

# The Three Faces Of **RACIAL PROFILING**

**October 27, 2011  
10:00 a.m.**

**American Civil Liberties Union Washington Legislative Office**

915 15th Street NW, Washington DC, 20005  
8th Floor Conference Center  
McPherson Square

**The Honorable Keith Ellison (D-MN)**

U.S. House of Representatives

**Laura W. Murphy**

*Director, ACLU Washington Legislative Office (moderator)*

**Jennifer Bellamy**

*Legislative Counsel, ACLU Washington Legislative Office  
End Racial Profiling Act and Routine Policing*

**Mike German**

*Senior Policy Counsel, ACLU Washington Legislative Office  
Post-9/11 Profiling and Racial Mapping*

**Joanne Lin**

*Legislative Counsel, ACLU Washington Legislative Office  
State and Federal Immigration Challenges*



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**NEWS**

## **Forum Calls On Congress and Administration to End Racial Profiling ACLU Hosts Event to Stop Discrimination**

FOR IMMEDIATE RELEASE

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WASHINGTON – Rampant discrimination will continue across the nation so long as law enforcement engage in racial profiling practices, a policy forum concluded today.

The forum called on Congress to pass the End Racial Profiling Act (ERPA), while framing the three prominent forms of racial profiling: historic racism against African-Americans in community and drug enforcement, the post-9/11 intelligence gathering and racial mapping particularly of Arab Muslims and South Asians and the profiling of Latinos, Asians and other people of color in the context of immigration and border enforcement.

“Before there was even a name for it, racial profiling has been engrained in our country’s law enforcement practices,” said ACLU Washington Legislative Office Director Laura W. Murphy. “But racial profiling not only goes against our Constitution and our country’s value for equality – it also hinders law enforcement officials from doing their job. While Americans tend to think about racial profiling in isolated circumstances, the thread tying it all together is plain and simple discrimination.”

Rep. Keith Ellison (D-Minn.) joined Murphy on the panel, along with ACLU Senior Policy Counsel Mike German and ACLU Legislative Counsels Joanne Lin and Jennifer Bellamy.

ERPA was introduced in the U.S. Senate on Oct. 6 to prevent law enforcement from subjecting a person to heightened scrutiny based on race, ethnicity, religion or national origin, except when there is trustworthy information, relevant to the locality and timeframe, that links a person of a particular race, ethnicity, national origin or religion to an identified criminal incident or scheme. In addition to defining and explicitly prohibiting racial profiling, ERPA will mandate racial profiling training and data collection, authorize the grants for the development and implementation of best policing practices and require periodic reports from the attorney general on any continuing discriminatory practices. The legislation is also expected to also be introduced in the U.S. House of Representatives, following a House Judiciary Committee hearing on racial profiling Nov. 4.

“For years, many of our political leaders have vowed to put an end to racial profiling,” Murphy concluded. “Attorney General Eric Holder has made it clear that ending the practice of racial profiling is a priority for the Obama administration. And certain members of Congress have echoed that sentiment. Now is the time for us to come together and end this unlawful practice.”

## **The Three Faces of Racial Profiling: A Closer Look**

**Historic Racism in Policing** – Many people believe that we live a post-racial society, in which people are no longer judged by their skin color the way they were prior to the Civil Rights Movement. But that is not the case. Unfortunately, law enforcement still assume criminality based on race. Take the case of the Latino students at Hoover High School in Los Angeles who were rounded up during lunch, detained for two hours, frisked and interrogated about gang affiliations by Glendale and Los Angeles police officers, despite no evidence of wrong doing. Or the highly decorated U.S. Army Sgt. Rossano Gerald, a black man of Panamanian descent, who found that he could not drive more than 30 minutes across the state of Oklahoma without being stopped by state troopers. These stories are still all too common. For more information, visit: <http://www.aclu.org/blog/racial-justice/three-faces-racial-profiling-unfinished-business-civil-rights-movement>

**Intelligence Gathering and Racial Mapping** – The Federal Bureau of Investigation is collecting racial and ethnic information and “mapping” American communities around the country based on crude stereotypes about which groups commit different types of crimes. Members of the Muslim, Latino, African-American and Asian communities are being targeted in non-specific ways. Nationwide, the FBI is gathering reports on innocent Americans' so-called “suspicious activity” and sharing it with unknown numbers of federal, state and local government agencies. In the decade since 9/11, long-standing safeguards on the FBI's investigative and intelligence collection activities have been erased, allowing it to engage in racial profiling and to initiate intrusive investigations with no factual basis to suspect wrongdoing. Taken together, the changes in the FBI's authority have vastly expanded its ability to engage in unlawful and abusive surveillance of innocent Americans. For more information, visit: <http://www.aclu.org/blog/racial-justice/three-faces-racial-profiling-profiling-communities-bad-law-enforcement>

**Profiling of People of Color in the Context of Immigration and Border Enforcement** – Recently, Alabama became the first state where a state-sanctioned racial profiling law has gone into effect after attempts to block it in court were unsuccessful. Other states, including Arizona, Georgia, Indiana, South Carolina and Utah have also joined the ranks of the “show me your papers” states, but those states' laws have been temporarily blocked in court, making Alabama's law the first to go into effect. The Obama administration's federal immigration enforcement system also includes two programs that are fraught with civil rights problems. The 287(g) program delegates authority to enforce federal immigration law to local police with no accountability or oversight from the federal government. The Secure Communities program encourages the use of pre-textual arrests by state and local law enforcement by requiring that fingerprints are run through the federal immigration database every time someone is arrested for any infraction, however minor. Although three-fourths of the nation's undocumented immigrants are Latino, 93 percent of those arrested by ICE under Secure Communities are Latino. For more information, visit: <http://www.aclu.org/blog/racial-justice/three-faces-racial-profiling-immigrants-are-latest-victims>

## **Three Faces of Racial Profiling: What You Can Do**

It is up to us to stir our government and elected officials to action and end the practice of racial profiling to ensure our law enforcement policies reflect our values.

### **What YOU can do:**

- Urge your member of Congress to prioritize passage of the End Racial Profiling Act (ERPA), S. 1670
- Share with your family and friends why racial profiling immigration laws – at the federal and state level – hurt all Americans. Call on your member of Congress to terminate harmful immigration programs such as 287(g) and Secure Communities and speak out against draconian state immigration laws.
- Engage in conversation online: Share the ACLU's "Mapping the FBI" link with social networks, friends and colleagues: <http://www.aclu.org/mapping-fbi-uncovering-abusive-surveillance-and-racial-profiling>

### **What your organization can do:**

- Let members of Congress know racial profiling is a priority by creating a presence at the House Judiciary Committee hearing on ERPA by attending the pre-hearing rally Nov. 4 from 8:30 a.m. to 9:30 a.m. at Rayburn B-369.
- [Sign on to the ERPA Coalition letter in support of ERPA and ensure ERPA covers ALL forms of racial profiling.](https://www.aclu.org/criminal-law-reform/coalition-letter-senate-urging-co-sponsorship-end-racial-profiling-act-erpa) <https://www.aclu.org/criminal-law-reform/coalition-letter-senate-urging-co-sponsorship-end-racial-profiling-act-erpa>
- Push the administration and Congress to end the 287(g) and Secure Communities programs that foster racial profiling of Latinos and other people of color.
- Encourage the Department of Justice to revise its 2003 Guidance on the Use of Race in Law Enforcement to apply to state and local agencies receiving federal support, remove the border integrity and national security exceptions and prohibit profiling based on national origin and religion.

### **What your Member of Congress can do:**

- Co-sponsor the End Racial Profiling Act.
- Defund the DHS 287(g) and Secure Communities programs which foster racial profiling of Latinos and other people of color.
- Conduct an investigation and hold public hearings to examine the FBI's racial and ethnic mapping program, as well as similar programs initiated by other federal, state and local law enforcement or intelligence agencies.

**Rep. Keith Ellison  
(D-MN)**

Keith Ellison has represented the Fifth Congressional District of Minnesota in the U.S. House of Representatives since taking office on January 4, 2007. The Fifth Congressional District is the most vibrant and ethnically diverse district in Minnesota with a rich history and traditions. The Fifth District includes the City of Minneapolis and the surrounding suburbs. Keith was elected as co-chair of the Congressional Progressive Caucus for the 112th Congress. Working together with other members of the Caucus, Keith helped shape historic Health Care Reform and Wall Street Reform, raise the federal minimum wage, start the process to end the War in Iraq, strengthen veterans' benefits, combat hate crimes, and create guarantees of pay equality for women.

**Laura W. Murphy  
Director, ACLU Washington Legislative Office**

Laura W. Murphy is in her second tenure as Director of the ACLU's Washington Legislative Office, a position she first held from 1993-2005. Since returning in 2010, Murphy has immersed herself in national security, criminal justice, human rights, privacy, civil rights and First Amendment issues. Murphy played a leadership role in the passage of the Fair Sentencing Act of 2010 signed into law by President Obama on August 3, 2010, a law that reduced the sentencing disparity between crack and powder cocaine and that begins to address some of the racial disparities in the criminal justice system. She has met with leaders in the United States Congress and the Obama administration to advance the ACLU's public policy priorities on military tribunals, the Paycheck Fairness Act, the proliferation of state anti-immigration laws, human rights treaties, reproductive rights and civil rights, among other issues. She has been a frequent guest on PBS, NBC Nightly News, The Today Show, ABC World News, CNN, Fox News, C-Span, and National Public Radio.

**Jennifer Bellamy  
Legislative Counsel, ACLU Washington Legislative Office**

Jennifer Bellamy joined the ACLU in 2008 and serves as a legislative counsel in the organization's Washington Legislative Office. Bellamy is a leader on the National Juvenile Justice and Delinquency Prevention Coalition (NJJJPC), and is Tri-Chair of the NJJJPC's Gang and Youth Violence Prevention Task Force. Bellamy also co-chairs the Criminal Justice Task Force of the Leadership Conference on Civil and Human Rights along with the NAACP's Washington Bureau Director. In addition, she represents the ACLU in coalition work connecting a broad political cross section of policymakers including leaders from the American Bar Association, Cato Institute and the Heritage Foundation, working to promote consensus in criminal justice reform. Bellamy played a leadership role in the passage of the Fair Sentencing of 2010, which reduced the infamous and discriminatory sentencing disparity between crack and powder cocaine and begins to address some of the serious racial disparities plaguing the criminal justice system.

**Mike German  
Senior Policy Counsel, ACLU Washington Legislative Office**

Mike German is a senior policy counsel for national security and privacy for the American Civil Liberties Union Washington Legislative Office. In this capacity German develops policy positions and proactive strategies on pending legislation and executive branch actions concerning domestic surveillance, data mining, freedom to travel, medical and financial privacy, whistleblower protection, intelligence and law enforcement oversight. A sixteen-year veteran of federal law enforcement, German served as a special agent with the Federal Bureau of Investigation, where he specialized in domestic terrorism and covert operations. German served as an adjunct professor for Law Enforcement and Terrorism at the National Defense University and is a Senior Fellow with GlobalSecurity.org.

**Joanne Lin  
Legislative Counsel, ACLU Washington Legislative Office**

Joanne Lin has been a legislative counsel with the American Civil Liberties Union Washington Legislative Office since September 2007. She works with the Congress and executive agencies on a broad range of immigration and human rights issues including racial profiling, state and local immigration enforcement, access to higher education, immigration detention conditions, sexual assault in immigration detention, immigration due process, access to counsel, judicial review, material support bars, border enforcement, and excessive use of force by border patrol. Together with ACLU's national litigation projects and state affiliates, Lin works with federal lawmakers to ensure that federal policies, practices, and procedures comport with the Constitution, due process, and civil liberties. Her advocacy has been noted in the *New York Times*, *Washington Post*, *CQ*, *Congress Daily*, the *Latino Journal* and other national media outlets. She is a regular speaker at national conferences, universities, and community events on immigration issues.

## **Helpful Links and Resources**

### **FBI Mapping Map**

<http://www.aclu.org/maps/mapping-fbi>

### **Immigrants' Rights Under Attack, Map**

<http://www.aclu.org/maps/2011-immigrants-rights-under-attack-state-legislatures>

### **Three Faces of Racial Profiling on the Blog of Rights**

National Security: <http://www.aclu.org/blog/racial-justice/three-faces-racial-profiling-profiling-communities-bad-law-enforcement>

Immigrants: <http://www.aclu.org/blog/racial-justice/three-faces-racial-profiling-immigrants-are-latest-victims>

Racism in Policing: <http://www.aclu.org/blog/racial-justice/three-faces-racial-profiling-unfinished-business-civil-rights-movement>

### **ERPA Coalition Letter:**

<https://www.aclu.org/criminal-law-reform/coalition-letter-senate-urging-co-sponsorship-end-racial-profiling-act-erpa>

### **Videos:**

Profiling in Routine Law Enforcement: <http://www.rightsworkinggroup.org/content/face-truth-racial-profiling-across-america>

Fear and HB 56 in Alabama: An Immigrant's Story: <http://www.aclu.org/immigrants-rights/fear-and-hb-56-alabama-immigrants-story>

One of Alabama's Worst Times Since Jim Crow: <http://www.aclu.org/immigrants-rights/one-alabamas-worst-times-jim-crow>

Broken Lives, Empty Fields: One Alabama Farmer's Story: <http://www.aclu.org/immigrants-rights/broken-lives-empty-fields-one-alabama-farmers-story>

What happens in Arizona Stops in Arizona: <http://www.aclu.org/what-happens-arizona-stops-arizona>