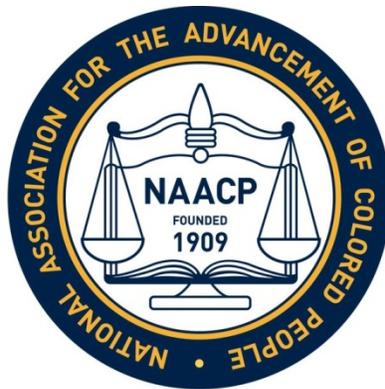


# Pathways to Police Reform Community Mobilization Toolkit



**NAACP Criminal Justice Department**

**July 2016**

This toolkit has not been created out of whole cloth. It draws heavily from previous NAACP work, especially our 2014 Born Suspect report on racial profiling. Many thanks to NAACP W.E.B. Du Bois Fellow Sally Park and Kellogg Law Fellow Akil Craig for research assistance.

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## Introduction

For generations, black and brown parents have given their children “the talk”—instructing them never to run down the street; always keep your hands where they can be seen; do not even think of talking back to a stranger—all out of fear of how an officer with a gun will react to them.

...

We must not pretend that the countless people who are routinely targeted by police are “isolated.” They are the canaries in the coal mine whose deaths, civil and literal, warn us that no one can breathe in this atmosphere. ... They are the ones who recognize that unlawful police stops corrode all our civil liberties and threaten all our lives. Until their voices matter too, our justice system will continue to be anything but.

—Dissent of Justice Sonia Sotomayor in *Utah v. Strieff*

Eric Garner, Sandra Bland, Rekia Boyd, Michael Brown, Freddie Gray, Sam DuBose, Alton Sterling, Philando Castile, . . . . The litany of Black people who have lost their lives at the hands of the police or in police custody seems endless. People are killed and brutalized, but the legal system gives us no relief. Police officer after police officer is either not charged or acquitted. Police who kill are given paid vacation instead of being held accountable.

In the face of this situation, the future can seem bleak. However, the NAACP has been tackling seemingly intractable issues from its inception. Many of our victories would have seemed unattainable before members devoted years of hard work and attention to the issues of their day.

The goal of this toolkit is to assist in the mobilization of our state conferences and local units. This guide seeks to provide information useful for a long-term strategy of police reform. After reading this toolkit, members should be empowered to advocate for change in their local communities.

## Part I: The NAACP's Police Reform Agenda

The NAACP knows that police reform is urgent and necessary. The necessity for change is also being acknowledged by police departments around the country. Over the past thirty years, there has been growing awareness of the importance of community perceptions to effective policing. Law enforcement agencies have created community-police partnerships and engaged in dialogues with community leaders. These efforts at community oriented policing have shown us that police cannot do their jobs well without strong relationships between police and the communities they serve. We need each other.

“Building and maintaining community trust is the cornerstone of successful policing and law enforcement.”

International Assoc of Chiefs of Police,  
*Building Trust Between the Police and the  
Citizens They Serve: An Internal Affairs  
Promising Practices Guide for Local Law  
Enforcement*, 2009

Comprehensive change is required to create the climate of trust that is needed for the community and police officers to be safe. The NAACP's police reform agenda focuses on three key areas of reform that have the potential to make this fundamental change. Our communities need police forces that are held accountable for misconduct, that have strong policies and relevant training, and in which the community plays an active role.

The topics discussed in this toolkit are key areas where community pressure can lead to a change in how our police operate. Not all of these problems may apply to your local police department, and there may be areas for reform that your community will want to address that are not included here. This toolkit builds on the NAACP's 2014 Born Suspect report about anti-racial profiling activism.

### Accountability Measures

The situation is depressingly familiar. An unarmed Black man is killed by police. There is media attention, there are rallies, but no justice. The officer that killed him is put on unpaid leave for a time. There is an investigation, and the officer is found to have been justified in the use of force. The case is presented to the grand jury, and the jury decides not to indict. There is no trial, no conviction, no justice.

Life continues as it did before; the life that was lost is just another reminder of what it means to be Black in America.

What role can we play in disrupting this familiar story? How can we ensure that the police are held responsible for their actions? In this section, we discuss three areas that can increase police accountability: ensuring a fair and independent investigation and prosecution; ensuring that police face consequences for misconduct so that shootings are prevented; and ensuring that data is collected and publicized that can be used to hold police accountable.

### Investigation and Prosecution

Only a tiny fraction of the officers that fatally shot someone while on duty have been prosecuted.<sup>i</sup> Between 2005 and 2015, 54 officers were charged in connection with the thousands of fatal police shootings that occurred during this period. Six of these officers were charged in federal civil rights prosecutions; the rest were charged in state court. In twenty percent of the state and federal cases, prosecutors alleged that officers planted evidence to cover up wrongdoing. By the end of 2015, 19 of the officers who had been charged had cases still pending. Of the other 35, 21 were acquitted, or the charges against them were dropped.<sup>ii</sup>

In 2015, 18 officers were charged, a large increase from the average of 5 officers per year for the past ten years.<sup>iii</sup> This may mean that the outrage over unaccountable police misconduct is leading to more prosecutions. However, that same year, none of the officers whose charges were resolved were convicted of murder or manslaughter.<sup>iv</sup>

There are several factors that could contribute to the low prosecution and conviction rate for fatal police shootings. Some of the shootings were justified and did not merit a conviction; there is often a close relationship between prosecutors and the police that could deter prosecutors from aggressively pursuing a conviction; and juries often believe police officers' testimony regardless of contrary evidence. Reforms that address the investigation and prosecution of these cases can change our ability to hold police accountable for unjustified fatal shootings.

## *Get Rid of Double Standards that Shield Police Accused of Misconduct*

Several states have passed Law Enforcement “Bill of Rights” laws that make it difficult to investigate police misconduct.<sup>v</sup> Some parts of these laws seem reasonable, such as giving a person breaks during questioning, providing them with adequate food and drink, and limiting the length of continuous questioning. But the presence of these provisions raises the question: why wouldn’t this treatment apply to any ordinary person being questioned by police?<sup>vi</sup> All these provisions do is enforce the idea that police officers are given a presumption of innocence that does not apply to other suspects.

“[W]e give officers normally a day or so to go home and think about it.”

*Baton Rouge Police Department  
spokesperson L’Jean McKneely.*

Other aspects of these laws place hurdles in the way of those investigating police misconduct. These laws allow police hours or days before they have to give statements or answer questions about their actions. They often allow the police to view any video that was taken of the incident or review other statements before providing their account.<sup>vii</sup> These laws promote a double standard that persists throughout the

investigation and possible prosecution of cases involving police misconduct. Instead of prioritizing the search for justice, these laws focus on giving police officers the ability to craft a narrative of events that get them out of trouble.

Recent cases of police misconduct show the effect of this double standard. The investigation into Freddie Gray’s death was delayed because police were shielded from making a statement for ten days.<sup>viii</sup> After Alton Sterling’s death the police department spokesperson explained that officers were not immediately questioned because they were given a day “to go home and think about it.”<sup>ix</sup> These laws should be repealed to ensure that investigations of police misconduct are fair and do not give wrongdoers the upper hand.

## *Ensure that Police Shootings Are Investigated by State and/or Federal Officials and not by Local Authorities*

Local police departments often investigate shootings by their own officers. Given the low rate of indictment for police shootings, the public is justifiably skeptical of the fairness and impartiality of such an investigation. Concerns about the fairness of the investigation do not end with the police. Often local prosecutors have tight

bonds with local police departments. They work with police on a daily basis and must rely upon them to prove their cases. Prosecutors may also have social bonds to police.

Prosecutors should recognize the community concerns raised by their ties to the local police department. The relationship between the Baton Rouge prosecutor, Hillar C. Moore III, and the officer who killed Alton Sterling is an example of the potential connections between prosecutors and police. Moore had worked with the police officer's parents, both police officers, for years.<sup>x</sup> Moore recused himself from the investigation for this reason, but others have failed to do so.<sup>xi</sup> The investigation of police shootings should be conducted not just by disinterested police departments but disinterested prosecutors.

The United States Department of Justice has intervened in several high-profile cases to investigate police shootings. When this happens, state officials need to cooperate with the federal investigation and bring state criminal charges based on police misconduct. However, even when there is not a federal investigation, police shootings should not be reviewed by the local agency in which the police officer works. Instead, state officials should investigate police shootings using a transparent process that remains accountable to the local community. This could be done either by appointing a Special Prosecutor to investigate each police shooting or delegating this investigation to the State Attorney General.

### **Consequences that Prevent Further Misconduct**

In addition to ensuring that officers who kill without justification are successfully prosecuted, reforms need to hold officers and police departments accountable for their misconduct short of using deadly force. These reforms include intervening early for problem officers and increasing the oversight provided by licensing police officers.

### ***Require Identification of and Intervention for Officers with Repeated Complaints and Disciplinary Incidents***

A small number of officers are responsible for a disproportionate share of uses of excessive force.<sup>xii</sup> When used consistently, early intervention systems (EIS) can identify officers exhibiting problem behavior and allow supervisors to intervene before there are instances of serious misconduct.<sup>xiii</sup> Effective early intervention systems “appear to have a dramatic effect on reducing citizen complaints and other

indicators of problematic police performance among those officers subject to intervention.”<sup>xiv</sup>

### *Require Decertification for Officers Who Have a History of Serious Misconduct*

All states require police officers to be licensed, usually by a Peace Officers Standards and Training Commission (POST).<sup>xv</sup> However, six states have no ability to decertify officers—to revoke a police officer’s license: Massachusetts, New Jersey, New York, Rhode Island, California, and Hawaii.<sup>xvi</sup> In 16 states, officers can only be decertified if they have been found guilty of a crime. Even in states where officers can be decertified for misconduct that did not result in a conviction, the officer’s agency must take the initiative to report the misconduct to POST. As a result, misconduct is underreported, and some officers who could lose their license fly under the radar.<sup>xvii</sup>

The failure to hold officers accountable for serious misconduct allows problem officers to be shuffled between police departments. For example, an officer who pled guilty to negligent homicide was “given another chance” by another city and now runs their police department.<sup>xviii</sup> Another officer who was acquitted after shooting a fleeing man in the back kept his job and was “put in charge of training deputies in firearms and use of force.”<sup>xix</sup> In these cases, the departments knew about the misconduct and hired or retained the officers anyway. In other cases, the new department only found out about the prior serious misconduct after the officer was hired and mistreated people at the new department.<sup>xx</sup>

Mandatory decertification after a substantiated allegation of serious misconduct and mandatory reporting of serious misconduct are necessary to protect the public from officers who misuse their authority.

“It’s ridiculous that I can’t tell you how many people were shot by the police last week, last month, last year.”

--FBI Director James Comey

*Quoted in Fossett, Katelyn. “The DIY Effort to Count Who Police Kill.” Politico Magazine, June 9, 2015.*

<http://www.politico.com/magazine/story/2015/06/diy-effort-police-shootings-118796>.

### Data Collection and Reporting

There are large gaps in what we know about important aspects of the behavior of the more than 18,000 local law enforcement agencies. These gaps result from the lack of compulsory reporting requirements and the lack of standardization of how police departments collect and keep data.

Without basic information about how our police departments are interacting with the rest of our community, it is difficult to know what change needs to occur. We need to advocate for better data collection and reporting so that we can be full participants in changing how our communities are policed.

### *Ensure Effective Data Collection on Police Stops, Deaths at the Hands of Police*

Estimates of the number of people killed by police are notoriously inaccurate, and no governmental agency has a comprehensive list.<sup>xxi</sup> Right now, those who study police shootings rely on databases compiled by two newspapers (the Washington Post and the Guardian) from news reports about those killed by police.<sup>xxii</sup> This lack of data extends to incidents in which police use non-lethal force.<sup>xxiii</sup> The collection and publication of data about police use of force must be mandated. Communities need accurate information about police use of force in order to effectively address the underlying issues.

Data about racial profiling is also woefully incomplete.<sup>xxiv</sup> Without data about who police are stopping and on whether specific police officers are disproportionately stopping minorities, it is difficult to take targeted remedial action. Practices regarding data collection vary from agency to agency. To effectively address racial profiling, police agencies must collect data about all police stops, including the race of the driver and the police officer conducting the stop. This data should be published on at least a quarterly basis with an analysis of any racial disparities.

## **Changes in Police Practice and Training**

### **End Pretextual Stops and Stop and Frisk Tactics**

Police departments admit that they conduct “pretextual stops,” using minor/common traffic violations as an excuse to stop someone to inquire about other breaches of the law.<sup>xxv</sup> The available data about racial disparities in traffic stops suggests that this practice burdens Black drivers. When drivers were asked about their interactions with police in the past year, Black drivers were more likely than white drivers to report being stopped, ticketed, and searched.<sup>xxvi</sup> Black and Hispanic drivers were almost three

“The tension and distrust between people of color and police in the United States is an underestimated public health crisis.”

*Health Impact Partners, Stress on the Streets (SOS): Race, Policing, Health, and Increasing Trust not Trauma.*

times more likely than white drivers to be searched by police.<sup>xxvii</sup> In the seven states that keep comprehensive traffic stop data, police stop Black drivers in disproportionately large numbers.<sup>xxviii</sup>

Stop and frisk policies encourage police to stop and search people indiscriminately.<sup>xxix</sup> These policies lead to African-Americans having greater contacts with police for reasons that do not increase public safety. As with the murders of Sam Dubose in Cincinnati and Philando Castile in Minnesota, we know that such stops can lead to the senseless loss of life. It is difficult for our faith in the American judicial system not to be challenged when we cannot walk down the street, drive down an interstate, go through an airport, or even enter into our own homes without being stopped merely because of the color of our skin.

### **Require Body Worn Cameras and Vehicle Dashcams, Clear and Consistent Policies on Their Use, and Public Access to Recordings of Alleged Misconduct**

Video footage of police shootings has illustrated graphically the complaints communities have been raising for years. Action on complaints of misconduct should not require video proof. However, body worn cameras and video dashcams can be useful tools in ensuring transparency in law enforcement. Police departments need to have clear and consistent policies about the use of these tools so that (1) video recording tools are not misused or turned off in order to evade scrutiny, and (2) the civil rights of community members are respected.

Video recording is not effective when officers have broad discretion about when the recording devices are turned off.<sup>xxx</sup> In addition, critical encounters have not been recorded because officers claim that the cameras were not functional or there was some technological glitch.<sup>xxxi</sup> Policies about the use of video recording devices need to be clear about the requirements for their use and include penalties for failing to meet these requirements.

Body cameras raise civil liberties concerns because of the ability to record people in their homes. Some police departments that have implemented body cameras have procedures that allow people being filmed to ask for the body camera to be turned off in limited situations.<sup>xxxii</sup> In order to protect the privacy of people whose homes are entered by police wearing body cameras, police should give residents the option to have the body camera turned off.

The interest in privacy should not be used to hide body camera footage from the public. A new North Carolina law exempts body camera footage from the public records law.<sup>xxxiii</sup> This extreme law undermines the transparency purposes of body cameras and ignores less invasive measures such as redacting footage before releasing it.

### Require Officer Training on Implicit Bias and De-escalation

Implicit bias is an unconscious preference for or bias against a group. Americans (including African-Americans) generally demonstrate an implicit bias against African-Americans. Studies have shown that this bias affects decision-making in crucial life or death situations.<sup>xxxiv</sup> This bias can be combated through training, but many police departments conduct no training about implicit bias.<sup>xxxv</sup>

Implicit bias training should be included in a curriculum that includes instruction on de-escalating situations that do not need to lead to confrontation. Research shows that officers who are given direction about improving interactions with the community are less likely to use force and are more able to resolve situations without arrest.<sup>xxxvi</sup>

### Ensure the Implementation of Consistent and Specific Standards on the Use of Force

The standards for when police can apply deadly force vary widely between police departments. Without uniform standards, individuals are vulnerable to the use of deadly force in situations that do not warrant it. In order to ensure that best practices are followed throughout the country, federal funding for police departments should be contingent upon the implementation of acceptable use of force standards. These standards must include provisions to de-escalate situations with those that are exhibiting signs of mental illness or emotional disturbance. Last year, signs of mental illness were present in at least 25% of police shootings.<sup>xxxvii</sup>

“The sanctity of human life should be at the heart of everything an agency does.”

*First Guiding Principle in the Police Executive Research Forum’s 30 Guiding Principles on Use of Force (March 2016).*

## Manage Mass Demonstrations in Ways that Protect Rights and Deescalate Tension

Following the death of Michael Brown, the sustained protests in Ferguson, Missouri, demonstrated the escalation of tensions that can occur when police departments use aggressive tactics to try to intimidate protestors. The United States Department of Justice undertook a detailed analysis of what went wrong in Ferguson and found that preparation, communication, de-escalation, and accountability are crucial.<sup>xxxviii</sup>

When police departments see their role as both ensuring safety and protecting the protestors' constitutional rights, they can engage in open communications to de-escalate tense situations. The quality of the relationship between the police and community before the demonstrations is also important. Particular effort should be devoted to creating deep relationships with faith leaders, who can play key roles in building bridges during tense situations.

## **Increasing Community Engagement**

### **Require Extensive Community Involvement in the Development of Law Enforcement Policies and Practices and Civilian Oversight of Complaints Against Police**

The voice of the community is crucial to policing that increases safety instead of spreading fear. Police must engage community members in creating the policies and protocols that will be implemented in their neighborhoods. The President's Task Force on 21st Century Policing has provided a blueprint for engaging communities in reforming their police departments. A crucial part of this process is recognizing the historical factors that have led to distrust between police and communities and taking concrete steps to remedy them. An independent civilian complaints review board is necessary to ensure that the community is engaged in addressing police misconduct. This ensures that those who are at risk for police violence have a role in ensuring that it does not continue.

### **Develop Recruitment and Retention Measures that Create a Diverse Police Force with Broad Representation from the Communities Served**

African-Americans are underrepresented in local police departments. In 2013, 27 percent of local police officers were racial or ethnic minorities, and 12% of local police officers were Black.<sup>xxxix</sup> Studies are mixed about whether Black officers treat Black community members more fairly.<sup>xl</sup> However, diversity and community representation in the police department can have a strong impact upon how the community perceives police. For example, surveys about individuals' experiences with street and traffic stops consistently show that when stops involved residents and officers of the same race, the individuals were more likely to believe the reason for the stop was legitimate.<sup>xli</sup> However, without other changes, a diverse police department is not a guarantee for building trust with the community.<sup>xlii</sup>

# Overarching Points of State and Federal Action

## Federal

### Pass the Law Enforcement Trust and Integrity Act

The Law Enforcement Trust and Integrity Act (LETIA) addresses the issue of police accountability and trust between police departments and their communities. The legislation also provides incentives for police organizations to adopt standards to ensure that incidents of misconduct are reduced through management training and protocols. It requires states to provide data to federal officials on all police shootings.

### Pass the National End Racial Profiling Act

The End Racial Profiling Act (ERPA) would create a federal prohibition on racial profiling, mandate data collection, provide funding for law enforcement retraining and withhold funding to law enforcement agencies that do not comply.

## State

### Enact Strong Anti-Racial Profiling Bills

State and local legislation is required to put an end to racial profiling. These laws should put **an end to pretextual stops**, criminalize violations of the racial profiling ban, requires mandatory data collection about all stops and searches, requires publication of data on racial profiling, creates an independent commission to review complaints of racial profiling, and provides funds for officer training and video recording of police stops.

### Enact Legislation to Implement the Recommendations from the President's Task Force on 21st Century Policing

After hearing testimony from experts throughout the nation, the President's Task Force issued a report which provided recommendations to make communities safer and to build trust between police and communities. The recommendations call for data collection, body worn cameras and other policing monitoring equipment and practices. They also call for the creation of **effective civilian oversight and review mechanisms**, as well as the review of the policy that led to the militarization of police forces throughout the country.

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<sup>i</sup> Ben Cassleman, “It’s Incredibly Rare For A Grand Jury To Do What Ferguson’s Just Did,” *DataLab*, November 24, 2014, <http://fivethirtyeight.com/datalab/ferguson-michael-brown-indictment-darren-wilson/>.

<sup>ii</sup> Kimblerly Kindy and Kimbriell Kelly, “54 Police Officers Have Faced Criminal Charges for Fatally Shooting Someone While on Duty in the past Decade,” *Washington Post*, April 11, 2015, <http://www.washingtonpost.com/sf/investigative/2015/04/11/thousands-dead-few-prosecuted/>.

<sup>iii</sup> Kindy & Kelly, “54 Police Officers Have Faced Criminal Charges for Fatally Shooting Someone While on Duty in the past Decade.”

<sup>iv</sup> Matt Ferner and Nick Wing, “Here’s How Many Cops Got Convicted Of Murder Last Year For On-Duty Shootings,” *Huffington Post*, January 13, 2016, [http://www.huffingtonpost.com/entry/police-shooting-convictions\\_us\\_5695968ce4b086bc1cd5d0da](http://www.huffingtonpost.com/entry/police-shooting-convictions_us_5695968ce4b086bc1cd5d0da); see also Brandon Ellington Patterson, “The Number of Cops Facing Prison for Shootings Soared in 2015. Here Are the Cases,” *Mother Jones*, December 17, 2015, <http://www.motherjones.com/politics/2015/12/year-police-shootings>.

<sup>v</sup> California, Delaware, Florida, Illinois, Kentucky, Louisiana, Maryland, Minnesota, Nevada, New Mexico, Rhode Island, Virginia, West Virginia, and Wisconsin have enacted these laws. Eli Hager, “Blue Shield: Did you know police have their own Bill of Rights?” The Marshall Project, April 27, 2015, <https://www.themarshallproject.org/2015/04/27/blue-shield>

<sup>vi</sup> See Kate Levine, “Police Suspects,” *Col. L. Rev.* 115, 1197-1258 (2016)

<sup>vii</sup> Hager, “Blue Shield: Did you know police have their own Bill of Rights?”

<sup>viii</sup> Hager, “Blue Shield: Did you know police have their own Bill of Rights?”

<sup>ix</sup> Roxane Gay, “Alton Sterling and When Black Lives Stop Mattering.” *The New York Times*, July 6, 2016, <http://www.nytimes.com/2016/07/07/opinion/alton-sterling-and-when-black-lives-stop-mattering.html>.

<sup>x</sup> Report of District Attorney Parish of East Baton Rouge, “IN RE: ALTON STERLING,” July 11, 2016, <http://www.ebrda.org/ois/Final%20Report/Report%20OIS%20Alton%20Sterlingfinal.pdf>.

<sup>xi</sup> The prosecutor investigating Michael Brown’s death refused to recuse himself even though his “father, mother, brother, uncle and cousin have all worked for the [police] department, and his father was killed while responding to a call involving a black suspect.” Igor Bobic, “Bar Association Calls on Prosecutor to Recuse Himself from Ferguson Investigation,” *The Huffington Post*, August 19, 2014, [http://www.huffingtonpost.com/2014/08/19/mound-city-ferguson-mcculloch\\_n\\_5691472.html](http://www.huffingtonpost.com/2014/08/19/mound-city-ferguson-mcculloch_n_5691472.html).

<sup>xii</sup> Samuel Walker, “Early intervention systems for law enforcement agencies: A planning and management guide,” US Department of Justice, Office of Community Oriented Policing Services (2003), [http://www.cops.usdoj.gov/html/cd\\_rom/inaction1/pubs/EarlyInterventionSystemsLawEnforcement.pdf](http://www.cops.usdoj.gov/html/cd_rom/inaction1/pubs/EarlyInterventionSystemsLawEnforcement.pdf).

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<sup>xiii</sup> Samuel Walker, Geoffrey P. Alpert, and Dennis J. Kenney, “Early Warning Systems: Responding to the Problem Police Officer,” *National Institute of Justice Review*, July 2001, <https://www.ncjrs.gov/pdffiles1/nij/188565.pdf>.

<sup>xiv</sup> Walker, Alpert, and Kenney, “Early Warning Systems”; *see also* Robert C. Davis, Christopher Ortiz, Nicole J. Henderson, Joel Miller and Michelle K. Massie, “Turning Necessity into Virtue: Pittsburgh’s Experience with a Federal Consent Decree,” *Vera Institute of Justice* (2002), 37, [http://www.cops.usdoj.gov/html/cd\\_rom/inaction1/pubs/TurningNecessityintoVirtue.pdf](http://www.cops.usdoj.gov/html/cd_rom/inaction1/pubs/TurningNecessityintoVirtue.pdf).

<sup>xv</sup> Matthew J. Hickman and Loren T. Atherley, “Newsletter,” *International Association of Directors of Law Enforcement Standards and Training* (2011), Appendix A, <https://www.iadlest.org/Portals/0/Files/Documents/Jan%2012%20Nwsltr%20Final%20%5B1%5D.pdf>.

<sup>xvi</sup> Roger Goldman, “Policing the Police – Licensing and Decertification for Police Officers [PODCAST],” *The National Law Review*, May 23, 2016, <http://www.natlawreview.com/article/policing-police-licensing-and-decertification-police-officers-podcast>; Roger Goldman, “Rogue Cops Should Not Be Recycled from One Police Department to the Next,” *Guardian News and Media*, May 20, 2015. <https://www.theguardian.com/commentisfree/2015/may/20/rogue-cops-should-not-be-recycled-from-one-police-department-to-the-next>.

<sup>xvii</sup> Goldman, “Rogue Cops Should Not Be Recycled from One Police Department to the Next.”

<sup>xviii</sup> Kindy & Kelly, “54 Police Officers Have Faced Criminal Charges for Fatally Shooting Someone While on Duty in the past Decade”; Sarah Childress, “How the States are Moving to Police Bad Cops,” *PBS*, April 8, 2016, [www.pbs.org/wgbh/frontline/article/how-states-are-moving-to-police-bad-cops](http://www.pbs.org/wgbh/frontline/article/how-states-are-moving-to-police-bad-cops).

<sup>xix</sup> Kindy & Kelly, “54 Police Officers Have Faced Criminal Charges for Fatally Shooting Someone While on Duty in the past Decade.”

<sup>xx</sup> Goldman, “Rogue Cops Should Not Be Recycled from One Police Department to the Next”; Hickman and Atherley, “International Association of Directors of Law Enforcement Standards and Training,” Appendix A.

<sup>xxi</sup> Kate Masters, “Police Kill Far More People With Guns Than Key Federal Data Sources Show,” *The Trace*, March 17, 2016, <https://www.thetrace.org/2016/03/police-fatal-shootings-federal-data-fbi-cdc/>.

<sup>xxii</sup> The Guardian counts 1019 individuals fatally shot by police in 2015. Its overall total also includes other deaths in police custody. Jon Swaine, Oliver Laughland, Jamiles Lartey, Kenan Davis, Rich Harris, Nadja Popovich, Kenton Powell, and *Guardian US* Interactive Team, “The Counted: People Killed by Police in the United States – Interactive,” *The Guardian*, <http://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>. *The Washington Post* counts 990 individuals fatally shot in 2015. “Investigation: People Shot and Killed by Police This Year,” *The Washington Post*, <https://www.washingtonpost.com/graphics/national/police-shootings/>.

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<sup>xxiii</sup> “Message from the Director,” *2014 Crime in the United States*, FBI, 2014, <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s./2014/crime-in-the-u.s.-2014/resource-pages/message-from-director.pdf>.

<sup>xxiv</sup> Vignesh Ramachandran and Katie Kramon, “Are Traffic Stops Prone to Racial Bias?” The Marshall Project, June 21, 2016, <https://www.themarshallproject.org/2016/06/21/are-traffic-stops-prone-to-racial-bias#.wHLhHNqCA>.

<sup>xxv</sup> *Whren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996).

<sup>xxvi</sup> Bureau of Justice Statistics, *Police Behavior during Traffic and Street Stops, 2011 and Requests for Police Assistance, 2011*, September 24, 2013, <http://www.bjs.gov/content/pub/press/pbtss11rpal1pr.cfm>.

<sup>xxvii</sup> Bureau of Justice Statistics, *Police Behavior during Traffic and Street Stops, 2011 and Requests for Police Assistance, 2011*.

<sup>xxviii</sup> Sharon Lafraniere and Andrew W. Lehren, “The Disproportionate Risks of Driving While Black,” *The New York Times*, October 24, 2015, <http://www.nytimes.com/2015/10/25/us/racial-disparity-traffic-stops-driving-black.html>.

<sup>xxix</sup> For a detailed analysis of how New York’s stop-and-frisk policy was shown to be racially discriminatory, see the NAACP’s 2014 “Born Suspect” report, [https://naacp.3cdn.net/9312d4a4f8ed7681ff\\_fnm6b22xw.pdf](https://naacp.3cdn.net/9312d4a4f8ed7681ff_fnm6b22xw.pdf).

<sup>xxx</sup> Leadership Conference on Civil and Human Rights and Upturn, “Police Body Worn Cameras: A Policy Scorecard,” November 2015, <https://www.bwccscorecard.org/>.

<sup>xxxi</sup> Radly Balko, “80 Percent of Chicago PD Dash-Cam Videos Are Missing Audio Due to ‘Officer Error’ or ‘Intentional Destruction,’” *The Washington Post*, January 29, 2016, <https://www.washingtonpost.com/news/the-watch/wp/2016/01/29/80-percent-of-chicago-pd-dash-cam-videos-aremissing-audio-due-to-officer-error-or-intentional-destruction/>.

<sup>xxxii</sup> Radly Balko, “80 Percent of Chicago PD Dash-Cam Videos Are Missing Audio Due to ‘Officer Error’ or ‘Intentional Destruction.’”

<sup>xxxiii</sup> Elaina Athans, “New Law Makes Police Cam Footage off Limits to Public,” *ABC11 Raleigh-Durham*, July 12, 2016, <http://abc11.com/politics/new-law-makes-police-cam-footage-off-limits-to-public/1422569/>.

<sup>xxxiv</sup> Cheryl Staats, Kelly Capatsto, and Robin A. Wright, “Implicit Bias Review 2016 Edition,” Kirwan Institute, at 23-27, <http://kirwaninstitute.osu.edu/wp-content/uploads/2016/07/implicit-bias-2016.pdf>.

<sup>xxxv</sup> “Department of Justice Announces New Department-Wide Implicit Bias Training for Personnel,” U.S. Department of Justice, June 27, 2016, <https://www.justice.gov/opa/pr/departments-justice-announces-new-department-wide-implicit-bias-training-personnel>.

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<sup>xxxvi</sup> Emily G. Owens, et al., “Final Report to the NIJ: Promoting Officer Integrity through Early Engagements and Procedural Justice in the Seattle Police Department,” May 2013. <https://www.ncjrs.gov/pdffiles1/nij/grants/249881.pdf>.

<sup>xxxvii</sup> “Investigation: People Shot and Killed by Police This Year.”

<sup>xxxviii</sup> “After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri,” *COPS Office Critical Response Initiative* (Office of Community Oriented Policing Services), 2015, [www.ric-zai-inc.com/Publications/cops-p317-pub.pdf](http://www.ric-zai-inc.com/Publications/cops-p317-pub.pdf).

<sup>xxxix</sup> Bureau of Justice Statistics, “Local Police Departments, 2013: Personnel, Policies, and Practices,” May 2015, <http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>.

<sup>xl</sup> David Weisburd, Rosann Greenspan, Edwin E. Hamilton, Kellie A. Bryant, and Hubert Williams, “The abuse of police authority: A national study of police officers’ attitudes,” Police Foundation, 2001, <http://www.policefoundation.org/wp-content/uploads/2015/06/Weisburd-et-al.-2001-The-Abuse-of-Police-Authority.pdf>.

<sup>xli</sup> Bureau of Justice Statistics, “Police Behavior during Traffic and Street Stops, 2011 and Requests for Police Assistance, 2011.”

<sup>xlii</sup> *See Diversity in Law Enforcement: A Literature Review*, 4 (January 2015), (U.S. Dep’t of Justice, Civil Rights Division, Office of Justice Programs, & U.S. Equal Employment Opportunity Commission, Submission to President’s Task Force on 21st Century Policing); David A. Sklansky, “Not Your Father’s Police Department: Making Sense of the New Demographics of Law Enforcement,” 96 *J. Crim.L. & Criminology*, 1209, 1224-25 (2006).

## **PART II: Nuts and Bolts: Mounting a Local Police Reform Campaign**

### **Components for Effective Advocacy**

Any successful campaign has to start off with a well thought out strategy and timeline. Below are several key components that have proven effective in recent NAACP successes.<sup>xliii</sup>

#### **Diverse and Strategic Coalition Building**

When building a coalition, it is important to invite the right stakeholders and community leaders. In order to do this, consider the following questions:

- Who are the key civil and human rights organizations in the area?
- Who are the key faith leaders in the community?
- Which communities are impacted by the need for police reform?
- Who are well-recognized and influential community leaders (both influential with the public, with lawmakers, and opinion makers in the media)?
- Which lawmakers are your allies and which are potential oppositions?
- Are there impacted individuals and communities who are willing to share their stories in public forums (media, town hall, or legislative hearings)?
- Does the coalition have diversity (African Americans, Latina/os, people of Middle Eastern/Muslim/South Asian descent, men, women, young, old, people from the LGBT community, and others who make up the community)?
- Are there law enforcement officers who are willing to stand publicly and oppose racial profiling? Keep in mind these allies can come from different ranks within law enforcement including current officers, law enforcement executives, and police retired officers.<sup>xliv</sup>

## Investigation and Data Collection

A large hurdle to achieving police reform is that there is little transparency about police practices. Your community can use your campaign to change this. Put together public records requests about use of force reports, traffic stops, and citizen complaints. You can also collect stories from community members. This investigation should continue throughout your campaign. It can help you monitor the progress you are making and to see whether reforms are actually making a difference.

## Grassroots Mobilizing & Advocacy

Mobilizing members of impacted communities is key as they elect public officials and lawmakers. This often starts with creating educational material, factsheets, talking points, and resources to build awareness among community members. Also crucial is holding community forums that allow for members of impacted communities to share their experiences—these can be rallies, town hall meetings, or press conferences. And finally, lawmakers must hear from their constituents directly in order to feel a responsibility to create reforms—this can be done through letter writing campaigns, visits with lawmakers, email campaigns, or setting up phone banks to connect constituents to their elected officials.

## Grasstops Advocacy

In any community, there are key influential public figures who must add their voice to that of the community in order to impact change. These figures include NAACP Branch or State Conference Presidents, presidents of other community organizations, thought leaders or scholars, heads of local unions, faith leaders, and others in positions of power in the community. These individuals must participate in select community forums and also be willing to connect with lawmakers and ask them to support police reform initiatives.

## Legislative Advocacy

Legislative advocacy entails pushing for the passage of a new law or strengthening existing policy through legislative reform. Legislative advocacy is an important piece of any campaign. This can be done in a number of ways.<sup>xlv</sup> Phone banking is an effective tool for helping voters to connect to their elected officials who advocate for the passage or reform of a bill that has been introduced. The NAACP has

successfully utilized the Voter Activation Network (VAN) system to conduct legislative advocacy—driving direct patch-through calls connecting voters to their elected officials in order to push for a specific policy.<sup>xlvi</sup> Lobby days and visits with lawmakers, letter/email writing campaigns, and mobilizing communities to connect with their lawmakers to demand change are also important steps in pushing for reform.

### Media & Social Media Strategy

A good campaign engages a well thought through traditional media and social media strategy. A strong communications campaign ensures that the public, the media, and lawmakers understand the importance of a campaign and also recognize that the campaign is a priority for the NAACP and its partners. A comprehensive and cohesive communications strategy also ensures that all NAACP and partner advocates are speaking with one voice, relying on one set of talking points to communicate the core messages of a campaign. This strategy should include:

- Developing a shared set of talking points and messages with partner organizations
- Organizing press conferences that highlight key voices and messages at essential moments during a campaign
- Issuing press releases for press conferences and for any important developments in the campaign
- Setting up media interviews with key media outlets and NAACP and other community leaders to ensure the issue remains visible
- Recording public service announcement that air on targeted media stations to create greater awareness, and
- Strategically and continuously relying on facebook, twitter, and other social media outlets to promote media hits about key developments throughout the course of a campaign.

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<sup>xliii</sup> NAACP units should rely on these recommendations as guidelines to create campaigns that are tailored to the specific needs and realities in their communities.

<sup>xliv</sup> The NAACP has worked with a number of police organizations on these issues, including: National Organization of Black Law Enforcement Executives (NOBLE), National Black Police Association (NBPA), and the International Association of Chiefs of Police (IACP) among others. Other minority communities have similar police organizations that can prove to be great allies in this work.

<sup>xlv</sup> This part of the campaign must be run by organizations that are registered to lobby or are 501 (c) 4 entities. The NAACP National Voter Fund (NVF)—the 501 (c) 4 sister organization to the NAACP—often runs legislative advocacy efforts on behalf of the Association, which is a 501 (c) 3. State Conferences and local NAACP branches have 501 (c) 4 arms that are allowed to lobby. Other options include working with other groups who run lobbying efforts and allowing them to execute the legislative advocacy or lobbying part of the campaign. Either way, work with your unit’s Legal Redress Committees to ensure you understand and abide by your state’s lobbying reporting requirements—as all lobbying efforts must be officially reported.

<sup>xlvi</sup> VAN is an online database that allows advocates to build a list of voters based on any set of data or characteristic. This information is based on public voter registry files. To learn more about the VAN go to: <http://www.ngpvan.com>

## **Preparing to Meet with Local Officials**

Before meeting with local officials about police reform, it pays to do your research. Be as informed as possible, but it's also important to know what information you're missing. This will help you ask productive questions at the meeting. Below are a sample of questions to consider before your first meeting. The answers to some of these questions can help you determine which local officials to meet and what areas you might want to focus on:

### **Questions to Discuss Before Meeting with Local Officials**

**Jurisdiction:** What law enforcement agencies operate in your area? Do you have both city and county law enforcement agencies? If so, what agreements do they have about territory patrolled?

**Oversight and Control:** Who controls the funding for your local police departments? Who hires and fires the police chief? What type of state oversight exists for law enforcement?

**History:** What major events have shaped your community's relationship with the police department? What major changes have occurred in recent memory? What are recent subjects that the chief of police has taken a stand on? (Do the police want more jail space, additional officers?)

**Identity:** Who is on your police force? What is the racial make-up of the police force? What percent of the force lives within the community it serves? What was the makeup of the most recent class of recruits?

**Relationships:** Are there any informal relationships between the police chief and other local officials? What relationships exist between your group and the police?

### **A Roadmap from Deliberation to Follow-Up**

Some units may have a good working relationship with their local law enforcement agency, and if that describes you then be sure to maintain that relationship. However, here are some tips for reaching out to local law enforcement agencies if you do not already have a relationship, or if that relationship may not be an ideal one.

- 1) Reach out to the community liaison official at your local law enforcement agency, introduce yourself, and request a meeting with the police chief (and anyone else you may want to meet with).
- 2) In your communications, be sure to state why you would like to meet and what your objectives are as well as what you would like to accomplish (e.g. discuss community oriented policing program, discuss and begin to resolve a specific law enforcement-involved incident in your community, etc.)
- 3) Prior to the meeting, agree to an agenda for the meeting, specifically laying out what you will talk about during that meeting. Ensure that all items on the list are issues that both you and the law enforcement agency are willing to address.
- 4) If there is tension or mistrust of the police department or vice versa and it becomes difficult to agree upon an agenda, work with an intermediary, perhaps someone who is not a leader of the local NAACP or a law enforcement official -- possible options include church and/or community leaders. Only approach this person after both you and the law enforcement agency/official have agreed upon the chosen liaison. The intermediary will work with you and the law enforcement agency to work out an agreed upon agenda.
- 5) Before the meeting, have an internal meeting with all meeting attendees to discuss agenda and other issues that may arise during the meeting. Your goal is to make the meeting as productive as possible. Often, issues discussed at meetings with law enforcement tend to be emotional. You need to make sure that people's emotions are expressed at the meeting, yet do not get in the way of finding a way to reach your goal.
- 6) Prior to the meeting, write notes for yourself detailing everything that you would like to convey and ask. Bring your notes to the meeting and review them as you go along.
- 7) Write meeting minutes and organize an internal follow-up meeting to discuss the meeting with the police chief/law enforcement agency and decide possible steps forward with the NAACP leadership/members who attended the meeting.
- 8) Have a concrete 'ask' for the agency about what you'd like to see happen as a result of the meeting. This should not be something general, such as "better police-community relations." It should be something measurable and concrete. If

it is just a first meeting, a good “ask” can be to have a follow-up meeting with the community in a certain amount of time. Have several possible meeting times so that you can schedule the meeting while everyone is still in the room.

9) Debrief with your group and determine next steps.

9) Write a thank you note, email, or make a thank you phone call to the officer(s) with whom you met and to those that were instrumental in scheduling the meeting. Restate follow-up steps as a reminder of the commitments that were made at the meeting.

### [Using Recent Federal Action and Federal Resources to Make Change Locally](#)

In the past few years, there has been a flurry of activity on the federal level in response to public outcry over policing. The thought and research that went into federal action can be used as a resource to guide your discussion with local law enforcement.

- The President’s Task Force on 21<sup>st</sup> Century Policing: For a wide-ranging resource on all aspects of police reform, see the Recommendations of the President’s Task Force on 21<sup>st</sup> Century Policing. [www.cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf) The recommendations are organized around addressing six major pillars: (1) Building Trust and Legitimacy, (2) Policy and Oversight, (3) Technology and Social Media, (4) Community Policing and Crime Reduction, (5) Education and Training, and (6) Officer Safety and Wellness. The final report is very lengthy, but a more user-friendly implementation guide can be found here: [www.cops.usdoj.gov/pdf/taskforce/Implementation\\_Guide.pdf](http://www.cops.usdoj.gov/pdf/taskforce/Implementation_Guide.pdf) Police departments can be asked if they have reviewed the Recommendations, and what recommendations they have implemented.
- Federal data sharing initiatives: The federal government has several initiatives that encourage local police departments to share data: For example, the White House Police Data Initiative is “establishing a community of practice that will allow for knowledge sharing, community-sourced problem solving, and the establishment of documented best practices that can serve as examples for police departments nationwide.”

<https://www.whitehouse.gov/blog/2015/05/18/launching-police-data-initiative>

- The United States Department of Justice’s Community Oriented Policing Services (COPS) Office: COPS offers technical assistance to agencies to help them build trust with their communities. They will work with cooperative police departments to create collaborative reform. This means that they will assess the barriers to community trust, make recommendations for change, and monitor the department’s progress. To access this service: “Agencies can submit a “Statement of Need” letter (from either law enforcement or state/local government executives) providing background on the issues they would like to assess and any areas requiring reform to the COPS Office via [technicalassistance@usdoj.gov](mailto:technicalassistance@usdoj.gov) or call 202-353-4400 for more information.” <http://cops.usdoj.gov/technicalassistance>
- The Department of Justice’s Role in Monitoring Police Behavior: The Civil Rights Division of the Department of Justice cannot investigate every police shooting. However, it can still play a role in your conversations with local officials. If there is evidence of a "pattern or practice" of violating civil rights. Even if your local officials are uncooperative, the work that you do in documenting the problems in your community can lead to a “pattern or practices” investigation. You can review the results of earlier investigations here: <https://www.justice.gov/crt/special-litigation-section-cases-and-matters0#police>

## Resources

Attached are some resources for engaging with your state and local officials about police reform:

- (1) A Fact Sheet on Race and Policing to provide background information about policing and race
- (2) A sample bill that your state or locality could adopt to end racial profiling
- (3) A pledge that you can ask state and local officials to sign to show their commitment to taking immediate action on police accountability

## Fact Sheet on Race and Policing

From a Propublica investigation of the use of deadly force

(<https://www.propublica.org/article/deadly-force-in-black-and-white>)

- From 2010-2012, Black males aged 15 to 19 were 21 times more likely to be killed by police than white males in that age group.

From Washington Post's database of all fatal police shootings for 2015

(<https://www.washingtonpost.com/graphics/national/police-shootings-year-end/>)

- Unarmed black men were seven times more likely to be killed by police than unarmed white men.
- police fatally shot 990 people
- one in ten people fatally shot by police were unarmed.
- 6% of fatal police shootings were captured by bodycams.
- 18 officers were charged with fatal shootings in 2015, compared with an average of 5 officers per year for the past 10 years
- 25% of fatal shootings involved a fleeing suspect
- 25% of fatal shootings involved mental illness or emotional disturbance

From the Washington Post's 2016 database of fatal shootings by police

(<https://www.washingtonpost.com/graphics/national/police-shootings-2016/>)

- 509 people had been shot by the end of June, up by 29 from last year's statistics at this time of year.

From a Washington Post & Bowling Green State University analysis of cases from 2005-2015 in which officers were charged for fatal shootings

(<http://www.washingtonpost.com/sf/investigative/2015/04/11/thousands-dead-few-prosecuted/>)

- "Among the officers charged since 2005 for fatal shootings, more than three-quarters were white. Two-thirds of their victims were minorities, all but two of them black."
- Officers presented videos in their defense in 1/3 of cases. (same source)
- In 25% of cases fellow officers' gave statements incriminating the charged officer (same source)

- In 20% of cases, prosecutors alleged that officers planted evidence to cover up wrongdoing

Racial profiling data from an October 2015 New York Times report

(<http://www.nytimes.com/2015/10/25/us/racial-disparity-traffic-stops-driving-black.html>)

- “In the seven states with the most sweeping reporting requirements — Connecticut, Illinois, Maryland, Missouri, Nebraska, North Carolina and Rhode Island — the data show police officers are more likely to pull over black drivers than white ones, given their share of the local driving-age population.”
- “In the four states that track the results of consent searches, officers were more likely to conduct them when the driver was black, even though they consistently found drugs, guns or other contraband more often if the driver was white. The same pattern held true with probable-cause searches in Illinois and North Carolina, the two states that carefully record them”

From the National Survey “Police Behavior during Traffic and Street Stops,” 2011

(<http://www.bjs.gov/content/pub/press/pbtss11rpal1pr.cfm>)

- “Black drivers (13 percent) were more likely than white (10 percent) and Hispanic (10 percent) drivers to be pulled over by police in a traffic stop; however, blacks, whites and Hispanics were equally likely to be stopped in a street stop (less than one percent each). Among those involved in street or traffic stops, blacks were less likely than whites and Hispanics to believe the police behaved properly during the encounter.”
- “When the street or traffic stops involved residents and officers of the same race or Hispanic origin, the individuals were more likely to believe the reason for the stop was legitimate and that police behaved properly than when the stops involved residents and officers of a different race or Hispanic origin.”
- “White drivers were both ticketed and searched at lower rates than black and Hispanic drivers.”
- Black and Hispanic drivers were almost 3 times more likely than white drivers to be searched by police

From a national data collection, Local Police Departments, 2013: Personnel, Policies, and Practices <http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>

- Racial or ethnic minorities were 27 percent of local police officers in 2013
- Black officers made up about 12 percent of local police officers in 2013
- Local police departments employed about 477,000 full-time sworn personnel in 2013, 35% more than in 1987.

A recent survey of residents of Cincinnati, Ohio and Akron, Ohio showed stark disparities in community experiences of police. Human Impact Partners, Stress on the Streets, Race, Policing, Health, and Increasing Trust Not Trauma (<http://www.trustnottrauma.org/>)

- Almost 70 percent white respondents said they trust the police in their community either “somewhat” or “a lot” compared to about 40% of Black respondents
- 1 out of 7 Black respondents were stopped by police one or two times a day, and almost 20% were stopped one or two times a week. Only 3% of white respondents were stopped once or twice daily, and 2% percent were stopped once or twice weekly.
- 42% of Black respondents were afraid of police in their community, and 15% of white respondents reported fear
- Nearly two-thirds of Black respondents had experienced an incident in which they feared that police would injury or kill themselves or someone else. One third of white respondents experienced such an incident.

# Sample Anti-Racial Profiling Bill From the Born Suspect Report

## A Law to Prohibit Profiling/Discriminatory Policing Practices by Law Enforcement Officers.

*Be it enacted by the [Name of Government Body] as follows:*

### Section 1. Declaration of Legislative Intent and Findings.

- (a) The [Name of Government Body] finds that profiling/discriminatory policing practices endangers the long tradition of law enforcement officers serving the [Applicable State or Locality] community in order to cultivate a welcoming place for people of all backgrounds. The [Legislative Assembly/Local Council] further finds that the people of [Applicable State or Locality] are in great debt to the hard work and dedication of police officers in their daily duties. The name and reputation of these officers should not be tarnished by the actions of those who would commit discriminatory practices.
- (b) Profiling/discriminatory policing practices by the police alienates communities from law enforcement, violates rights and freedoms, and is a danger to public safety. By passing this legislation, it is the intent of the [Name of Government Body] to prohibit profiling/discriminatory policing practices and to create a safer state/city/community for all.

### Section 2. Profiling/Discriminatory Policing Practices Prohibited.

- (a) Definitions. As used in this section, the following terms have the following meanings:
  1. “Law enforcement officer” means
    - (A) a peace officer or police officer as defined in the law who is employed by the [State/Locality]; or
    - (B) a special patrol officer appointed by the police commissioner/chief to carry out law enforcement duties.
  2. “Law enforcement action” means any action carried out by law enforcement agencies and officers that involve apprehending people who break the law.
  3. “Specific suspect description-based notification” means reasonably detailed physical descriptions of the personal identifying characteristics of potential suspects (including age, sex, ethnicity or race) by law enforcement officers

instead of law enforcement officers acting based on a generalized assumption about persons of different races. Description-based notification is not a violation of the prohibition on profiling/discriminatory policing practices when it includes race, ethnic appearance, etc.

4. “Profiling/discriminatory policing practices” means any law enforcement action against an individual by a law enforcement officer that relies, to any degree, on actual or perceived race, color, ethnicity, religion, national origin, gender identity or expression, sexual orientation, immigration or citizenship status, language, disability (including HIV status), housing status, occupation, or socioeconomic status in initiating law enforcement action against an individual, rather than any law enforcement action that relies on a specific suspect description-based notification, an individual’s behavior or other trustworthy information or circumstances, relevant to the locality and timeframe, that links a person or persons to suspected unlawful activity.
5. A “pretextual” stop involves a police officer stopping a pedestrian for a violation of the [State/Locality] Penal Law or a driver of a motor vehicle for a traffic violation, minor or otherwise, to allow the officer to then investigate a separate and unrelated, suspected criminal offense.
6. “Housing status” means the character of an individual’s residence or lack thereof, whether publicly or privately owned, whether on a temporary or permanent basis, and shall include but not be limited to:
  - (A) an individual’s ownership status with regard to the individual’s residence;
  - (B) the status of having or not having a fixed residence;
  - (C) an individual’s use of publicly assisted housing;
  - (D) an individual’s use of the shelter system; and
  - (E) an individual’s actual or perceived homelessness.

(b) Prohibition.

1. Every member of the law enforcement agency (including other law enforcement officers, civilian employees, and parties contracted by the law enforcement agency) shall be prohibited from engaging in profiling/unlawful discriminatory practices as defined in Section (c)(3).

(c) Enforcement.

1. An individual subject to profiling/discriminatory policing practices or an organization whose interests are germane to the purpose of this section, may enforce this section in a civil action for any or all of the following remedies: compensatory and punitive damages; injunctive and declaratory relief; and such other relief as a court deems appropriate.
2. In an action brought under this section, relief may be obtained against:
  - (A) any governmental body that employed any law enforcement officer who engaged in profiling/unlawful discriminatory policing practices;
  - (B) any law enforcement officer who engaged in profiling/unlawful discriminatory policing practices and any person with supervisory authority over such law enforcement officer;
  - (C) any civilian employee who is employed with a law enforcement agency who engaged in profiling/unlawful discriminatory policing practices and any person with supervisory authority over such law such civilian employee; and
  - (D) any party contracted by the law enforcement agency who engaged in profiling/unlawful discriminatory policing practices.
3. An unlawful discriminatory practice is established under this section when:
  - (A) an individual or organization brings an action demonstrating that a law enforcement officer has, or law enforcement officers have, intentionally engaged in unlawful profiling of one or more individuals; and
  - (B) the governmental body, law enforcement officer, or supervisor against whom such action is brought fails to prove that:
    - i. such profiling or discriminatory policing practice is necessary to achieve a compelling governmental interest, and
    - ii. the practice was narrowly tailored to achieve that compelling governmental interest, and
    - iii. the least restrictive means were used to achieve the compelling governmental interest; or
  - (C) an individual or organization brings an action demonstrating that the activities of law enforcement officers have had a disparate impact on individuals based on actual or perceived race, color, ethnicity, religion, national origin, age, sex, gender identity or expression, sexual orientation, immigration or citizenship status, language, disability (including HIV status), housing status, occupation, or socioeconomic status; and
  - (D) the governmental body, law enforcement officer, or supervisor against whom such action is brought fails to prove a substantial justification for such activities; or
  - (E) the governmental body, law enforcement officer, or supervisor does prove a substantial justification for such activities; and
  - (F) the individual or organization demonstrates a comparably effective alternative policy or practice which results in less of a disparate impact.

4. In any action or proceeding to enforce this section against any governmental body, the court shall allow a prevailing plaintiff reasonable attorney's fees as part of the costs, and may include expert fees as part of the attorney's fees.

### Section 3. Data Collection.

- (a) Not later than 6 months after the date of enactment of this Act, the [Applicable State/Locality] Attorney General/district attorney, in consultation with stakeholders, including Federal, State, and local law enforcement agencies and community, professional, research, and civil rights organizations, shall issue regulations for the collection of data. The [Applicable State/Locality] Attorney General's/district attorney's office shall collect this data. The regulations issued under this section shall:
  1. Provide for the collection of data on all routine or spontaneous investigatory activities.
- (b) The information to be collected shall include:
  1. Pedestrian and vehicular stops;
  2. The identifying characteristics of the operator stopped, including perceived race, ethnicity, English language proficiency, gender, and age;
  3. The location and duration of the stop;
  4. The traffic violation or violations alleged to have been committed that led to the stop;
  5. Whether or not a warning or citation was issued as a result of the stop and if so, the specific violation, if any, charged or warning given;
  6. Whether a search was performed as a result of the stop;
  7. If a search was performed, whether the person consented to the search, the probable cause or reasonable suspicion for the search, whether the person was searched, whether the person's property was searched and the duration of the search;
  8. If a search was of a passenger in the motor vehicle, the perceived age, gender, race, ethnicity, and English language proficiency of the passenger;

9. Whether any contraband was discovered or seized in the course of the search, including money, and the type of any contraband discovered or seized;
  10. Whether any physical force was used by and against the law enforcement officer or officers, and if so, to what extent; and
  11. Whether the search involved canine units or advanced technology; and any additional information which the law-enforcement agency considers appropriate.
- (c) Provide that law enforcement agencies shall compile data on the standardized form and submit the form to the [Applicable State/Locality] Attorney General's/district attorney's office;
  - (d) Provide that law enforcement agencies shall conspicuously publicize the compiled data on the respective law enforcement agency's website on a monthly or quarterly basis;
  - (e) Provide that law enforcement agencies shall maintain all data collected under this Act for not less than 4 years;
  - (f) Include guidelines for setting comparative benchmarks, consistent with best practices, against which collected data shall be measured; and
  - (g) Provide for the protection of the privacy of individuals whose data is collected by:
    1. not providing individual names and identifying information regarding the particular law enforcement officers who made the stops and the pedestrians and drivers who were stopped;
    2. limiting the use and disclosure of the data collected under this Act to the purposes set forth in this Act;
    3. except as otherwise provided in this Act, limiting access to the data collected under this Act to those Federal, State, local, or tribal employees or agents who require such access in order to fulfill the purposes for the data set forth in this Act;
    4. requiring contractors or other non-governmental agents who are permitted access to the data collected under this Act to sign use agreements incorporating the use and disclosure restrictions set forth in subparagraph 1; and
    5. requiring contractors or other non-governmental agents who are permitted access to the data collected under this Act to sign use agreements requiring the maintenance of adequate security measures to prevent unauthorized access to the data collected under this Act.

#### Section 4. Data Analysis.

- (a) The [Applicable State/Locality] Attorney General/district attorney may collect reports from individual law enforcement officers regarding pedestrian and traffic stops made by other law enforcement officers.
  - 1. Any such report may be submitted anonymously, and must be kept confidential.
- (b) On or before [Designated Date], the [Applicable State/Locality] Attorney General/district attorney shall compile the results of the information collected pursuant to Section 3 of this Act and provide the compiled data to independent experts to be analyzed.
- (c) The independent experts shall then provide the data analysis to the [State/Locality] Attorney General/district attorney office in statistical form.
- (d) The [State/Locality] Attorney General/district attorney office shall report the data analysis in statistical form to the public conspicuously on the respective law enforcement agency's website on a monthly or quarterly basis without revealing personally identifiable information.

#### Section 5. Independent Commission.

- (a) An independent [State/Locality] Commission (The Commission) shall be created to establish procedures for filing profiling/unlawful discriminatory policing practices complaints.
- (b) The [State/Locality] Commission shall promulgate rules establishing procedures for filing a profiling/unlawful discriminatory policing practices complaint with the [State/Locality] Commission. The [State/Locality] Commission, in consultation with the Secretary of State's office, shall promulgate forms for complaints of profiling/unlawful discriminatory policing practices.
- (c) A notice must be given to the person stopped by a law enforcement officer as to allow he or she to file a complaint with the [State/Locality] Commission if that person believes that he or she was stopped, detained, or subject to a search in violation of Section 1 of this Act.
- (d) The [Applicable State/Locality] Commission shall then review and investigate the complaint.
  - 1. The [Applicable State/Locality] Commission shall possess independent subpoena and disciplinary authority in order to investigate complaints of profiling/discriminatory policing practices.

- (e) Upon completion of the investigation, the [State/Locality] Commission shall determine if the stop or arrest was in violation of Section 1 of this Act.
- (f) If the stop or arrest was in violation of Section 1 of this Act, then the [State/Locality] Commission shall assess disciplinary measures on the law enforcement officer or officers involved in the complaint.
  - 1. Disciplinary measures assessed by the [Applicable State/Locality] Commission are enforceable in court.
- (g) The [State/Locality] Commission shall forward copies of the complaint, materials related to the investigation, and the determination with the assessed disciplinary measures to the arresting law enforcement officer's employer and the [Applicable State/Locality] Attorney General's or district attorney's office for review.
- (h) The [State/Locality] Commission shall then communicate the results of the investigation in writing to the person who filed the complaint.
  - 1. The person who filed the complaint can use the results of the investigation to file a civil claim against the involved officer/s and the employing law enforcement agency in the [Applicable State/Locality] Court for civil liability remedies. [As stated in Sections 2(c)1, 2(c)2, and 2(c)4].
- (i) The [State/Locality] Commission shall compile an annual report of all complaints received and investigated for profiling/unlawful discriminatory policing practices and submit the report on or before January 31 of each year to the Governor or the executive equivalent of a locality, the President Pro Tempore of the [State] Senate, and the Speaker of the [State] House of Representatives or the [State/Locality] legislative equivalent.
- (j) The Commission shall consist of members within the following ranks:
  - 1. A representative from the Governor's Office.
  - 2. Representatives from Advocacy Groups that support communities of color, the LGBTQ community, undocumented people, women, the Islamic community, homeless people, and people with disabilities.
  - 3. A representative of the Police Officers Association of [State/Locality].
  - 4. A representative of the applicable labor union.
  - 5. A representative of the [State] Bar Association appointed by the Governor from a list of attorneys submitted by the executive council of the [State] Bar Association.

## Section 6. Training.

- (a) This Act shall require that all law enforcement agencies be trained on issues related to the prohibition on profiling/unlawful discriminatory policing practices and on data collection and reporting methods.
- (b) The [State/Locality] Commission on Peace Officers Standards and Training (CPOST) or its equivalent shall develop and disseminate guidelines and training for all law enforcement officers.
  - 1. All law enforcement officers must adhere to the standards approved by the [Applicable State/Locality] CPOST or its equivalent on the racial and cultural differences among the persons within [Applicable State/Locality].
  - 2. The course or courses of instruction and the guidelines must stress understanding and respect for diverse communities and development of effective, non-combative methods of carrying out law enforcement duties in a diverse environment.
- (c) The course of basic training for law enforcement officers must include adequate instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.
  - 1. In developing the training, the [State/Locality] CPOST or its equivalent shall consult with appropriate groups and individuals having an interest and expertise in the field of cultural awareness and diversity.
- (d) Every law enforcement officer in the [State/Locality] must participate in expanded training as prescribed and certified by the [State/Locality] CPOST or its equivalent.
- (e) The curriculum shall utilize the Tools for Tolerance for Law Enforcement Professionals framework or its equivalent and shall include and examine the patterns, practices, and protocols that make up racial and other forms of profiling and unlawful discriminatory policing:
  - 1. This training shall prescribe patterns, practices, and protocols that prevent unlawful profiling.
  - 2. In developing the training, the [State or Locality] CPOST or its equivalent shall consult with appropriate groups and individuals having an interest and expertise in the field of racial profiling.

3. The course of instruction must include, but not be limited to, adequate consideration of each of the following subjects:
  - (A) identification of key indices and perspectives that make up differences among residents in a local community;
  - (B) negative impact of biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police/community relations;
  - (C) the history and the role of the civil rights movement and struggles and their impact on law enforcement;
  - (D) specific obligations of officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers; and
  - (E) perspectives of diverse, local constituency groups and experts on particular cultural and police-community relations issues in a local area.
- (f) Once the initial basic training is completed, each law enforcement officer in [State/Locality], who adheres to the standards approved by the [State/Locality] CPOST or its equivalent shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing demographic trends.

#### Section 7. In-Car And Body-Worn Camera Program.

- (a) Each law enforcement agency in this state may utilize federal funds from community-oriented policing services grants or any other federal source to equip each vehicle used for traffic stops with a video camera and voice-activated microphone.
- (b) [Applicable State/Local] Law Enforcement Agency must:
  1. Implement a course of instruction, which incorporates pertinent laws, Federal Rules of Evidence, departmental policies and procedures, and use and operation of the audio and video equipment;
  2. Implement an introductory in-car and body-worn camera course designed specifically for new recruits; and
  3. Implement a refresher course for advanced officer training:
    - (A) Minor infractions (not criminal in nature) by law enforcement officers discovered during routine review of the recorded material should be viewed as training opportunities and not as routine disciplinary actions.

(B) Should the behavior or action be repetitive after being informally addressed the appropriate disciplinary or corrective action shall be pursued.

(C) Major infractions (criminal in nature) by law enforcement officers discovered during routine review of the recorded material is subject routine disciplinary actions and criminal charges.

- (c) A chief law enforcement officer shall provide a copy of a videotape or disk that recorded a traffic stop to the driver of the stopped vehicle upon the driver's request if the tape or disk has not yet been discarded.
- (d) On the commencement of an investigation by a law enforcement agency of an unlawful discriminatory profiling complaint in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the law enforcement officer who is the subject of the complaint on written request by the officer.
- (e) The police chief of the involved law enforcement officer's law enforcement agency, the Commission (as described in Section 5), and the [State/Locality] Attorney General or district attorney are the only parties authorized to access the retained video and audio.
- (f) A video camera installed pursuant to a grant under this section must:
  - 1. be automatically activated during every traffic stop;
  - 2. contain an audio feature; and
  - 3. be designed and installed so as to record the stop in its entirety.
- (g) Cameras must not be equipped with manual shutoff switches and must be activated for the entirety of a traffic stop.
- (h) Chief law enforcement officers of agencies receiving grants under this section for video cameras in police vehicles shall ensure that the videotape or disk from the camera be stored for a minimum of 90 days after use:
  - 1. Tapes and disks must be stored and maintained under this subdivision in an accessible manner.
  - 2. The tapes and disks must be clearly labelled and ordered.
- (i) If the chief law enforcement officer has not been instructed by the Commission or the [Applicable State/Locality] Attorney General or district attorney to maintain the tape or disk beyond 90 days, the chief law enforcement officer may discard it.

(j) Recording applies to:

1. uniformed officers;
2. marked vehicles;
3. SWAT raids; and
4. similar planned uses of force when they involve non- uniformed officers.

(k) Officers are required, wherever practicable, to notify people that they are being recorded such as officers wearing an easily visible pin or sticker saying 'lapel camera in operation' or words to that effect.

#### Section 8. Severability.

(a) If any provision of this bill or any other provision of this law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

#### Section 9. Enactment.

(a) This law shall take effect (90) ninety days after it is enacted.

## Protect and Preserve Our Lives Pledge



# Protect and Preserve Our Lives Pledge

The NAACP is asking you to partner with us in changing policing in our communities by taking the following pledge:

I commit to working to immediately implement the following reforms:

- (1) **No funding for discriminatory law enforcement:** Cut off all funding for law enforcement agencies that engage in a pattern or practice of discrimination.
- (2) **Effective investigation of law enforcement agencies:** Create a commission to investigate individual claims of discrimination and patterns of discrimination within law enforcement agencies. This commission must be able to subpoena records from these agencies.
- (3) **Full data reporting:** Require all local law enforcement agencies to gather and publish detailed information about traffic and pedestrian stops, the use of force, and all individuals who have been killed by police or died in police custody.
- (4) **Minimum standards on the use of force:** Create minimum standards that require law enforcement officers to use de-escalation tactics and only allow the use of force when absolutely necessary.
- (5) **Independent review of police shootings:** Require police shootings to be investigated by entities independent from the police department and prosecutor's office where the shooting occurred.

Signed: \_\_\_\_\_

**CORNELL WILLIAM BROOKS**  
*President & Chief Executive Officer*

**ROSLYN M. BROCK**  
*Chairman, Board of Directors*