

TESTIMONY OF SENATOR BENJAMIN L. CARDIN
HEARING: “ENDING RACIAL PROFILING IN AMERICA”
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS & HUMAN RIGHTS
SENATE JUDICIARY COMMITTEE
APRIL 17, 2012

Chairman Durbin, Ranking Member Graham, let me begin by thanking you for holding this hearing today. And I thank you for the opportunity to testify before the Judiciary Committee on the topic of ending racial profiling in America. I also want to join in welcoming my former colleagues in the House, Representatives Gutierrez, Ellison, and Chu, to the Senate.

Over the past few months the nation’s attention has been riveted to the tragic, avoidable death of Trayvon Martin in Florida. A few weeks ago I spoke about this issue at the Center for Urban Families in Baltimore.

Joining me were representatives from various faith and civil rights groups in Baltimore, as well as graduates from the Center's program. I heard there first-hand accounts of typical American families that were victims of racial profiling. One young woman recounted going to a basketball game with her father, only to have her dad detained by police for no apparent reason other than the color of his skin.

That's why I am pleased that the Justice Department, under the supervision of Attorney General Eric Holder, has announced an investigation into the shooting death of Trayvon Martin on February 26, 2012. As we all know from the news, an unarmed Martin, 17, was shot in Sanford, FL on his way home from a convenience store by Mr. George Zimmerman.

I join all Americans in wanting a full and complete investigation into the shooting death of Trayvon Martin to ensure that justice is served. There are many questions that we need the Justice Department to answer.

Was Trayvon targeted by Mr. Zimmerman because he was black? The state of Florida has already charged Zimmerman with second-degree murder, and Zimmerman will be given a jury trial of his peers to determine whether he is guilty.

A key question is whether Trayvon was a victim of racial profiling by the police. Was Trayvon treated differently by local law enforcement in their shooting investigation because he was black and the aggressor was white?

Trayvon's tragic death leads to a discussion of the broader issue of racial profiling. I have called for putting an end to racial profiling, a practice that singles out individuals based on race or other protected categories. In October 2011, I introduced legislation, *End Racial Profiling Act* (ERPA), S. 1670, which would protect minority communities by prohibiting the use of racial profiling by law enforcement officials.

First, the bill prohibits the use of racial profiling – using a standard definition – that includes race, ethnicity, national origin, or religion. All law enforcement agencies would be prohibited from using racial profiling in criminal or routine law enforcement investigations, immigration enforcement, and national security cases.

The bill also prohibits the use of race in “deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure.”

Second, the bill would mandate training on racial profiling issues, and requires data collection by local and state law enforcement agencies.

Third, this bill would condition the receipt of federal funds by state and local law enforcement on two grounds. First, under this bill, state and local law enforcement would have to “maintain adequate policies and procedures designed to eliminate racial profiling.” Second, they must “eliminate any existing practices that permit or encourage racial profiling.”

Fourth, the bill would authorize the Justice Department to provide grants to state and local government to develop and implement best policing practices that would discourage racial profiling.

Finally, the bill would require the Attorney General to provide periodic reports to assess the nature of any ongoing discriminatory profiling practices.

The bill would also provide remedies for individuals who were harmed by racial profiling.

The legislation I introduced is supported by the NAACP, ACLU, the Rights Working Group, and the Leadership Conference on Civil and Human Rights, and numerous other organizations.

I thank these groups and many others for their efforts in putting a human face on the issue of racial profiling, and for the numerous reports they have issued on the different faces of racial profiling, which I encourage Senators to review. I strongly support their advocacy efforts on Capitol Hill this week to raise awareness of this issue and build co-sponsors for this legislation. I ask unanimous consent to include a letter in the record from numerous civil rights and human rights organizations endorsing this legislation.

Let me also thank Chairman Durbin for leading the effort in the Senate on a letter to Attorney General Holder asking him to revise the Department of Justice's racial profiling guidance.

Racial profiling is bad policy, but given the state of our budgets, it also diverts scarce resources from real law enforcement. Law enforcement officials nationwide already have tight budgets. The more resources spent investigating individuals solely because of their race or religion, the fewer resources directed at suspects who are actually demonstrating illegal behavior.

Racial profiling has no place in modern law enforcement. The vast majority of our law enforcement officials who put their lives on the line every day handle their jobs with professionalism, diligence, and fidelity to the rule of law. However, Congress and the Justice Department can and should still take steps to prohibit racial profiling and finally root out its use.

The Fourteenth Amendment to the U.S. Constitution guarantees the “equal protection of the laws” to all Americans. Racial profiling is abhorrent to that principle, and should be ended once and for all.

As the late Senator Kennedy often said, “Civil Rights is the great unfinished business of America.” Let’s continue the fight here to make sure that we truly have equal justice under law for all Americans.