

Policing and Civil Rights

THE PROBLEM

In too many communities across the country, local law enforcement officers who are responsible for serving and protecting residents instead target them for harassment and abuse. Each day, individuals are profiled on the basis of their race, ethnicity, immigration status, religion, sexual orientation, gender identity or expression, or other characteristics. And every day, residents of entire neighborhoods are subjected to policing practices that violate constitutional protections and erode trust between police and residents.

THE SOLUTION

Eliminating discriminatory policing requires innovative policies that reinforce constitutional principles. The most promising approaches not only outlaw profiling on the basis of demographic characteristics, they also provide guidance on how law enforcement agencies can protect the rights of residents while also ensuring public safety. In 2013, federal legislation including these elements, known as the End Racial Profiling Act (ERPA), was reintroduced in the House³ and the Senate.⁴ The legislation, however, remains in committee.

Despite the lack of federal action, local leaders are partnering with community, labor, and advocacy organizations to hold law enforcement agencies accountable to the communities they serve. Cities including **Detroit**,⁵ **Cincinnati**,⁶ **Columbus**⁷ and **Jackson**⁸ have enacted local laws barring—at a minimum—police profiling on the basis of race or ethnicity. And local legislators in **Portland, Oregon**⁹ and **San Francisco**,¹⁰ responding to concerns about surveillance of Middle Eastern and Muslim communities, have enacted policies that subject collaborations between local law enforcement and the FBI to City oversight.

The Community Safety Act (CSA), passed by the **New York City Council** over mayoral veto in August 2013, represents the vanguard in anti-discriminatory policing policy. The Act expands the City's prohibition on bias-based profiling and provides a private right of action for those who are unlawfully targeted. It also establishes inde-



“With independent oversight and an enforceable ban on police profiling,

New Yorkers can finally be confident that the NYPD officers will be empowered to ‘serve and protect’ all our neighbors”

— **Jumaane Williams & Brad Lander**, New York City Council Members¹

pendent oversight of NYPD policies and practices.

POLICY ISSUES

The following are important issues to consider in designing local policy to address discriminatory policing. Legislators can tailor their proposals to the political realities of their communities.

POLICE PROFILING: Many legislative efforts to address discriminatory policing bar profiling on the basis of race, ethnicity, religion or national origin, but individuals are often targeted on other bases as well. It is important to work with community members to get a full sense of whether they have been targeted on other grounds, such as sexual orientation, gender identity or expression, age, housing status, immigration or citizenship status, language, disability, housing status, occupation, or socioeconomic status. The most effective measures will be those that bar reliance on these characteristics to any degree.

POLICE IDENTIFICATION: Measures that require police officers to identify themselves, explain the reasons for a stop or other police activity, and share information on complaint procedures can help to promote transparency and accountability and promote trust. Similar measures have been enacted at the state level in **Minnesota**, **Arkansas**, and **Colorado**.

CONSENSUAL SEARCHES: In many cases, residents

are unaware of their constitutional right to decline to consent to a search for which there is no other legal basis. Provisions that require that consent be informed and documented can safeguard residents' rights and protect law enforcement agencies from false claims of wrongful behavior. West Virginia, Colorado, and Oregon have all enacted measures related to consensual searches.



“The NYPD wants to create public safety but is instead instilling fear among immigrant communities. While officers believe that they are creating safety by stopping innocent New Yorkers, they are really creating enemies who will be less likely to report crime when it does happen.”

— Daniel, Queens Resident²

OFFICER TRAINING: High-quality training and other forms of professional development can help law enforcement officers better understand how to promote public safety while respecting the rights of all residents. Training should relate to the nature of profiling, how to avoid profiling and the implementation of data collection requirements.

DATA COLLECTION & REPORTING: The collection, analysis and reporting of data on law enforcement activity is a critical element of legislation to address discriminatory policing. Processes must allow for the disaggregation of data on the demographic characteristics of individuals who are the targets of law enforcement activity, including the rates at which drugs, weapons, or other items are found during stops and searches. Regular, public reporting of this data must be required.

OVERSIGHT & ACCOUNTABILITY: Strong provisions for ongoing oversight will incentivize compliance and allow for the identification of successful efforts. One means of accomplishing this is through establishment of an independent office or body with a specific mandate to monitor compliance. For example, the Los Angeles Police Department is subject to oversight by an Inspector General with investigative authority.¹¹

LANDSCAPE AND RESOURCES

The Rights Working Group (RWG) is a coalition of more than 340 local, state and national organizations with a website features extensive resources on racial profiling. Communities United for Police Reform makes a range of resources on New York reform efforts available on their website. The Racial Profiling Data Collection Resource Center at Northeastern University has a valuable compilation of policy and litigation materials related to the topic. The Center for Popular Democracy provides legal, strategic, and organizing support to local campaigns.

NOTES

1. Council Members Williams and Lander's Statement on the Landmark Passage of the Community Safety Act (2013).
2. NYCLU, Stop-and-Frisk 2011: NYCLU Briefing 3 (2012).
3. H.R. 3618, 112th Cong. (2011).
4. S. 1670, 112th Cong. (2011).
5. Detroit, MI, Detroit City Code § 27-9-3 (2007).
6. Cincinnati, OH, Administrative Code §4-A (2001).
7. Columbus Ohio, Code §§ 2331.01(A)(13), 2331.07 (2004).
8. Jackson, MS, Code of Ordinances § 86-193.
9. Portland, Or., BCP-PSF-7.01 (2011).
10. San Francisco, CA, Administrative Code § 2A.74 (2012).
11. Los Angeles Police Department, "Office of the Inspector General," available at http://www.lapdonline.org/police_commission/content_basic_view/1076 (last visited November 11, 2012).

Local Progress is a national municipal policy network of local elected officials and partners who want to create more just and equitable cities. Our purpose is to build a broad network to support and learn from each other, share best practices and policies, and develop strategies for advancing shared goals.

The **Center for Popular Democracy** promotes equity, opportunity, and a dynamic democracy in partnership with innovative community-based organizations, elected officials, local and state networks, and progressive unions across the country. We work with our allies to design, pass, and implement cutting-edge state and local policies that deliver tangible benefits for working families.