

NATIONAL GAY AND LESBIAN TASK FORCE ACTION FUND



Testimony

Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Human Rights
Hearing on Ending Racial Profiling in America

Rea Carey, Executive Director, National Gay and Lesbian Task Force Action Fund

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Before the Senate Judiciary Committee
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“Ending Racial Profiling In America”

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: I am honored to submit testimony for the record on behalf of the National Gay and Lesbian Task Force Action Fund regarding the Subcommittee’s hearing on racial profiling and S. 1670, the End Racial Profiling Act (ERPA). The National Gay and Lesbian Task Force Action Fund is the oldest national organization advocating for the rights of lesbian, gay, bisexual and transgender (LGBT) people. The National Gay and Lesbian Task Force Action Fund and its sister organization the National Gay and Lesbian Task Force work to end all forms of discrimination in the United States, including discriminatory law enforcement policies that disparately impact racial minorities.

We thank you for holding this hearing on this critical issue. As research and data have shown, lesbian, gay, bisexual and transgender people come from every walk of life – we are a geographically, economically, religiously and racially diverse community. We are also a community that faces many hurdles in life, including discriminatory treatment at the hands of law enforcement. Our recent study, [*Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*](#), sheds light on shocking treatment of transgender people by law enforcement. The most extreme of this discriminatory treatment falls on transgender people of color.

While many transgender people, regardless of their race, suffer disrespectful and harmful treatment by law enforcement, the evidence shows that transgender people of color are impacted

much more than their white counterparts regardless of their race. Forty-seven percent of black and Latino/a transgender people reported being treated disrespectfully by police. The disproportionate treatment impacts all racial minorities though; 44 percent of Asian transgender people; 35 percent of American Indian transgender people; and 42 percent of multiracial transgender people reported disrespectful treatment at the hands of law enforcement. These figures compare to 25 percent of white transgender people. Similar trends for disproportionate representation in police mistreatment of transgender people of color are also found in physical and sexual assaults. Shockingly, 41 percent of black and 21 percent of Latino/a transgender people report being detained in a prison or jail cell because they are transgender compared to 4 percent of white transgender people.¹

While we are outraged by the treatment of our transgender family and friends by law enforcement and the disproportionate impact on transgender people of color we are equally concerned about racial profiling in general in the United States. The very concept of racial profiling goes against the founding principles of our country and the basis of criminal law that each individual is innocent until proven otherwise. It is racial profiling whenever a law enforcement department or individual arbitrarily uses race, religion, ethnicity, or national origin as a factor in deciding who should be questioned or investigated. These are characteristics only relevant as part of a specific suspect description. Any law enforcement system focusing on characteristics to identify wrongdoers is both misguided and a waste of precious resources. Law enforcement should focus on policing techniques that identify potential wrongdoers using actions and behaviors instead of demographic characteristics.

¹ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

The lesbian, gay, bisexual and transgender community has a long history of heightened fear of law enforcement. Racial profiling compounds that problem for our community and causes communities of color to fear federal, state and local law enforcement instead of feeling safe to work with them to make all of our communities safer.

The National Gay and Lesbian Task Force Action Fund is encouraged by the Subcommittee's leadership in holding a hearing on ending racial profiling. To be sure, this is not an easy conversation, but it is one that must be had to end misguided practices utilized by law enforcement departments across the country. We are grateful for the opportunity to submit our position on the unjust and ineffective practice of racial profiling in law enforcement. We urge the Subcommittee to move quickly to take concrete actions that will help put an end to these counterproductive practices.

- Pass the "End Racial Profiling Act" (S. 1670) out of Subcommittee and work towards its passage by Congress to institute a federal ban on profiling based on race, religion, ethnicity, and national origin at the federal, state, and local levels;
- Urge the Department of Justice to amend the 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to prohibit profiling based on religion and national origin, to remove national and border security loopholes, to cover law enforcement surveillance activities, to apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable.

Again, thank you for this opportunity to express our views on racial profiling by law enforcement. The National Gay and Lesbian Task Force Action Fund welcomes this and future opportunities to further the dialogue and bring an end to discriminatory racial profiling practices.