

TALKING POINTS ON THE END RACIAL PROFILING ACT

THE ASK

Co-sponsor the End Racial Profiling Act of 2015 (S.1056/HR 1933).

KEY MESSAGES

1. YWCA is calling on Congress to pass the End Racial Profiling Act to ensure that policing of all communities is done fairly using methods that are racially, culturally and gender sensitive.
2. Racial and religious profiling is a human rights violation that uniquely affects women of color.
3. As a leading organization devoted to racial and gender justice, the YWCA believes that all individuals, regardless of race, ethnicity, religion, national origin, or gender should be ensured justice and protected equally under the law.

☒ Racial and religious profiling uniquely affects women of color

- Women who are undocumented immigrants, or have limited English proficiency are at greater risk of being profiled “Driving While Female”. The International Association of Chiefs of Police issued an executive guide in June of 2011 that addressed sexual misconduct by law enforcement officers who profiled victims.
- Women of color airline passengers are subject to intrusive searches at U.S. airports. In 2015, the ACLU reached a settlement in a lawsuit filed against Frontier Airlines and several government defendants on behalf of Shoshana Hebshi, a mother of Saudi Arabian and Jewish descent who was pulled off an airplane at gunpoint, arrested, strip-searched, and detained. In 2006, a group of 87 African-American women settled for \$1.9 million in compensation for illegal pat-downs and strip searches at O'Hare International Airport.
- A 2013 report released by the Missouri Attorney General Office, unveiled that black women in Ferguson were stopped by police 238 more times than men or women of any race.
- Support for data collection for all stops and searches is growing among state legislatures. Currently, 17 states require data collection for all stops and searches: AL, CA, CT, FL, IL, LA, MD, MA, MN, MO, MT, NE, NV, RI, TX, WA, and WV. Additionally, 15 states require analysis of racial profiling data: AL, CA, CT, FL, IL, KS, LA, MD, MA, MO, NE, NV, RI, TX and WV.

☒ Please Co-Sponsor the End Racial Profiling Act (S. 1056/HR 1933)

- The End Racial Profiling Act (ERPA) introduced in the Senate by Sen. Ben Cardin (D-MD) and in the House by Rep. John Conyers (D-MI), outlaws and defines the practice of racial and religious profiling at the federal, state and local levels.

- ERPA includes key provisions that would document profiling practices; require local law enforcement grantees to certify they banned racial profiling, mandate training, create policies and procedures for complaints and investigations; and permit a right of action.
- In 30 states with anti-racial profiling laws, 9 laws were passed under Republican leadership. Yet there are 20 states that do not explicitly prohibit racial profiling: AK, DE, GA, HI, ID, IN, IA, ME, MI, MS, NH, NY, ND, OH, OR, PA, SD, VT and WY.
- In 2001, President George Bush delivered a speech that declared racial profiling “it’s wrong, and we will end in America.” He tasked Attorney General John Ashcroft to create the first U.S. Department of Justice *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race and Ethnicity* (DOJ Guidance) published in 2003.
- Until Congress passes ERPA, the DOJ Guidance which was updated in 2014, must be further expanded to include state and local law enforcement; as well as national security policing such as airport passenger screening and border patrol.
- Using racial profiling in policing practices makes no one safe. All law enforcement officials must be trained to monitor behavior for criminal activity. Law enforcement officers should not presume guilt on the basis of someone’s race, religion, national origin, immigrant status, gender identity or sexual orientation.
- Failure to pass ERPA in this Congress will result in more tragedies and wasted efforts in pursuing innocent people.

☒ **YWCA's Efforts Engaging Law Enforcement to Eliminate Gender and Racial Bias**

- Nearly 300,000 individuals participate in YWCA racial justice programs annually, addressing systemic barriers in the criminal justice system, housing, health care and education.
- Approximately half of our local associations train law enforcement officials, host dialogues and develop private-public collaborations addressing gender and racial justice.

Opposition Points with Rebuttal on ERPA

- ☒ ERPA threatens homeland security because it does not include exemptions for national security activities such as airport passenger screening and border patrol.

Rebuttal

- Violating individuals' constitutional rights of due process and equal protection is not an acceptable solution to protecting homeland security. For example, Maryland Governor Larry Hogan suspended habeas corpus in Baltimore during protests of the death of Freddie Gray, which allowed law enforcement officials to hold protestors for 48 hours before presenting them to district court for booking.
- All law enforcement officials must be trained to monitor behavior for criminal activity. Law enforcement officers should not presume guilt on the basis of someone's race, religion, national origin, immigrant status, gender identity or sexual orientation.
- In 2013 a federal appeals court ruled New York's stop-and-frisk racial profiling practice was unconstitutional.

- ☒ ERPA overreaches federal authority to states by requiring local law enforcement to ban racial profiling.

Rebuttal

- ERPA only applies to local law enforcement agencies that receive certain federal grants. Noncompliance is determined by the U.S. Attorney General and penalties could include withholding of funds.
- ERPA does authorize two new programs: (1) Data Collection Demonstration Project with an authorized appropriation of \$5 million and (2) Best Practices Development Grants.

- ☒ ERPA is primarily opposed by Congressional Republicans and powerful law enforcement unions, so why bother to advocate for its passage?

Rebuttal

- Failure to pass ERPA in this Congress will result in more tragedies and wasted efforts in pursuing innocent people.
- Racial profiling has been declared wrong and ineffective by civil rights groups, academics, and politicians including President Obama and former President George W. Bush.
- In 30 states with anti-racial profiling laws, 9 laws were passed under Republican leadership.
- Using racial profiling in policing practices makes no one safe.