



May 07, 2021

Support the End Racial and Religious Profiling Act of 2021

Dear Senator,

On behalf of The Leadership Conference on Civil and Human Rights we urge you to support the End Racial and Religious Profiling Act of 2021 (ERRPA). Passage of this act is needed to put an end to racial and religious profiling by law enforcement officials and to ensure that individuals are not prejudicially stopped, investigated, arrested, or detained based on their race, ethnicity, national origin, religion, gender, sexual orientation, or gender identity. As Black and Brown and other marginalized communities continue to be devastated by police profiling, we need now more than ever to pass legislation that serves as an important first step in addressing the horrific harm in communities subject to discriminatory policing practices.

As written, ERRPA would establish a prohibition on racial and religious profiling, enforceable by declaratory or injunctive relief. The legislation would mandate training for federal law enforcement officials on profiling issues. And, as a condition of receiving federal funding, state, local, and tribal law enforcement agencies would be required to collect data on both routine and spontaneous investigatory activities. In addition, the Department of Justice would be authorized to provide grants to state and local law enforcement agencies for the development and implementation of best policing practices, such as early warning systems, technology integration, and other management protocols, that discourage profiling. Lastly, this important legislation would require the Attorney General to issue periodic reports to Congress on racial profiling by law enforcement agencies, including an analysis of the data collected pursuant to the statute.

Against the backdrop of the previous Administration's vitriolic stance towards communities of color, religious minorities, individuals identifying as LGBTQ, people with disabilities, women, and many other groups, and the ongoing and intolerable profiling of communities by law enforcement officers, this legislation is needed now more than ever. Racial and religious profiling erodes trust and confidence between local, state, tribal, and federal law enforcement and the communities they serve. When law enforcement targets communities based on stereotypes, they undermine their ability to correctly identify true threats to a community, and to see the actual needs of the individuals in front of them. Moreover, this lack of trust has ripple effects throughout the criminal-legal system: For instance, investigations are flawed and hindered because people and communities impacted by these stereotypes are less likely to cooperate with law enforcement agencies they have grown to mistrust, making us

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all less safe. Even in 2000, the Department of Justice acknowledged the harms of racial profiling:¹

For the past 8 years, we have seen a steady decline in the crime rate in nearly every community in America. Even with the advances in crime prevention and law enforcement, however, there are instances in which distrust and tensions between the police and the community are high, and these tensions affect all aspects of the criminal justice system. One of the major causes of this mistrust is the controversial practice of racial profiling.

While no one law nor action can address the generations of harm communities of color have suffered at the hands of law enforcement, this act will help law enforcement agencies begin to earn back some trust in the communities that they serve. Profiling in law enforcement is fueled by the racist assumption that people of color commit more of the types of crimes that profiling is used to detect. However, this assumption has been widely denounced and disproven through data analysis.² Decades of research and reports³ support findings that African Americans and Latinos are no more likely to have illegal drugs and other contraband than their White counterparts when profiled during traffic stops and searches. One report found that Native Americans were 3.25 times more likely, and African Americans and Latinos were 2.5 times more likely, to be searched during traffic stops than Whites.⁴ Racist profiling means that the real threats posed by White people, who are just as likely to have illegal drugs and other contraband, are not addressed. Moreover, a Bureau of Justice Statistics report found that Black and Latino residents were more likely to have multiple contacts with police than White residents, especially in the contexts of traffic and street stops, and more than one in six Black residents who were pulled over in a traffic stop or stopped on the street had similar interactions with police multiple times over the course of the year.⁵ In addition, when police initiated an interaction, they were twice as likely to threaten or use force against Black and Hispanic residents than White residents.

The Ending Racial and Religious Profiling Act of 2021 is an important first step in remedying the harms of police profiling. While we support this legislation, the bill needs strong enforcement mechanisms to

¹ Ramirez, Deborah, Jack McDevitt, and Amy Farrell. A resource guide on racial profiling data collection systems: Promising practices and lessons learned. *US Department of Justice*. November 2000.

<https://www.ojp.gov/pdffiles1/bja/184768.pdf>. (On lack of trust between officers and communities and its harms, see p.3: When law enforcement practices are perceived to be biased, unfair, or disrespectful, communities of color are less willing to trust and confide in police officers, report crimes, participate in problem-solving activities, be witnesses at trials, or serve on juries.)

² Pierson, Emma, et. al.. A large-scale analysis of racial disparities in police stops across the United States. *Nature Human Behavior*. July 2020. <https://www.nature.com/articles/s41562-020-0858-1>.

³ American Civil Liberties Union. The Persistence of Racial and Ethnic Profiling in the United States. *ACLU.org*. August 2009. <https://www.aclu.org/report/persistence-racial-and-ethnic-profiling-united-states>. See also: <https://www.aclu.org/report/reports-un-cerd-race-and-ethnicity-united-states> and <https://www.aclu.org/report/driving-while-black-racial-profiling-our-nations-highways>.

⁴ ACLU of AZ. Driving while Black or Brown. *ACLU.org*. April 2008. <https://leephillipslaw.com/articles/RacialProfiling.pdf>.

⁵ Davis, Elizabeth, Anthony Whyde, and Lynn Langton. Contacts between police and the public, 2015. *US Department of Justice Office of Justice Programs Bureau of Justice Statistics Special Report*. October 2018. <https://www.bjs.gov/content/pub/pdf/cpp15.pdf/>.

end racial profiling and must strengthen data collection and publication on all police enforcement activities, including demographic information. Law enforcement should be required to report the legal justifications for investigatory activities; reporting requirements must mandate quarterly reporting cycles; all data should be publicly reported and subjected to the Freedom of Information Act (FOIA); and the data collection demonstration project section 333 of the bill is duplicative and thus should be eliminated.

By relying on stereotypes and profiling, law enforcement agencies and officials needlessly harm innocent people and make us all less safe. Now is the time to begin to address all forms of discriminatory profiling through ERRPA. The raw memories of the senseless murders of individuals who were stopped in part due to profiling, ring in communities' loud calls for change. We must usher in a new paradigm of public safety, one that sheds fundamentally biased roots in favor of strategies that build vibrant communities instead of tearing them apart. We urge your support for the End Racial and Religious Profiling Act of 2021, which will bring us closer to ensuring that federal, state, and local law enforcement agencies are prohibited from impermissibly considering race, ethnicity, national origin, religion, gender, sexual orientation, or gender identity in carrying out law enforcement activities. To learn more about this legislation, please contact Bill Van Horne, Chief Counsel for Senator Cardin, at bill_vanhorne@cardin.senate.gov. If you have any other questions, please feel free to contact Jaspal Bhatia, Senior Manager, Justice Reform, The Leadership Conference on Civil and Human Rights, bhatia@civilrights.org. Thank you for your valued consideration of this critical legislation.

Sincerely,



Wade Henderson
Interim President and CEO



LaShawn Warren
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