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114TH CONGRESS
1ST SESSION

H. R. 1933

To eliminate racial profiling by law enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2015

Mr. CONYERS (for himself, Ms. ADAMS, Ms. BASS, Mrs. BEATTY, Mr. BEYER, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Mr. BUTTERFIELD, Mr. CARSON of Indiana, Mr. CARTWRIGHT, Ms. CASTOR of Florida, Ms. JUDY CHU of California, Mr. CICILLINE, Ms. CLARKE of New York, Mr. CLAY, Mr. CLEAVER, Mr. CLYBURN, Mr. COHEN, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Ms. DEGETTE, Mr. DELANEY, Ms. DELBENE, Mr. DEUTCH, Mrs. DINGELL, Ms. EDWARDS, Mr. ELLISON, Mr. FARR, Mr. FATTAH, Ms. FUDGE, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. GUTIÉRREZ, Mr. HASTINGS, Mr. HECK of Washington, Mr. HINOJOSA, Mr. HONDA, Ms. JACKSON LEE, Mr. JEFFRIES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. KELLY of Illinois, Mr. KENNEDY, Mrs. LAWRENCE, Ms. LEE, Mr. LEWIS, Ms. LOFGREN, Mrs. CAROLYN B. MALONEY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MEEKS, Ms. MOORE, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. O’ROURKE, Mr. PAYNE, Ms. PLASKETT, Mr. PETERS, Mr. PIERLUISI, Mr. POCAN, Mr. RANGEL, Mr. RICHMOND, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SERRANO, Ms. SEWELL of Alabama, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SWALWELL of California, Mr. THOMPSON of Mississippi, Mr. VAN HOLLEN, Mr. VEASEY, Ms. MAXINE WATERS of California, Mrs. WATSON COLEMAN, Ms. WILSON of Florida, Ms. BROWN of Florida, and Mr. DAVID SCOTT of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To eliminate racial profiling by law enforcement, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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

(a) **SHORT TITLE.**—This Act may be cited as the “End Racial Profiling Act of 2015”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—PROHIBITION OF RACIAL PROFILING

Sec. 101. Prohibition.

Sec. 102. Enforcement.

TITLE II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 201. Policies to eliminate racial profiling.

TITLE III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY STATE, LOCAL, AND INDIAN TRIBAL LAW ENFORCEMENT AGENCIES

Sec. 301. Policies required for grants.

Sec. 302. Involvement of Attorney General.

Sec. 303. Data collection demonstration project.

Sec. 304. Best practices development grants.

Sec. 305. Authorization of appropriations.

TITLE IV—DATA COLLECTION

Sec. 401. Attorney General to issue regulations.

Sec. 402. Publication of data.

Sec. 403. Limitations on publication of data.

TITLE V—DEPARTMENT OF JUSTICE REGULATIONS AND REPORTS ON RACIAL PROFILING IN THE UNITED STATES

Sec. 501. Attorney General to issue regulations and reports.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Severability.

Sec. 602. Savings clause.

SEC. 2. DEFINITIONS.

In this Act:

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

(A) the Edward Byrne Memorial Justice Assistance Grant Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 ([42 U.S.C. 3750 et seq.](#)); and

(B) the “Cops on the Beat” program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 ([42 U.S.C. 3796dd et seq.](#)), except that no program, project, or other activity specified in section 1701(b)(13) of such part shall be a covered program under this paragraph.

(2) **GOVERNMENTAL BODY.**—The term “governmental body” means any department, agency, special purpose district, or other instrumentality of Federal, State, local, or Indian tribal government.

(3) **HIT RATE.**—The term “hit rate” means the percentage of stops and searches in which a law enforcement officer finds drugs, a gun, or other contraband that leads to an arrest. The hit rate is calculated by dividing the total number of searches by the number of searches that yield contraband. The hit rate is complementary to the rate of false stops.

(4) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 ([25 U.S.C. 479a](#)).

(5) **LAW ENFORCEMENT AGENCY.**—The term “law enforcement agency” means any Federal, State, local, or Indian tribal public agency engaged in the prevention, detection, or investigation of violations of criminal, immigration, or customs laws.

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

(7) **RACIAL PROFILING.**—The term “racial profiling” means the practice of a law enforcement agent or agency relying, to any degree, on actual or perceived race, ethnicity, national origin, religion, gender, gender identity, or sexual orientation in selecting which individual to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links a person with a particular characteristic described in this paragraph to an identified criminal incident or scheme.

(8) **ROUTINE OR SPONTANEOUS INVESTIGATORY ACTIVITIES.**—The term “routine or spontaneous investigatory activities” means the following activities by a law enforcement agent:

(A) Interviews.

(B) Traffic stops.

(C) Pedestrian stops.

(D) Frisks and other types of body searches.

(E) Consensual or nonconsensual searches of the persons, property, or possessions (including vehicles) of individuals using any form of public or private transportation, including motorists and pedestrians.

(F) Data collection and analysis, assessments, and predicated investigations.

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

(H) Immigration-related workplace investigations.

(I) Such other types of law enforcement encounters compiled for or by the Federal Bureau of Investigation or the Department of Justice Bureau of Justice Statistics.

(9) REASONABLE REQUEST.—The term “reasonable request” means all requests for information, except for those that—

(A) are immaterial to the investigation;

(B) would result in the unnecessary disclosure of personal information; or

(C) would place a severe burden on the resources of the law enforcement agency given its size.

(10) STATE.—The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

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

(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

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

(i) is established under applicable State law; and

(ii) has the authority to, in a manner independent of other State entities, establish a budget and impose taxes; or

(C) any Indian tribe that performs law enforcement functions, as determined by the Secretary of the Interior.

TITLE I—PROHIBITION OF RACIAL PROFILING

SEC. 101. PROHIBITION.

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

SEC. 102. ENFORCEMENT.

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

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

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

(2) any agent of such body who engaged in racial profiling; and

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

(c) **NATURE OF PROOF.**—Proof that the routine or spontaneous investigatory activities of law enforcement agents in a jurisdiction have had a disparate impact on individuals with a particular characteristic described in section 2(7) shall constitute prima facie evidence of a violation of this title.

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

TITLE II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 201. POLICIES TO ELIMINATE RACIAL PROFILING.

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

- (1) maintain adequate policies and procedures designed to eliminate racial profiling; and
- (2) cease existing practices that permit racial profiling.

(b) POLICIES.—The policies and procedures described in [subsection \(a\)\(1\)](#) shall include—

- (1) a prohibition on racial profiling;
- (2) training on racial profiling issues as part of Federal law enforcement training;
- (3) the collection of data in accordance with the regulations issued by the Attorney General under section 401;
- (4) procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents; and
- (5) any other policies and procedures the Attorney General determines to be necessary to eliminate racial profiling by Federal law enforcement agencies.

TITLE III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY STATE, LOCAL, AND INDIAN TRIBAL LAW ENFORCEMENT AGENCIES

SEC. 301. POLICIES REQUIRED FOR GRANTS.

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

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

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

(b) POLICIES.—The policies and procedures described in [subsection \(a\)\(1\)](#) shall include—

(1) a prohibition on racial profiling;

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

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

(4) participation in an administrative complaint procedure or independent audit program that meets the requirements of [section 302](#).

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

SEC. 302. INVOLVEMENT OF ATTORNEY GENERAL.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act and in consultation with stakeholders, including Federal, State, tribal, and local law enforcement agencies and community, professional, research, and civil rights organizations, the Attorney General shall issue regulations for the operation of administrative complaint procedures and

independent audit programs to ensure that such programs and procedures provide an appropriate response to allegations of racial profiling by law enforcement agents or agencies.

(2) GUIDELINES.—The regulations issued under [paragraph \(1\)](#) shall contain guidelines that ensure the fairness, effectiveness, and independence of the administrative complaint procedures and independent auditor programs.

(b) NONCOMPLIANCE.—If the Attorney General determines that the recipient of a grant from any covered program is not in compliance with the requirements of [section 301](#) or the regulations issued under [subsection \(a\)](#), the Attorney General shall withhold, in whole or in part (at the discretion of the Attorney General), funds for 1 or more grants to the recipient under the covered program, until the recipient establishes compliance.

(c) PRIVATE PARTIES.—The Attorney General shall provide notice and an opportunity for private parties to present evidence to the Attorney General that a recipient of a grant from any covered program is not in compliance with the requirements of this title.

SEC. 303. DATA COLLECTION DEMONSTRATION PROJECT.

(a) COMPETITIVE AWARDS.—

(1) IN GENERAL.—The Attorney General may, through competitive grants or contracts, carry out a 2-year demonstration project for the purpose of developing and implementing data collection programs on the hit rates for stops and searches by law enforcement agencies. The data collected shall be disaggregated by race, ethnicity, national origin, gender, and religion.

(2) NUMBER OF GRANTS.—The Attorney General shall provide not more than 5 grants or contracts under this section.

(3) ELIGIBLE GRANTEEES.—Grants or contracts under this section shall be awarded to law enforcement agencies that serve communities where there is a significant concentration of racial or ethnic minorities and that are not already collecting data voluntarily.

(b) REQUIRED ACTIVITIES.—Activities carried out with a grant under this section shall include—

(1) developing a data collection tool and reporting the compiled data to the Attorney General; and

(2) training of law enforcement personnel on data collection, particularly for data collection on hit rates for stops and searches.

(c) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall enter into a contract with an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 ([20 U.S.C. 1001](#))) to analyze the data collected by each of the grantees funded under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out activities under this section—

(1) \$5,000,000, over a 2-year period, to carry out the demonstration program under [subsection \(a\)](#); and

(2) \$500,000 to carry out the evaluation under [subsection \(c\)](#).

SEC. 304. BEST PRACTICES DEVELOPMENT GRANTS.

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

(b) USE OF FUNDS.—The funds provided under [subsection \(a\)](#) shall be used for programs that include the following purposes:

(1) The development and implementation of training to prevent racial profiling and to encourage more respectful interaction with the public.

(2) The acquisition and use of technology to facilitate the accurate collection and analysis of data.

(3) The development and acquisition of feedback systems and technologies that identify officers or units of officers engaged in, or at risk of engaging in, racial profiling or other misconduct.

(4) The establishment and maintenance of an administrative complaint procedure or independent auditor program.

(c) **EQUITABLE DISTRIBUTION.**—The Attorney General shall ensure that grants under this section are awarded in a manner that reserves an equitable share of funding for small and rural law enforcement agencies.

(d) **APPLICATION.**—Each State, local law enforcement agency, or unit of local government desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

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

TITLE IV—DATA COLLECTION

SEC. 401. ATTORNEY GENERAL TO ISSUE REGULATIONS.

(a) **REGULATIONS.**—Not later than 6 months after the date of enactment of this Act, the Attorney General, 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 and compilation of data under sections 201 and 301.

(b) **REQUIREMENTS.**—The regulations issued under [subsection \(a\)](#) shall—

(1) provide for the collection of data on all routine or spontaneous investigatory activities;

(2) provide that the data collected shall—

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

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

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

(D) not include personally identifiable information;

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

(4) provide that law enforcement agencies shall compile data on the standardized form made available under [paragraph \(3\)](#), and submit the form to the Civil Rights Division and the Department of Justice Bureau of Justice Statistics;

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

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

(7) provide that the Department of Justice Bureau of Justice Statistics shall—

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

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

(ii) disparities in the hit rate; and

(iii) disparities in the frequency of searches performed on racial or ethnic minority drivers and the frequency of searches performed on non-minority drivers; and

(B) not later than 3 years after the date of enactment of this Act, and annually thereafter—

- (i) prepare a report regarding the findings of the analysis conducted under [subparagraph \(A\)](#);
 - (ii) provide such report to Congress; and
 - (iii) make such report available to the public, including on a website of the Department of Justice; and
- (8) protect the privacy of individuals whose data is collected by—
- (A) limiting the use of the data collected under this Act to the purposes set forth in this Act;
 - (B) 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;
 - (C) 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 (A); and
 - (D) requiring the maintenance of adequate security measures to prevent unauthorized access to the data collected under this Act.

SEC. 402. PUBLICATION OF DATA.

The Department of Justice Bureau of Justice Statistics shall provide to Congress and make available to the public, together with each annual report described in [section 401](#), the data collected pursuant to this Act, excluding any personally identifiable information described in section 403.

SEC. 403. LIMITATIONS ON PUBLICATION OF DATA.

The name or identifying information of a law enforcement officer, complainant, or any other individual involved in any activity for which data is collected and compiled under this Act shall not be—

- (1) released to the public;

(2) disclosed to any person, except for—

(A) such disclosures as are necessary to comply with this Act;

(B) disclosures of information regarding a particular person to that person; or

(C) disclosures pursuant to litigation; or

(3) subject to disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), except for disclosures of information regarding a particular person to that person.

TITLE V—DEPARTMENT OF JUSTICE REGULATIONS AND REPORTS **ON RACIAL PROFILING IN THE UNITED STATES**

SEC. 501. ATTORNEY GENERAL TO ISSUE REGULATIONS AND REPORTS.

(a) **REGULATIONS.**—In addition to the regulations required under sections 303 and 401, the Attorney General shall issue such other regulations as the Attorney General determines are necessary to implement this Act.

(b) **REPORTS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Attorney General shall submit to Congress a report on racial profiling by law enforcement agencies.

(2) **SCOPE.**—Each report submitted under [paragraph \(1\)](#) shall include—

(A) a summary of data collected under sections 201(b)(3) and 301(b)(3) and from any other reliable source of information regarding racial profiling in the United States;

(B) a discussion of the findings in the most recent report prepared by the Department of Justice Bureau of Justice Statistics under section 401(b)(7);

(C) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies under section 201 and by the State and local law enforcement agencies under sections 301 and 302; and

(D) a description of any other policies and procedures that the Attorney General believes would facilitate the elimination of racial profiling.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SEVERABILITY.

If any provision of this Act, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the application of the remaining provisions of this Act to any person or circumstance shall not be affected thereby.

SEC. 602. SAVINGS CLAUSE.

Nothing in this Act shall be construed—

(1) to limit legal or administrative remedies under section 1979 of the Revised Statutes of the United States ([42 U.S.C. 1983](#)), section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 ([42 U.S.C. 14141](#)), the Omnibus Crime Control and Safe Streets Act of 1968 ([42 U.S.C. 3701 et seq.](#)), or title VI of the Civil Rights Act of 1964 ([42 U.S.C. 2000d et seq.](#));

(2) to affect any Federal, State, or tribal law that applies to an Indian tribe because of the political status of the tribe; or

(3) to waive the sovereign immunity of an Indian tribe without the consent of the tribe.

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