice was narrowly tailored to achieve that compelling governmental interest, and
    - iii. the least restrictive means were used to achieve the compelling governmental interest; or
  - (C) an individual or organization brings an action demonstrating that the activities of law enforcement officers have had a disparate impact on individuals based on actual or perceived



race, color, ethnicity, religion, national origin, age, sex, gender identity or expression, sexual orientation, immigration or citizenship status, language, disability (including HIV status), housing status, occupation, or socioeconomic status; and

(D) the governmental body, law enforcement officer, or supervisor against whom such action is brought fails to prove a substantial justification for such activities; or

(E) the governmental body, law enforcement officer, or supervisor does prove a substantial justification for such activities; and

(F) the individual or organization demonstrates a comparably effective alternative policy or practice which results in less of a disparate impact.

4. In any action or proceeding to enforce this section against any governmental body, the court shall allow a prevailing plaintiff reasonable attorney's fees as part of the costs, and may include expert fees as part of the attorney's fees.

### Section 3. Data Collection.

(a) Not later than 6 months after the date of enactment of this Act, the [State/Locality] Attorney General/district attorney, in consultation with stakeholders, including Federal, State, and local law enforcement agencies and community, professional, research, and civil rights organizations, shall issue regulations for the collection of data. The [State/Locality] Attorney General's/district attorney's office shall collect this data. The regulations issued under this section shall:

1. Provide for the collection of data on all routine or spontaneous investigatory activities.

(b) The information to be collected shall include:

1. Pedestrian and vehicular stops;
2. The identifying characteristics of the operator stopped, including perceived race, ethnicity, English language proficiency, gender, and age;
3. The location and duration of the stop;
4. The traffic violation or violations alleged to have been committed that led to the stop;
5. Whether or not a warning or citation was issued as a result of the stop and if so, the specific violation, if any, charged or warning given;
6. Whether a search was performed as a result of the stop;
7. If a search was performed, whether the person consented to the search, the probable cause or reasonable suspicion for the search, whether the person was searched, whether the person's property was searched and the duration of the search;
8. If a search was of a passenger in the motor vehicle, the perceived age, gender, race, ethnicity, and English language proficiency of the passenger;
9. Whether any contraband was discovered or seized in the course of the search, including money, and the type of any contraband discovered or seized;
10. Whether any physical force was used by and against the law enforcement officer or officers, and if so, to what extent; and
11. Whether the search involved canine units or advanced technology; and any additional information which the law-enforcement agency considers appropriate.

(c) Provide that law enforcement agencies shall compile data on the standardized form and submit the



form to the [State/Locality] Attorney General's/district attorney's office;

- (d) Provide that law enforcement agencies shall conspicuously publicize the compiled data on the respective law enforcement agency's website on a monthly or quarterly basis;
- (e) Provide that law enforcement agencies shall maintain all data collected under this Act for not less than 4 years;
- (f) Include guidelines for setting comparative benchmarks, consistent with best practices, against which collected data shall be measured; and
- (g) Provide for the protection of the privacy of individuals whose data is collected by:
  - 1. not providing individual names and identifying information regarding the particular law enforcement officers who made the stops and the pedestrians and drivers who were stopped;
  - 2. limiting the use and disclosure of the data collected under this Act to the purposes set forth in this Act;
  - 3. except as otherwise provided in this Act, limiting access to the data collected under this Act to those Federal, State, local, or tribal employees or agents who require such access in order to fulfill the purposes for the data set forth in this Act;
  - 4. requiring contractors or other non-governmental agents who are permitted access to the data collected under this Act to sign use agreements incorporating the use and disclosure restrictions set forth in subparagraph 1; and
  - 5. requiring contractors or other non-governmental agents who are permitted access to the data collected under this Act to sign use agreements requiring the maintenance of adequate security measures to prevent unauthorized access to the data collected under this Act.

#### Section 4. Data Analysis.

- (a) The [State/Locality] Attorney General/district attorney may collect reports from individual law enforcement officers regarding pedestrian and traffic stops made by other law enforcement officers.
  - 1. Any such report may be submitted anonymously, and must be kept confidential.
- (b) On or before [Designated Date], the [State/Locality] Attorney General/district attorney shall compile the results of the information collected pursuant to Section 3 of this Act and provide the compiled data to independent experts to be analyzed.
- (c) The independent experts shall then provide the data analysis to the [State/Locality] Attorney General/district attorney office in statistical form.
- (d) The [State/Locality] Attorney General/district attorney office shall report the data analysis in statistical form to the public conspicuously on the respective law enforcement agency's website on a monthly or quarterly basis without revealing personally identifiable information.

#### Section 5. Independent Commission.

- (a) An independent [State/Locality] Commission (The Commission) shall be created to establish procedures for filing profiling/unlawful discriminatory policing practices complaints.
- (b) The [State/Locality] Commission shall promulgate rules establishing procedures for filing a profiling/unlawful discriminatory policing practices complaint with the [State/Locality] Commission. The [State/Locality] Commission, in consultation with the Secretary of State's office, shall promulgate forms for complaints of profiling/unlawful discriminatory policing practices.
- (c) A notice must be given to the person stopped by a law enforcement officer as to allow he or she to file

a complaint with the [State/Locality] Commission if that person believes that he or she was stopped, detained, or subject to a search in violation of Section 1 of this Act.

- (d) The [State/Locality] Commission shall then review and investigate the complaint.
  - 1. The [State/Locality] Commission shall possess independent subpoena and disciplinary authority in order to investigate complaints of profiling/discriminatory policing practices.
- (e) Upon completion of the investigation, the [State/Locality] Commission shall determine if the stop or arrest was in violation of Section 1 of this Act.
- (f) If the stop or arrest was in violation of Section 1 of this Act, then the [State/Locality] Commission shall assess disciplinary measures on the law enforcement officer or officers involved in the complaint.
  - 1. Disciplinary measures assessed by the [State/Locality] Commission are enforceable in court.
- (g) The [State/Locality] Commission shall forward copies of the complaint, materials related to the investigation, and the determination with the assessed disciplinary measures to the arresting law enforcement officer's employer and the [State/Locality] Attorney General's or district attorney's office for review.
- (h) The [State/Locality] Commission shall then communicate the results of the investigation in writing to the person who filed the complaint.
  - 1. The person who filed the complaint can use the results of the investigation to file a civil claim against the involved officer/s and the employing law enforcement agency in the [State/Locality] Court for civil liability remedies. [As stated in Sections 2(c)1, 2(c)2, and 2(c)4].
- (i) The [State/Locality] Commission shall compile an annual report of all complaints received and investigated for profiling/unlawful discriminatory policing practices and submit the report on or before January 31 of each year to the Governor or the executive equivalent of a locality, the President Pro Tempore of the [State] Senate, and the Speaker of the [State] House of Representatives or the [State/Locality] legislative equivalent.
- (j) The Commission shall consist of members within the following ranks:
  - 1. A representative from the Governor's Office.
  - 2. Representatives from Advocacy Groups that support communities of color, the LGBTQ community, undocumented people, women, the Islamic community, homeless people, and people with disabilities.
  - 3. A representative of the Police Officers Association of [State/Locality].
  - 4. A representative of the applicable labor union.
  - 5. A representative of the [State] Bar Association appointed by the Governor from a list of attorneys submitted by the executive council of the [State] Bar Association.

## Section 6. Training.

- (a) This Act shall require that all law enforcement agencies be trained on issues related to the prohibition on profiling/unlawful discriminatory policing practices and on data collection and reporting methods.
- (b) The [State/Locality] Commission on Peace Officers Standards and Training (CPOST) or its equivalent shall develop and disseminate guidelines and training for all law enforcement officers.
  - 1. All law enforcement officers must adhere to the standards approved by the [State/Locality] CPOST or its equivalent on the racial and cultural differences among the persons within [State/Locality].



2. The course or courses of instruction and the guidelines must stress understanding and respect for diverse communities and development of effective, non-combative methods of carrying out law enforcement duties in a diverse environment.
- (c) The course of basic training for law enforcement officers must include adequate instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.
  1. In developing the training, the [State/Locality] CPOST or its equivalent shall consult with appropriate groups and individuals having an interest and expertise in the field of cultural awareness and diversity.
- (d) Every law enforcement officer in the [State/Locality] must participate in expanded training as prescribed and certified by the [State/Locality] CPOST or its equivalent.
- (e) The curriculum shall utilize the Tools for Tolerance for Law Enforcement Professionals framework or its equivalent and shall include and examine the patterns, practices, and protocols that make up racial and other forms of profiling and unlawful discriminatory policing:
  1. This training shall prescribe patterns, practices, and protocols that prevent unlawful profiling.
  2. In developing the training, the [State or Locality] CPOST or its equivalent shall consult with appropriate groups and individuals having an interest and expertise in the field of racial profiling.
  3. The course of instruction must include, but not be limited to, adequate consideration of each of the following subjects:
    - (A) identification of key indices and perspectives that make up differences among residents in a local community;
    - (B) negative impact of biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police/community relations;
    - (C) the history and the role of the civil rights movement and struggles and their impact on law enforcement;
    - (D) specific obligations of officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers; and
    - (E) perspectives of diverse, local constituency groups and experts on particular cultural and police-community relations issues in a local area.
- (f) Once the initial basic training is completed, each law enforcement officer in [State/Locality], who adheres to the standards approved by the [State/Locality] CPOST or its equivalent shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing demographic trends.

#### Section 7. In-Car And Body-Worn Camera Program.

- (a) Each law enforcement agency in this state may utilize federal funds from community-oriented policing services grants or any other federal source to equip each vehicle used for traffic stops with a video camera and voice-activated microphone.
- (b) [State/Local] Law Enforcement Agency must:
  1. Implement a course of instruction, which incorporates pertinent laws, Federal Rules of Evidence, departmental policies and procedures, and use and operation of the audio and video equipment;

2. Implement an introductory in-car and body-worn camera course designed specifically for new recruits; and
3. Implement a refresher course for advanced officer training:
  - (A) Minor infractions (not criminal in nature) by law enforcement officers discovered during routine review of the recorded material should be viewed as training opportunities and not as routine disciplinary actions.
  - (B) Should the behavior or action be repetitive after being informally addressed the appropriate disciplinary or corrective action shall be pursued.
  - (C) Major infractions (criminal in nature) by law enforcement officers discovered during routine review of the recorded material is subject routine disciplinary actions and criminal charges.
- (c) A chief law enforcement officer shall provide a copy of a videotape or disk that recorded a traffic stop to the driver of the stopped vehicle upon the driver's request if the tape or disk has not yet been discarded.
- (d) On the commencement of an investigation by a law enforcement agency of an unlawful discriminatory profiling complaint in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the law enforcement officer who is the subject of the complaint on written request by the officer.
- (e) The police chief of the involved law enforcement officer's law enforcement agency, the Commission (as described in Section 5), and the [State/Locality] Attorney General or district attorney are the only parties authorized to access the retained video and audio.
- (f) A video camera installed pursuant to a grant under this section must:
  1. be automatically activated during every traffic stop;
  2. contain an audio feature; and
  3. be designed and installed so as to record the stop in its entirety.
- (g) Cameras must not be equipped with manual shutoff switches and must be activated for the entirety of a traffic stop.
- (h) Chief law enforcement officers of agencies receiving grants under this section for video cameras in police vehicles shall ensure that the videotape or disk from the camera be stored for a minimum of 90 days after use:
  1. Tapes and disks must be stored and maintained under this subdivision in an accessible manner.
  2. The tapes and disks must be clearly labelled and ordered.
- (i) If the chief law enforcement officer has not been instructed by the Commission or the [Applicable State/Locality] Attorney General or district attorney to maintain the tape or disk beyond 90 days, the chief law enforcement officer may discard it.
- (j) Recording applies to:
  1. uniformed officers;
  2. marked vehicles;
  3. SWAT raids; and
  4. similar planned uses of force when they involve non- uniformed officers.
- (k) Officers are required, wherever practicable, to notify people that they are being recorded such as



officers wearing an easily visible pin or sticker saying 'lapel camera in operation' or words to that effect.

#### Section 8. Severability.

- (a) If any provision of this bill or any other provision of this law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

#### Section 9. Enactment.

- (a) This law shall take effect (90) ninety days after it is enacted.

\*A special thanks to Udi Ofer, Executive Director of the ACLU of New Jersey for providing expertise in crafting this model bill.

## Appendix IV: End Racial Profiling Act (ERPA) Action Alert

### NAACP Washington Bureau

#### ACTION ALERT

**DATE:** August 20, 2014  
**TO:** Concerned Parties  
**FROM:** Hilary O. Shelton, Director, NAACP Washington Bureau

013

#### THE END RACIAL PROFILING ACT INTRODUCED IN BOTH THE US HOUSE OF REPRESENTATIVES AND THE US SENATE

*S. 1038 /H.R. 2581 WOULD CREATE A NATIONAL PROHIBITION AGAINST  
RACIAL PROFILING BY LAW ENFORCEMENT*

#### THE ISSUE

The *End Racial Profiling Act* has now been introduced in the US Senate by Senator Cardin (MD) (S. 1038) and in the US House of Representatives by Congressman John Conyers, Jr. (MI) (H.R. 2851). The *End Racial Profiling Act* comprehensively addresses the insidious practice of racial profiling by law enforcement on five levels: first, it clearly defines the racially discriminatory practice of racial profiling by law enforcement at all levels; second, it creates a federal prohibition against racial profiling; thirdly, it mandates data collection so we can fully assess the true extent of the problem; fourth, it provides funding for the retraining of law enforcement officials on how to discontinue and prevent the use of racial profiling; and fifth, it holds law enforcement agencies that continue to use racial profiling accountable. We need to urge Members of both the House and Senate to co-sponsor and help move the bill through to passage as soon as possible.

As painfully demonstrated over the past months, racial profiling is a serious problem in the United States, and can lead to deadly consequences. It is difficult for our faith in the American judicial system not to be challenged when we cannot walk down the street, drive down the interstate, go through an airport, or even enter into our own homes without being stopped merely because of the color of our skin. Training law enforcement officers how to more efficiently carry out essential policing without using this counter-productive procedure will not only help our nation's criminal justice system at all levels, but it will trickle down to other groups as well, such as neighborhood watch organizations and citizens' community groups, which often model themselves after their local police and which have taken on additional responsibilities in light of the budget cuts being faced by almost every locality and jurisdiction.

The majority of law enforcement officers are hard working men and women, whose concern for the safety of those they are charged with protecting is often paramount, even when their own safety is on the line. However, if and when one of their colleagues engages in racial profiling, whether it be conscious or subconscious, the trust of the entire community can be, and will be, lost. Law Enforcement agents should not endorse or act upon stereotypes, attitudes, or beliefs that a person's race, ethnicity, appearance, religious affiliation, or national origin increases that person's propensity to act unlawfully.

Numerous studies have demonstrated over the past few years that racial profiling is all too prevalent throughout law enforcement today. One study has shown that approximately 72% of all routine traffic stops on an interstate in the Northeast occur with African American drivers despite the fact that African Americans make up only about 17% of the driving population. Another 2004 study showed that approximately thirty-two million Americans, a number equivalent to the population of Canada, report they have already been victims of racial profiling at some point. Other studies have shown similar disparities in stops and searches by federal, state and local law enforcement agents.

We need the *End Racial Profiling Act* to stop this insidious practice and to help begin to restore the confidence of communities of color throughout the United States in federal, state, and local law enforcement and thus restore the





necessary trust and integrity needed to be effective. ERPA is supported by numerous civil rights and civil liberties organizations, as well as religious associations, and most police unions of color.

#### **THE ACTION WE NEED YOU TO TAKE:**

Contact your US Senator and Member of the House of Representatives and ask them to co-sponsor S. 1038 /H.R. 2581, the **END RACIAL PROFILING ACT**. To contact your Senators and Representatives you should:

##### ✓ **Make a Phone Call**

Call your Senators and your Representative in Washington by dialing the Capitol Switchboard and asking to be transferred to your Senator's/Congressman's offices. The switchboard phone number is (202) 224-3121 (See also message section below).

##### **Write a Letter [A SAMPLE LETTER IS BELOW]**

If you choose to write letters to your Senators, send them to:

The Honorable [name of Senator]

United States Senate

Washington, DC 20510

If you choose to write a letter to your Representative, send it to:

The Honorable [name of Representative]

United States House of Representatives

Washington DC 20515

##### ✓ **Send a Fax:**

If you would like to send a fax, call your Senators' or Representative's office (through the Capitol switchboard) and ask for their fax numbers (You can use either the attached sample letter or the message box below).

##### ✓ **Send an E-Mail:**

To send an e-mail to your Senators, go to [www.senate.gov](http://www.senate.gov), click on Senators, and then click on Contacting Senators (by name or by state). This selection will also help you to identify who your two senators are. Please remember to contact both of your Senators!

To send an e-mail to your Representative, go to [www.house.gov](http://www.house.gov), go to Find Your Representative, and enter your zip code. This will help you identify who your congressman is and how to contact him/her. Unfortunately, not all Members of Congress have e-mail addresses.

**SAMPLE LETTER:**

[Date]

The Honorable \_\_\_\_\_

United States Senate/House of Representatives

Washington, D.C. 20510/20515

RE: SUPPORT FOR H.R. 2581 /S. 1038, THE "END RACIAL PROFILING ACT"

Dear Senator /Representative \_\_\_\_\_,

As your constituent, I am writing to urge you to support and be a co-sponsor of H.R. 2581 /S. 1038, the End Racial Profiling Act. This important legislation takes concrete steps to put an end to the insidious practice of racial profiling at the federal, state, and local levels.

As painfully demonstrated over the past months, racial profiling is a serious problem in the United States, and can lead to deadly consequences. It is difficult for our faith in the American judicial system to not be challenged when we cannot walk down the street, drive down an interstate, go through an airport, or even enter into our own homes without being stopped merely because of the color of our skin. Training law enforcement officers how to more efficiently carry out essential policing without using this counterproductive procedure will not only help our nation's criminal justice system at levels, but will trickle down to other groups as well, such as neighborhood watch organizations and citizens' community groups which often model themselves after their local police and which have taken on additional responsibilities in light of the budget cuts being faced by almost every local jurisdiction.

The majority of law enforcement officers are hard working men and women, whose concern for the safety of those they are charged with protecting is often paramount, even when their own safety is on the line. However, if and when even one of their colleagues engages in racial profiling, whether it be conscious or subconscious, the trust of the entire community can be, and will be, lost. Law enforcement agents should not endorse or act upon stereotypes, attitudes, or beliefs that person's race, ethnicity, appearance, religious affiliation, or national origin increases that person's general propensity to act unlawfully.

As I said earlier, I hope that you will be a co-sponsor and support ERPA and that you will help address the very serious problem of racial profiling. Please let me know what you intend to do, and what I can do to help you in this fight. Thank you in advance for your attention to this matter.

Sincerely,

(Sign and print your name and remember to include your address)

Remember to contact your Representative &amp; BOTH your Senators!

**THE MESSAGE**

- We need this important legislation that takes concrete steps to put an end to the insidious practice of racial profiling by law enforcement at all levels.
- As painfully demonstrated over the past months, racial profiling is a serious problem in the United States, and can lead to deadly consequences.
- It is difficult for our faith in the American judicial system not to be challenged when we cannot walk down the street, drive down an interstate, go through an airport, or even enter into our own homes without being stopped merely because of the color of our skin.
- The *End Racial Profiling Act* not only clearly defines this insidious practice but it also prohibits racial profiling and collects data to fully assess the extent of the problem. It also provides training and other incentives for state and local governments to actively pursue politics to eliminate it and the legislation punishes those in law enforcement who continue to use it.



**PLEASE REMEMBER TO CONTACT BOTH OF YOUR SENATORS!**

**THANK YOU FOR YOUR ATTENTION TO THIS IMPORTANT MATTER!!**  
**If you have any questions, call Hilary Shelton at the Washington Bureau (202) 436-2940**

**MEMBERSHIP IS POWER! JOIN THE NAACP TODAY!**

For more information, call your local NAACP branch or visit [www.naacp.org](http://www.naacp.org)

**THANK YOU FOR YOUR ATTENTION TO THIS IMPORTANT MATTER!!!**

## APPENDIX V: Ten Principles for an Effective Civilian Review Board

*Because Independent Oversight is Key*

- **Independence.** The power to conduct hearings, subpoena witnesses, and report findings and recommendations to the public.
- **Investigatory Power.** The authority to independently investigate incidents and issue findings on complaints.
- **Mandatory Police Cooperation.** Complete access to police witnesses and documents through legal mandate or subpoena power.
- **Adequate Funding.** Should not be a lower budget priority than police internal affairs systems.
- **Hearings.** Essential for solving credibility questions and enhancing public confidence in process.
- **Reflect Community Diversity.** Board and staff should be broadly representative of the community it serves.
- **Policy Recommendations.** Civilian oversight can spot problem policies and provide a forum for developing reforms.
- **Statistical Analysis.** Public statistical reports can detail trends in allegations, and early warning systems can identify officers who are subjects of unusually numerous complaints.
- **Separate Offices.** Should be housed away from police headquarters to maintain independence and credibility with the public.
- **Disciplinary Role.** Board findings should be considered in determining appropriate disciplinary action.



## APPENDIX VI: Police Misconduct Incident Reporting Form

This is a sample form for NAACP units and other organizations that would like to collect confidential data on incidents of police misconduct. It is a template and may be revised to meet the needs of your group or organization.

018

Thank you for contacting the NAACP. This form is intended to collect information on incidents of police misconduct. Information shared in this report may be analyzed and reported to the public and may inform NAACP policy and advocacy activities. The following *is not* intended and should not be interpreted as a contract of any nature, either stated or implied.

The information provided in this form will be used to advance the NAACP's criminal justice efforts. By completing this form you acknowledge that your information will be shared with NAACP staff and associated volunteers.

Persons age 18 and younger are not permitted to complete this form. Youth who have experienced an incident of excessive force should contact an adult to complete this form on their behalf. Personal data collected on this form will remain confidential, and you will only be contacted if you fill out the "contact information" section indicating on this form that you would like for a representative to contact you.

Completed forms may also be sent to: [Insert Branch mailing and email address]

**Consent Statement:** I certify that I am at least 18 years old and understand that this report is intended to collect information only. I understand that NAACP staff and associated volunteers will have access to my complaint. I declare that the information being reported herein is true and correct to the best of my knowledge and belief.

The following questionnaire should take between 10-15 minutes to complete. Please take a moment to complete this form as completely as possible.

- ☐ I Agree
- ☐ I Do Not Agree



National Association for the Advancement of Colored People (NAACP)

019

**SECTION A: INFORMATION ON COMPLAINANT**

Please tell us who you are: [please select one]

- |                                                   |                                                           |
|---------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> The victim               | <input type="checkbox"/> A witness to the incident        |
| <input type="checkbox"/> A neighbor of the victim | <input type="checkbox"/> A friend of the victim           |
| <input type="checkbox"/> Classmate of the victim  | <input type="checkbox"/> A relative or guardian of victim |
| <input type="checkbox"/> Other _____              |                                                           |

Please indicate if you are a member of the NAACP:

- ☐ Yes, I am a member of the NAACP
- ☐ Branch/Chapter: \_\_\_\_\_
- ☐ Position: \_\_\_\_\_
- ☐ No, I am not a member of the NAACP

Please indicate if you are a member of another civil rights organization:

- ☐ Yes, I am a member of another civil rights organization.
- Organization: \_\_\_\_\_
- ☐ No, I am not a member of another civil rights organization

Please list your other organizational affiliations (church, fraternity, sorority, civic group, etc.):

- |          |          |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

**SECTION B: INFORMATION ON THE INCIDENT**

What type of incident did you experience or observe? [check all that apply]

- |                                                          |                                                    |
|----------------------------------------------------------|----------------------------------------------------|
| <input type="checkbox"/> Verbal intimidation or threat   | <input type="checkbox"/> Deadly force              |
| <input type="checkbox"/> Excessive physical force        | <input type="checkbox"/> False stop/search         |
| <input type="checkbox"/> Sexual assault                  | <input type="checkbox"/> False arrest/imprisonment |
| <input type="checkbox"/> Seizure/destruction of property |                                                    |

Which law enforcement agency was involved in the incident?

- |                                                       |                                               |
|-------------------------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> U.S. Marshals                | <input type="checkbox"/> State Trooper        |
| <input type="checkbox"/> City or County Police Agency | <input type="checkbox"/> Sheriff Department   |
| <input type="checkbox"/> Highway Patrol               | <input type="checkbox"/> Campus Police Agency |
| <input type="checkbox"/> Airport Police Agency        | <input type="checkbox"/> Probation Department |
| <input type="checkbox"/> Transit Police Agency        | <input type="checkbox"/> Mall Security        |
| <input type="checkbox"/> Other Peace Officer _____    |                                               |

At what time did the incident take place? \_\_\_\_\_ AM/PM

Month \_\_\_\_\_ Year \_\_\_\_\_ Day \_\_\_\_\_

Where did the incident take place?

- |                                                        |                                                               |
|--------------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> Street, road, or intersection | <input type="checkbox"/> Private residence or business        |
| <input type="checkbox"/> College campus                | <input type="checkbox"/> Elementary/middle/high school campus |
| <input type="checkbox"/> Airport                       | <input type="checkbox"/> Highway or freeway                   |
| <input type="checkbox"/> Other _____                   |                                                               |



Please describe incident in detail and indicate whether other victims were involved:

Please describe any injuries or damages to persons or properties:

Did you/the victim receive professional medical attention?

☐ Yes ☐ No ☐ I don't know

What do you think was the motivation for this incident? [check all that apply]

- |                                          |                                                          |
|------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Race (racism)   | <input type="checkbox"/> Sexual orientation (homophobia) |
| <input type="checkbox"/> Sexism (gender) | <input type="checkbox"/> Religion/faith                  |
| <input type="checkbox"/> Disability      | <input type="checkbox"/> Conviction History/status       |
| <input type="checkbox"/> Other _____     |                                                          |

### SECTION C: INFORMATION ON VICTIM

What is the race/ethnicity of the victim? [please check up to two]

- |                                                           |                                                               |
|-----------------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> American Indian or Alaska Native | <input type="checkbox"/> Hispanic or Latino                   |
| <input type="checkbox"/> Asian                            | <input type="checkbox"/> Native Hawaiian/Other Alaskan Native |
| <input type="checkbox"/> Black or African American        | <input type="checkbox"/> White                                |
| <input type="checkbox"/> Other _____                      |                                                               |

What is the gender of the victim?

- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| <input type="checkbox"/> Male        | <input type="checkbox"/> Female      |
| <input type="checkbox"/> Transgender | <input type="checkbox"/> Other _____ |

What is the age of the victim?

- |                                              |                                            |
|----------------------------------------------|--------------------------------------------|
| <input type="checkbox"/> 14 Years or younger | <input type="checkbox"/> 40-44 Years       |
| <input type="checkbox"/> 15-19 Years         | <input type="checkbox"/> 45-49 Years       |
| <input type="checkbox"/> 20-24 Years         | <input type="checkbox"/> 50-54 Years       |
| <input type="checkbox"/> 25-29 Years         | <input type="checkbox"/> 55-59 Years       |
| <input type="checkbox"/> 30-34 Years         | <input type="checkbox"/> 60-64 Years       |
| <input type="checkbox"/> 35-39 Years         | <input type="checkbox"/> 65 Years or older |

Is this the first time an incident like this has happened to you/the victim?

- ☐ Yes, this is the first time
- ☐ No, this has happened before
- If it happened before, did you report it to the NAACP? [please check all that apply]
- ☐ Yes, I reported it to the NAACP
- Branch: \_\_\_\_\_
- Chapter: \_\_\_\_\_
- HQ: \_\_\_\_\_
- ☐ No, I did not report the previous incident(s) to the NAACP
- ☐ I don't know if this has happened before

**SECTION D: INFORMATION ON OFFICER(S)**

How many officers are involved in the incident?

- ☐ One
 ☐ Three  
☐ Two
 ☐ Four or more

**Officer #1:**

| First Name | Last Name | Rank | Badge # | Squad # |
|------------|-----------|------|---------|---------|
|            |           |      |         |         |

What is the perceived race/ethnicity of the officer? [please select up to two]

- ☐ American Indian or Alaska Native
 ☐ Hispanic or Latino  
☐ Asian
 ☐ Native Hawaiian/Other Alaskan Native  
☐ Black or African American
 ☐ White  
☐ Other \_\_\_\_\_

Did officer receive professional medical attention for injuries, if any?

- ☐ Yes
 ☐ No
 ☐ I don't know

**Officer #2:**

| First Name | Last Name | Rank | Badge # | Squad # |
|------------|-----------|------|---------|---------|
|            |           |      |         |         |

What is the perceived race/ethnicity of the officer? [please select up to two]

- ☐ American Indian or Alaska Native
 ☐ Hispanic or Latino  
☐ Asian
 ☐ Native Hawaiian/Other Alaskan Native  
☐ Black or African American
 ☐ White  
☐ Other \_\_\_\_\_

Did officer receive professional medical attention for injuries, if any?

- ☐ Yes
 ☐ No
 ☐ I don't know

**Officer #3:**

| First Name | Last Name | Rank | Badge # | Squad # |
|------------|-----------|------|---------|---------|
|            |           |      |         |         |

What is the perceived race/ethnicity of the officer? [please select up to two]

- ☐ American Indian or Alaska Native
 ☐ Hispanic or Latino  
☐ Asian
 ☐ Native Hawaiian/Other Alaskan Native  
☐ Black or African American
 ☐ White  
☐ Other \_\_\_\_\_

Did officer receive professional medical attention for injuries, if any?

- ☐ Yes
 ☐ No
 ☐ I don't know

**Officer #4:**

| First Name | Last Name | Rank | Badge # | Squad # |
|------------|-----------|------|---------|---------|
|            |           |      |         |         |

What is the perceived race/ethnicity of the officer? [please select up to two]

- ☐ American Indian or Alaska Native
 ☐ Hispanic or Latino  
☐ Asian
 ☐ Native Hawaiian/Other Alaskan Native  
☐ Black or African American
 ☐ White  
☐ Other \_\_\_\_\_

Did officer receive professional medical attention for injuries, if any?

- ☐ Yes
 ☐ No
 ☐ I don't know



**SECTION E: OFFICIAL REPORTING OF INCIDENT****Please complete this section to the best of your ability:**

Have you/the victim reported this incident to your local law enforcement agency?

- ☐ Yes, I have reported this incident
- ☐ Complaint filed with:
- ☐ Internal Affairs: Status: \_\_\_\_\_ Court: \_\_\_\_\_
- ☐ Community or citizens police review board:  
Case #: \_\_\_\_\_ Status: \_\_\_\_\_
- ☐ Lawsuit: Court Docket Number: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
Name of attorney: \_\_\_\_\_  
Name of Law Firm: \_\_\_\_\_
- ☐ City Claim: Status: \_\_\_\_\_ Settlement Amount: \_\_\_\_\_
- ☐ No, I have not officially reported this incident
- ☐ I don't know

Have you/the victim reported this incident to another authority (school district, pastor, imam, etc.)?

- ☐ Yes, I have reported this incident to the following:  
1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_
- ☐ No, I have not reported this incident to another authority
- ☐ I don't know

**SECTION F: HISTORY****Please complete this section to the best of your ability:**

How many incidents of excessive force do you/the victim feel you have experienced since Jan. 1, 2014?

- ☐ This is the only one    ☐ Two    ☐ Three    ☐ Four
- ☐ Five    ☐ More than five    ☐ I don't know

How many excessive force complaints have you/the victim reported to the NAACP since Jan. 1 2014?

- ☐ This is the only one    ☐ Two    ☐ Three    ☐ Four
- ☐ Five    ☐ More than five    ☐ I don't know

How many incidents of excessive force have you /the victim reported to your local law enforcement agency since Jan 1, 2014?

- ☐ None    ☐ This is the only one    ☐ Two    ☐ Three
- ☐ Four    ☐ Five    ☐ More than five    ☐ I don't know

How many incidents of excessive force have you/the victim reported to other nonprofit agencies (incl. school, place of worship, service provider, legal advocacy group, etc.) since Jan. 1, 2014?

- ☐ None    ☐ This is the only one    ☐ Two    ☐ Three
- ☐ Four    ☐ Five    ☐ More than five    ☐ I don't know

**SECTION G: BACKGROUND INFORMATION  
(OPTIONAL & FOR STATISTICAL REPORTING PURPOSES ONLY)**

Please indicate the race and/or ethnicity with which you most identify: [please check up to two]

- ☐ American Indian or Alaska Native    ☐ Hispanic or Latino
- ☐ Asian    ☐ Native Hawaiian/Other Alaskan Native
- ☐ Black or African American    ☐ White
- ☐ Other \_\_\_\_\_

|                                                                                     |                                              |
|-------------------------------------------------------------------------------------|----------------------------------------------|
| Please indicate the gender with which you most identify: [please select one]        |                                              |
| <input type="checkbox"/> Male                                                       | <input type="checkbox"/> Female              |
| <input type="checkbox"/> Transgender                                                | <input type="checkbox"/> Other _____         |
| Please select the religion or faith with which you most identify:                   |                                              |
| <input type="checkbox"/> Christianity                                               | <input type="checkbox"/> Islam               |
| <input type="checkbox"/> Secular/Nonreligious                                       | <input type="checkbox"/> Hinduism            |
| <input type="checkbox"/> Buddhism                                                   | <input type="checkbox"/> Judaism             |
| <input type="checkbox"/> African Traditional/Diasporic                              | <input type="checkbox"/> Other _____         |
| Please select the category that best reflects your age:                             |                                              |
| <input type="checkbox"/> 14 Years or younger                                        | <input type="checkbox"/> 40-44 Years         |
| <input type="checkbox"/> 15-19 Years                                                | <input type="checkbox"/> 45-49 Years         |
| <input type="checkbox"/> 20-24 Years                                                | <input type="checkbox"/> 50-54 Years         |
| <input type="checkbox"/> 25-29 Years                                                | <input type="checkbox"/> 55-59 Years         |
| <input type="checkbox"/> 30-34 Years                                                | <input type="checkbox"/> 60-64 Years         |
| <input type="checkbox"/> 35-39 Years                                                | <input type="checkbox"/> 65 Years or older   |
| Please select the category that best describes your household income (per year):    |                                              |
| <input type="checkbox"/> \$0-\$25,000                                               | <input type="checkbox"/> \$75,000-\$100,000  |
| <input type="checkbox"/> \$25,000-\$50,000                                          | <input type="checkbox"/> \$100,000 or more   |
| <input type="checkbox"/> \$50,000-\$75,000                                          |                                              |
| Please select the category that best describes your highest level of education:     |                                              |
| <input type="checkbox"/> Some High School                                           | <input type="checkbox"/> Bachelor's Degree   |
| <input type="checkbox"/> High School Graduate                                       | <input type="checkbox"/> Master's Degree     |
| <input type="checkbox"/> Some College                                               | <input type="checkbox"/> Professional Degree |
| <input type="checkbox"/> Associate Degree                                           | <input type="checkbox"/> Doctoral Degree     |
| <b>SECTION H: CONTACT INFORMATION (OPTIONAL)</b>                                    |                                              |
| <input type="checkbox"/> Please feel free to contact me about this incident.        |                                              |
| <input type="checkbox"/> Please send me information about how I can join the NAACP! |                                              |
| Name:                                                                               | _____                                        |
| Address:                                                                            | _____                                        |
|                                                                                     | _____                                        |
| Phone:                                                                              | _____                                        |
| E-mail                                                                              | _____                                        |

**Thank you. This concludes the questionnaire.**



# Endnotes

- 1 Use of the chokehold has been banned by NYPD policy for over twenty years.
- 2 The terms racial profiling, bias-based policing, and racially biased policing will be used interchangeably. The term “racial profiling” in the context of this report will refer to discriminatory policing practices, which target groups or individuals based on actual or perceived race, color, ethnicity, religion, nationality, sex, gender, gender identity or expression, sexual orientation, immigration or citizenship status, language, disability (including HIV status), housing status, occupation, or socioeconomic status in initiating law enforcement action against an individual, rather than an individual’s behavior or other trustworthy information or circumstances, relevant to the locality and timeframe, that links a person or persons [of a particular race, ethnicity, religion, national origin, etc.] to suspected unlawful activity. According to the Human Rights Campaign (HRC), gender identity “refers to a persons innate, deeply felt psychological identification as a man, woman, or some other gender, which may or may not correspond to the sex assigned to them at birth (e.g., the sex listed on their birth certificate.” Also, HRC defines gender expression as “the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns, and social interactions.” Find more information at <http://www.hrc.org/resources/entry/sexual-orientation-and-gender-identity-terminology-and-definitions>. Also, other terms such as “profiling” or “anti-profiling” in this report refer to racial profiling (unless otherwise specified).
- 3 Jake Pearson, “Eric Garner’s Death by Police Chokehold Ruled A Homicide,” *Huffington Post*, August 1, 2014. [http://www.huffingtonpost.com/2014/08/01/eric-garner-homicide\\_n\\_5642481.html](http://www.huffingtonpost.com/2014/08/01/eric-garner-homicide_n_5642481.html)
- 4 Rev. Martin Luther King, “I Have a Dream...” Speech by the Rev. Martin Luther King at the “March on Washington,” August 28, 1963. <http://www.americanrhetoric.com/speeches/mlkhaveadream.htm>
- 5 According to the Department of Justice, community policing is defined as “a philosophy that promotes organizational strategies which support the system use of partnerships and problem solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder and fear of crime.” Find more information at: “Community Policing Defined,” Community Oriented Policing Services,” <http://www.cops.usdoj.gov/pdf/vets-to-cops/e030917193-CP-Defined.pdf>
- 6 The COPS office was established in 1994 under the Violent Crime Control and Law Enforcement Act: <http://www.allgov.com/departments/departments-of-justice/office-of-community-oriented-policing-services-cops?agencyid=7212>. To find out more, please visit the COPS website: <http://www.cops.usdoj.gov/default.asp?Item=35>.
- 7 Charles J. Ogletree and Abbe Smith, *Beyond the Rodney King Story: An Investigation of Police Conduct in Minority Communities* (Boston: Northeastern University Press, 1995)
- 8 End Racial Profiling Act of 2001 S. 989 (107<sup>th</sup>) <https://www.govtrack.us/congress/bills/107/s989>
- 9 Junaid Sulahry, “US Department of Justice Guidance on Racial Profiling,” *Muslim Advocates*, March 5, 2014. <http://www.muslimadvocates.org/u-s-department-of-justice-guidance-on-racial-profiling/>. Although this promise was followed up by a federal guidance issued by the Department of Justice to ban racial profiling by federal law enforcement, the directive had several glaring loopholes that have yet to be fixed.
- 10 The videotaped beating of Rodney King became the center of much national attention and debate, which lead to a series of public forums held by the NAACP and other advocates in six US cities. These hearings resulted in the establishment of a set of recommendations on law enforcement accountability. For more information, see Ogletree & Smith, *Beyond the Rodney King Story*.
- 11 Brian Jenkins, “Three White Police Officers Charged in Death of Black Man,” *CNN*, November 27, 1995. <http://www.cnn.com/US/9511/gammage/>
- 12 Mr. Louima was sodomized by a broomstick in the bathroom of the police station. Sewell Chan, “The Abner Louima Case, 10 Years Later,” *New York Times*, August 9, 2007. <http://cityroom.blogs.nytimes.com/2007/08/09/the-abner-louima-case-10-years-later/>
- 13 Jane Fritsch, “The Diallo Verdict: The Overview; Four Officers in Diallo Shooting Are Acquitted of All Charges,” *New York Times*, February 26, 2000. <http://www.nytimes.com/2000/02/26/nyregion/diallo-verdict-overview-4-officers-diallo-shooting-are-acquitted-all-charges.html>; *Daniels et. al. v. City of New York* (1999), <http://ccrjustice.org/ourcases/past-cases/daniels-et-al.-v.-city-new-york>

- 14 John Larson, "Behind the Death of Timothy Thomas," *NBC Dateline Specials*, April 10, 2004. [http://www.nbcnews.com/id/4703574/ns/dateline\\_nbc-dateline\\_specials/t/behind-death-timothy-thomas/#.U\\_47Lk2YbIU](http://www.nbcnews.com/id/4703574/ns/dateline_nbc-dateline_specials/t/behind-death-timothy-thomas/#.U_47Lk2YbIU)
- 15 "Landmark Settlement Reached With Maryland State Police In 'Driving While Black' Case," *American Civil Liberties Union*, April 2, 2008. <https://www.aclu.org/racial-justice/landmark-settlement-reached-maryland-state-police-driving-while-black-case>
- 16 "N.J. Knew of Racial Profiling for Years," *ABC News*, October 2. <http://abcnews.go.com/US/story?id=95406>
- 17 US General Accounting Office, *Better Targeting of Airline Passengers for Personal Searches Could Produce Better Results* (Washington DC: US General Accounting Office, 2000). [www.gao.gov/archive/2000/gg00038.pdf](http://www.gao.gov/archive/2000/gg00038.pdf)
- 18 Jim Lobe, "Post-9/11 Immigrant Roundup Backfired –Report," *Inter Press Service*, June 27, 2003 <http://www.ipsnews.net/2003/06/rights-us-post-9-11-immigrant-roundup-backfired-report/>
- 19 Visitors from the following countries were required to register at ports of entry and exit: Iran, Iraq, Libya, Sudan, and Syria. For more information see Maia Jachimowicz and Ramah McKay, "'Special Registration' Program," *Migration Policy Institute*, April 1, 2003. <http://www.migrationpolicy.org/article/special-registration-program#1a>
- 20 This special "call-in registration" applied to visitors from: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen. See Policy Center, Department of Homeland Security, "DHS Removes Countries from Special Registration List, But Leaves Door Open for Future Placements," *American Immigration Council*, April 28, 2011. <http://immigrationimpact.com/2011/04/28/dhs-removes-countries-from-special-registration-list-but-leaves-doors-open-for-future-placements/>
- 21 Michele Waslin, "DHS's NSEERS Program, While Inactive, Continues to Discriminate," *American Immigration Council*, June 28, 2012. <http://immigrationimpact.com/2012/06/28/dhss-nseers-program-while-inactive-continues-to-discriminate/>
- 22 LGBT is an acronym that stands for lesbian, gay, bisexual, and transgender people. LGBT as used in this report shall also refer to those who consider themselves intersex or queer.
- 23 There is much intersection between these groups (people of color, young people, and members of the LGBT community) and this report by no means suggests that these groups are mutually exclusive.
- 24 Cora Lively, "Profiling Our Families Is Unacceptable," *Rights Working Group*, September 14, 2012. <http://rightsworkinggroup.org/content/profiling-our-families-unacceptable-0>
- 25 Though Muslim, Arab, and Middle Eastern communities have experienced profiling and racism prior to the attacks of 9/11—for example, after the 1979 Iran hostage crisis, incidents of harassment and profiling increased for many in these communities—the profiling to which these communities were exposed drastically increased and became more overt and intentional after September 11, 2001.
- 26 David Barstow, "Records Show New Jersey Police Withheld Records on Race Profiling," *New York Times*, October 12, 2000. <http://www.nytimes.com/2000/10/12/nyregion/records-show-new-jersey-police-withheld-data-on-race-profiling.html>
- 27 John Lamberth, "Driving While Black: A Statistician Proves that Race Prejudice Still Rules the Road," *New York Times*, August 16, 1998. [http://www.lamberthconsulting.com/uploads/washingtonpost\\_article.pdf](http://www.lamberthconsulting.com/uploads/washingtonpost_article.pdf)
- 28 Associated Press, "Oversight of the New Jersey State Police is Ended," *New York Times*, September 21, 2009. [http://www.nytimes.com/2009/09/22/nyregion/22profile.html?\\_r=0](http://www.nytimes.com/2009/09/22/nyregion/22profile.html?_r=0)
- 29 David Barstow, "Records Show New Jersey Police Withheld Records on Race Profiling,"
- 30 "ACLU, NAACP Ask Court to Approve 'DWB' Class Action Lawsuit Against Maryland State Police," *American Civil Liberties Union*, March 8, 2000. [www.aclu.org/racial-justice/aclu-naACP-ask-court-approve-dwb-class-action-lawsuit-against-maryland-state-police](http://www.aclu.org/racial-justice/aclu-naACP-ask-court-approve-dwb-class-action-lawsuit-against-maryland-state-police). The NAACP and several plaintiffs were eventually dropped from the suit by a federal judge, however the suit went forward and was finally settled in 2008 with monetary damages and legal fees being awarded to plaintiffs, as well as funds for an independent consultant to advise Maryland State Police on policy reforms. "Driving While Black in Maryland," *American Civil Liberties Union*, February 2, 2010; <https://www.aclu.org/racial-justice/driving-while-black-maryland>



- 31 ACLU of Arizona, *Driving While Black or Brown: An Analysis of Racial Profiling in Arizona* (Phoenix: ACLU of Arizona, 2008). [www.acluaz.org/sites/default/files/documents/DrivingWhileBlackorBrown.pdf](http://www.acluaz.org/sites/default/files/documents/DrivingWhileBlackorBrown.pdf)
- 32 American Civil Liberties Union, *The War on Marijuana in Black and White* (New York: American Civil Liberties Union, 2013). [www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report](http://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report)
- 33 In 2010, after decades of advocacy, the Fair Sentencing Act was passed and signed into law by President Obama, reducing the disparity from 100:1 to 18:1. This represents a good step, yet there is more work to be done to eliminate the disparity completely, as well as make the law retroactive to allow the millions of people sentenced unfairly under the old law to have their sentences reduced. For more information see [www.aclu.org/fair-sentencing-act](http://www.aclu.org/fair-sentencing-act)
- 34 While more smuggled goods were found on African American women who were subject to strip searches and x-rays, illegal contraband was less likely to be found on this group. Mike Dorning, "Black Women Most Likely Targets of Airport Searches," *Chicago Tribune*, April 10, 2000, [http://articles.chicagotribune.com/2000-04-10/news/0004100103\\_1\\_strip-searches-intensive-searches-white-women](http://articles.chicagotribune.com/2000-04-10/news/0004100103_1_strip-searches-intensive-searches-white-women); US General Accounting Office, *Better Targeting of Airline Passengers for Personal Searches Could Produce Better Results* (Washington DC: US General Accounting Office, 2000); [www.gao.gov/archive/2000/gg00038.pdf](http://www.gao.gov/archive/2000/gg00038.pdf)
- 35 American Civil Liberties Union, *The War on Marijuana in Black and White*.
- 36 Eduardo Porter, "Numbers Tell of Failure in Drug War," *New York Times*, July 3, 2012. <http://www.nytimes.com/2012/07/04/business/in-rethinking-the-war-on-drugs-start-with-the-numbers.html?pagewanted=all>
- 37 NAACP, "Criminal Justice Fact Sheet," [www.naacp.org/pages/criminal-justice-fact-sheet](http://www.naacp.org/pages/criminal-justice-fact-sheet)
- 38 Jim Lobe, "Post-9/11 Immigrant Roundup Backfired –Report," *Inter Press Service*, June 27, 2003 <http://www.ipsnews.net/2003/06/rights-us-post-9-11-immigrant-roundup-backfired-report/>
- 39 "Michele Waslin, "DHS's NSEERS Program, While Inactive, Continues to Discriminate," *American Immigration Council*, June 28, 2012. <http://immigrationimpact.com/2012/06/28/dhss-nseers-program-while-inactive-continues-to-discriminate/>
- 40 Please see the AIUSA report for a detailed narrative of these and other historical lessons. Benjamin Jealous and Niaz Kasravi, *Threat and Humiliation: Racial Profiling, Domestic Security, and Human Rights in the United States* (New Jersey: Amnesty International USA: 2004); [http://www.amnestyusa.org/sites/default/files/rp\\_report.pdf](http://www.amnestyusa.org/sites/default/files/rp_report.pdf)
- 41 Eric Rauchway, *Murdering McKinley: The Making of Theodore Roosevelt's America* (New York: Hill and Wang: 2003), p. 3, 18.
- 42 The Hon. Robert Matsui (D-California), "Redress for Japanese Internment," remarks to the 99<sup>th</sup> Congress, Jan. 3, 1985. 131 Congressional Record E 54; <http://digital.lib.csus.edu/cdm/singleitem/collection/mats/id/185/rec/19>
- 43 Mary Abowd, "Arab-Americans Suffer Hatred After Bombing," *Chicago Sun Times*, May 13, 1995.
- 44 Ed Vullimay, "Police Let Sniper's Car Go 10 Times During Spree," *The Observer*, October 27, 2002.
- 45 Benjamin Jealous and Niaz Kasravi, *Threat and Humiliation: Racial Profiling, Domestic Security, and Human Rights in the United States* (New Jersey: Amnesty International USA: 2004); [http://www.amnestyusa.org/sites/default/files/rp\\_report.pdf](http://www.amnestyusa.org/sites/default/files/rp_report.pdf)
- 46 Lynn Langton and Mathew Durose, *Police Behavior During Traffic and Street Stops* (Washington, DC: Bureau of Justice Statistics, 2011); <http://www.bjs.gov/content/pub/pdf/pbtss11.pdf>
- 47 To learn more about Communities United for Police Reform, visit their website: <http://changethenypd.org/campaign/intro-members>
- 48 It is important to note that the fight to end racial profiling was vehemently carried out by advocates in New York City, even after 9/11. The work these advocates did became the foundation for advocacy efforts and successes that were made possible after the movement to end racial profiling was revamped following the Trayvon Martin tragedy.
- 49 "Analysis Finds Racial Disparities, Ineffectiveness in NYPD Stop-and-Frisk Program; Links Tactic to Soaring Marijuana Arrest Rate," *New York Civil Liberties Union*, May 22, 2013. <http://www.nyclu.org/news/analysis-finds-racial-disparities-ineffectiveness-nypd-stop-and-frisk-program-links-tactic-soar>
- 50 Dasha Kabakova, "The Lack of Accountability for the New York Police Department's

Investigative Stops,” *Race, Racism, and the Law*, [http://racism.org/index.php?option=com\\_content&view=article&id=1517:nystopandfrisk&catid=136&Itemid=155&showall=&limitstart=1](http://racism.org/index.php?option=com_content&view=article&id=1517:nystopandfrisk&catid=136&Itemid=155&showall=&limitstart=1)

51 Scott Lemieux, “Bloomberg’s Stop-And-Frisk Program Is Unconstitutional,” *The American Prospect*, August 13, 2013. <http://prospect.org/article/bloombergs-stop-and-frisk-program-unconstitutional>

52 Judd Legum, “10 Facts Everyone Should Know About New York City’s ‘Stop-And-Frisk’ Policy,” *Think Progress*, June 10, 2012. <http://thinkprogress.org/justice/2012/06/10/496984/10-facts-new-york-city-stop-and-frisk/>

53 Judd Legum, “10 Facts Everyone Should Know About New York City’s ‘Stop-And-Frisk’ Policy.”

54 “Police Tactics in Question; ‘Stop and Frisk’ in New York,” *New York Times*, December 4, 1999. <http://www.nytimes.com/1999/12/04/opinion/police-tactics-in-question-stop-and-frisk-in-new-york.html>; [http://www.oag.state.ny.us/sites/default/files/pdfs/bureaus/civil\\_rights/stp\\_frsk.pdf](http://www.oag.state.ny.us/sites/default/files/pdfs/bureaus/civil_rights/stp_frsk.pdf)

55 “Stop-and Frisk Data,” *New York Civil Liberties Union*; [www.nyclu.org/content/stop-and-frisk-data](http://www.nyclu.org/content/stop-and-frisk-data)

56 “Stop-and Frisk Data,” *New York Civil Liberties Union*.

57 At least 88% did not get a summons or arrest, but just because they did not get summons or arrest does not mean they were guilty.

58 “Stop-and Frisk Data,” *New York Civil Liberties Union*.

59 “Stop-and Frisk Data,” *New York Civil Liberties Union*.

60 “New NYCLU Report Finds NYPD Stop-and-Frisk Practices Ineffective, Reveals Depth of Racial Disparities,” *New York Civil Liberties Union*, May 9, 2012; [www.nyclu.org/news/new-nyclu-report-finds-nypd-stop-and-frisk-practices-ineffective-reveals-depth-of-racial-dispar](http://www.nyclu.org/news/new-nyclu-report-finds-nypd-stop-and-frisk-practices-ineffective-reveals-depth-of-racial-dispar)

61 “Stop and Frisk Facts,” *New York Civil Liberties Union*; <http://www.nyclu.org/node/1598>

62 “Stop-and-Frisk Campaign: About the Issue,” *New York Civil Liberties Union*; <http://www.nyclu.org/issues/racial-justice/stop-and-frisk-practices>

63 Donald Braman, “Stop-and-Frisk Didn’t Make New York Safer,” *The Atlantic*, March 26, 2014. <http://www.theatlantic.com/national/archive/2014/03/stop-and-frisk-didnt-make-new-york-safer/359666/>

64 Murray Weiss, “Serious Crime Dips in NYC Amid Decline in ‘Stop-and-Frisk’ Sources Say,” *DNAinfo New York*, March 2, 2014. <http://www.dnainfo.com/new-york/20140304/new-york-city/serious-crime-dips-nyc-along-with-stop-frisk-sources-say>

65 These stories are assembled from self-reports and testimonies offered throughout the course of the campaign in the media, at city council hearings, and other public venues. And although individuals or groups are often profiled based on a number of characteristics (e.g. race and gender, ethnicity and religion, race and sexual orientation), to allow this section to be more legible, we have divided the stories into sections which should by no means be seen as mutually exclusive.

66 Matt Apuzzo and Joseph Goldstein, “New York Drops Unit that Spied on Muslims,” *New York Times*, April 15, 2014. [www.nytimes.com/2014/04/16/nyregion/police-unit-that-spied-on-muslims-is-disbanded.html?\\_r=0](http://www.nytimes.com/2014/04/16/nyregion/police-unit-that-spied-on-muslims-is-disbanded.html?_r=0)

67 Catherine Hanssens, Aisha C. Moodie-Mills, Andrea J. Ritchie, Dean Spade, and Urvashi Vaid, *A Roadmap for Change: Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People Living with HIV*. (New York: Center for Gender & Sexuality Law at Columbia Law School, 2014); [https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/roadmap\\_for\\_change\\_full\\_report.pdf](https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/roadmap_for_change_full_report.pdf)

68 Lambda Legal, “Protected and Served? Survey of LGBT/HIV Contact with Police, Courts, Prisons, and Security,” Preliminary Findings (2012); <http://www.lambdalegal.org/protected-and-served>

69 Jaime M. Grant, Lisa A. Mottet, and Justin Tanis, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011); [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf)

70 Jaime M. Grant, Lisa A. Mottet, and Justin Tanis, *Injustice at Every Turn*.

- 71 As much as there is need for data on all types of racial profiling, the profiling of the LGBT community is one area where this data is glaringly lacking. This highlights the importance of not only including this community under the protected categories of any effective racial profiling law, but also of including specific and detailed data collection requirements for all protected categories.
- 72 Chris Bilal, "From Stonewall to Stop and Frisk," *Huffington Post*, June 18, 2012. [http://www.huffingtonpost.com/chris-bilal/from-stonewall-to-stop-and-frisk\\_b\\_1606860.html](http://www.huffingtonpost.com/chris-bilal/from-stonewall-to-stop-and-frisk_b_1606860.html)
- 73 United States Constitution, 4<sup>th</sup> Amendment.
- 74 United States Constitution, 14<sup>th</sup> Amendment.
- 75 *Terry v. Ohio*, 392 US 1 (1968).
- 76 *United States v. Martinez-Fuerte*, 428 US 543 (1976); *Whren v. United States*, 517 US 806 (1996).
- 77 *United States v. Martinez-Fuerte*.
- 78 *United States v. Brignoni-Ponce*, 422 US 873 (1975).
- 79 *Brown v. Oneonta* (2d Cir. 1999), citing *Yick Wo v. Hopkins* 118 US 356 (1886).
- 80 *Brown v. Oneonta* (2d Cir. 1999), citing *Village of Arlington Heights v. Metropolitan Housing Development Corp.* 429 US 252 (1977).
- 81 *Johnson v. Wing* (2d Cir. 1999).
- 82 End Racial Profiling Act of 2013 (S 1038); [www.govtrack.us/congress/bills/113/s1038/text](http://www.govtrack.us/congress/bills/113/s1038/text)
- 83 The United States Congress, Office of the Press Secretary, "Address of the President to the Joint Session of Congress," Feb. 27, 2001.
- 84 US Department of Justice, Civil Rights Division, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies* (Washington, DC: DOJ, June, 2003); [www.justice.gov/crt/about/spl/documents/guidance\\_on\\_race.pdf](http://www.justice.gov/crt/about/spl/documents/guidance_on_race.pdf)85  
For specifics on the required components of an effective racial profiling bill, please see Appendix II.
- 86 This policy only applies to federal agents, who have relatively few occasions to profile except for issues of immigration and national security, which are where virtually all complaints about racial profiling by federal agents stem. US Department of Justice, Civil Rights Division, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*.
- 87 Kate Santich, "AG Holder Addresses Stand-Your-Ground Laws at NAACP Convention," *Orlando Sentinel*, July 16, 2013. [http://articles.orlandosentinel.com/2013-07-16/news/os-holder-zimmerman-naacp-convention-20130716\\_1\\_ag-holder-george-zimmerman-trayvon-martin](http://articles.orlandosentinel.com/2013-07-16/news/os-holder-zimmerman-naacp-convention-20130716_1_ag-holder-george-zimmerman-trayvon-martin)
- 88 US Department of Justice, "Attorney General Eric Holder Addresses the NAACP Annual Convention," July 16, 2013; <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130716.html>
- 89 Patrick McNeil, "Civil and Human Rights Groups React to Reports of Updated Profiling Guidance," *The Leadership Conference for Civil and Human Rights*, April 15, 2014. [http://www.civilrights.org/archives/2014/1425-profiling-guidance-update.html?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A%20civilrights%2Ffeatures%20\(Civilrights.org%20Latest%20Posts\)](http://www.civilrights.org/archives/2014/1425-profiling-guidance-update.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A%20civilrights%2Ffeatures%20(Civilrights.org%20Latest%20Posts))
- 90 AL, AZ, AR, CA, CO, CT, FL, IL, KS, KY, LA, MD, MA, MN, MO, MT, NE, NV, NJ, NM, NC, OK, RI, TN, TX, UT, VA, WA, WV, and WI. See Appendix IV for details of racial profiling laws by state.
- 91 Provisions required for an effective anti-racial profiling law include: an effective definition and ban on the practice, a ban on pretextual stops, providing specific penalties for those who break the law, requiring data collection and data analysis, creating an independent review commission, providing injunctive relief, and requiring periodic training of officers. See Appendix II for more details on the components of an effective racial profiling law.
- 92 The states that do not explicitly prohibit racial profiling are: AK, DE, GA, HI, ID, IN, IA, ME, MI, MS, NH, NY, ND, OH, OR, PA, SC, SD, VT, and WY.

- 93 States that ban the use of pretextual traffic stops: AZ, AR, CA, CO, CT, KS, MD, MS, MT, NE, NJ, NM, OK, RI, UT, and WV.
- 94 States that criminalize violations of anti-profiling laws: AR, CT, FL, KS, MS, MT, NE, NJ, NM, OK, RI, TN, TX, UT, WA, and WV.
- 95 States that allow injunctive relief from racial profiling: KS, RI, and TN.
- 96 States that require data collection for all stops and searches include AL, CA, CT, FL, IL, LA, MD, MA, MN, MO, MT, NC, NE, NV, RI, TX, WA, and WV; states that require analysis of racial profiling data include AL, CA, CT, FL, IL, KS, LA, MD, MA, MO, NE, NV, RI, TX, and WV.
- 97 The following states require the creation of commission to review and respond to complaints of racial profiling: AL, AZ, AR, CA, CT, KS, MN, MO, MT, NE, NV, NM, OK, RI, TX, WV, and WI.
- 98 For a detailed look at each state law, please see Appendix I of this report.
- 99 For additional information on the Community Safety Act, please visit [www.changethenypd.org/about-community-safety-act](http://www.changethenypd.org/about-community-safety-act)
- 100 Advocates are working to push for passage of the additional two bills in the next City Council session.
- 101 VAN is an online database that allows advocates to build a list of voters based on any set of data or characteristic. This information is based on public voter registry files. To learn more about the VAN go to: <http://www.ngpvan.com>
- 102 Different jurisdictions and legislative bodies may have different processes to deal with vetoes and other challenges. A successful strategy must entail doing research and understanding the legislative process and creating a campaign with the nuances of each particular locality in mind.
- 103 Francis Reynolds, "New York City Council Overrides Bloomberg's Veto of the Community Safety Act," *The Nation*, August 22, 2013. <http://www.thenation.com/blog/175874/new-york-city-council-overrides-bloombergs-veto-community-safety-act#>
- 104 *Floyd, et al. v. City of New York, et al.* is a federal class action lawsuit filed against the New York City Police Department and the City of New York that challenges the NYPD's practices of racial profiling and unconstitutional stop-and-frisks.
- 105 Social media has the potential to reach a much larger number of people, hence must be a part of any strategic campaign.
- 106 Associated Press, "Stop-and-Frisk Appeal Dropped by Mayor DeBlasio," *Huffington Post*, Jan. 30, 2014. [http://www.huffingtonpost.com/2014/01/30/stop-and-frisk-appeal-dropped-mayor-de-blasio\\_n\\_4695930.html](http://www.huffingtonpost.com/2014/01/30/stop-and-frisk-appeal-dropped-mayor-de-blasio_n_4695930.html)
- 107 For more information and updates on the *Floyd* case, please go to: [www.ccrjustice.org/floyd](http://www.ccrjustice.org/floyd) and <http://changethenypd.org/>
- 108 Joseph Goldstein and J. David Goodman, "Arrests of Panhandlers and Peddlers on Subways Triple Under Bratton," *New York Times*, March 7, 2014. [http://www.nytimes.com/2014/03/07/nyregion/arrests-of-panhandlers-and-peddlers-on-subway-increase-sharply-under-bratton.html?\\_r=0](http://www.nytimes.com/2014/03/07/nyregion/arrests-of-panhandlers-and-peddlers-on-subway-increase-sharply-under-bratton.html?_r=0)
- 109 For more information and updates on the *Floyd* case, please go to: [www.ccrjustice.org/floyd](http://www.ccrjustice.org/floyd) and <http://changethenypd.org/>
- 110 David A. Harris, "Across the Hudson: Taking the Stop and Frisk Debate Beyond New York City," *University of Pittsburg, Legal Studies Research Paper Series*, Working Paper No. 2014-03, January, 2014; <http://www.nyujlpp.org/wp-content/uploads/2014/01/Harris-Across-the-Hudson-16nyujlpp853.pdf>
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- 113 Alice Brennan and Dan Lieberman, "Suspect City Florida."
- 114 Alice Brennan and Dan Lieberman, "Suspect City Florida."
- 115 Alice Brennan and Dan Lieberman, "Suspect City Florida."

- 116 The data from New York City does not appear to include stops of motor vehicles. It is not clear whether this data was included in the numbers from Newark. American Civil Liberties Union of New Jersey, *Stop-and-Frisk: A First Look* (Newark: ACLU-NJ, 2014); [https://www.aclu-nj.org/files/8113/9333/6064/2014\\_02\\_25\\_nwksnf.pdf](https://www.aclu-nj.org/files/8113/9333/6064/2014_02_25_nwksnf.pdf)
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- 118 Daniel Bergner, “Is Stop-and-Frisk Worth It?” *The Atlantic*, March 19, 2014. <http://www.theatlantic.com/features/archive/2014/03/is-stop-and-frisk-worth-it/358644/>
- 119 “Feds: Newark Police Disproportionately Target Blacks, Use Excessive Force,” *Al Jazeera America*, July 22, 2014. <http://america.aljazeera.com/articles/2014/7/22/newark-police-monitoring.html>
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- 134 US Department of Justice, Civil Rights Division, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*, (Washington, DC: DOJ, June, 2003); [www.justice.gov/crt/about/spl/documents/guidance\\_on\\_race.pdf](http://www.justice.gov/crt/about/spl/documents/guidance_on_race.pdf)
- 135 To see the coalition letter and petition to Attorney General Eric Holder signed by the NAACP and the partner organizations, please go to [http://www.civilrights.org/press/2014/DOJ-Letter-1\\_2014.pdf](http://www.civilrights.org/press/2014/DOJ-Letter-1_2014.pdf). For more resources on the *Racial Profiling: Face the Truth* campaign to revise the DOJ Guidance, please go to <http://www.rightsworkinggroup.org/AdvocacyWeek2012/asks>;
- 136 Although the rights of citizens and non-citizens are different, an unacceptably large number of Americans have been subject to profiling and invasive searches and detentions at ports of entry and borders because of their religion or national origin. For more information, see <http://www.rightsworkinggroup.org/content/petition-department-justice>

137 NAACP units should rely on these recommendations as guidelines to create campaigns that are tailored to the specific needs and realities in their communities.

138 The NAACP has worked with a number of police organizations on these issues, including: National Organization of Black Law Enforcement Executives (NOBLE), National Black Police Association (NBPA), and the International Association of Chiefs of Police (IACP) among others. Other minority communities have similar police organizations that can prove to be great allies in this work.

139 This part of the campaign must be run by organizations that are registered to lobby or are 501 (c) 4 entities. The NAACP National Voter Fund (NVF)—the 501 (c) 4 sister organization to the NAACP—often runs legislative advocacy efforts on behalf of the Association, which is a 501 (c) 3. State Conferences and local NAACP branches have 501 (c) 4 arms that are allowed to lobby. Other options include working with other groups who run lobbying efforts and allowing them to execute the legislative advocacy or lobbying part of the campaign. Either way, work with your unit's Legal Redress Committees to ensure you understand and abide by your state's lobbying reporting requirements—as all lobbying efforts must be officially reported.

140 VAN is an online database that allows advocates to build a list of voters based on any set of data or characteristic. This information is based on public voter registry files. To learn more about the VAN go to: <http://www.ngpvan.com>

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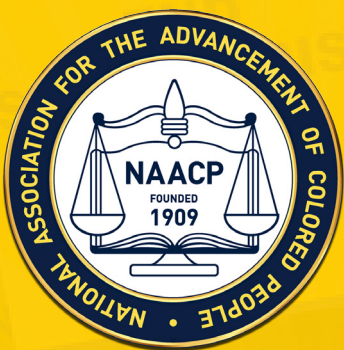








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