



## Preventing Racial Profiling by Police SB 1074, State of Texas, 2001

### Overview

The shocking dragging death of James Byrd on a Jasper road in 1998 brought national media attention to issues of racial justice in Texas. A year later, civil rights leaders and racial justice activists were stunned when an alleged anti-drug law enforcement operation in the tiny town of Tulia led to the arrest of 41 African American residents—ten percent of the town’s Black population and half of the adult Black men in Tulia. All of the arrests and convictions were based on the claims of one undercover narcotics agent with “no wiretaps, no surveillance, and virtually no secondary witnesses.”<sup>1</sup> No evidence of weapons, money, or even drugs was ever produced. While communities of color decried the blatantly racist targeting of the town’s residents, the state’s Attorney General named the enforcement agent, Tom Coleman, Outstanding Lawman of the Year. These incidents, in combination with other acts of police abuse, created the context for a legislative response to racial profiling in Texas.

### The Policy

Passed in 2001, the Texas racial profiling bill (SB 1704) is a state law that:

- Specifically prohibits racial profiling by police officers;
- Mandates that each law enforcement agency in the state “adopt a detailed written policy on racial profiling;” and
- Requires law enforcement agencies to collect race data for traffic stops and creates a process by which citizens can file complaints about being targeted through racial profiling.

### Impact

From the perspective of the bill’s supporters, mandated data collection was not intended to be a solution to racial profiling in Texas, but rather a first step in a longer fight. The legislation was intended to provide a strong data-based tool that civil rights organizations could use to effectively advocate for more specific policy responses to racial profiling.

Since the passage of the bill, civil rights organizations have continued to work on the implementation of the new law. The Texas Criminal Justice Reform Coalition (TCJRC)\_a project of Pro-Tex, a statewide network of progressive organizations\_has played a leading role in monitoring the implementation of the law.

TCJRC requested the first-year data sets from each of over 1,000 law enforcement agencies across the state. Although only about one third provided the necessary information, the coalition was able to use what data it gathered to produce a report in February 2004 that documented the

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<sup>1</sup> Jennifer Gronnerman, “Tulia Blues,” *Village Voice*, August 1, 2001.

disparate treatment of Latinos and Blacks by police officers and attracted significant state and national media attention.

With the analysis of data in hand, grassroots and civil rights groups organized a series of a dozen town hall meetings across the state to educate local residents about their rights under the new racial profiling statute. These events solidified the collaborative work between African American and Latino community organizations, and the residents who attended the town halls increased the base of support for future racial justice campaigns.

### **Key Players**

The Texas ACLU took the lead in the effort to win a racial profiling bill in Texas. Recognizing that the success of the bill would depend on local mobilization in communities of color, the ACLU formed a coalition with the NAACP, League of United Latin American Citizens (LULAC), National Council of La Raza, and the Mexican American Legal Defense and Education Fund (MALDEF). State Senator Royce West, a liberal African American from Dallas, authored the bill. The TCJRC played a key role in creating and maintaining an infrastructure that linked concerned community members to the lobbying activities at the capitol.

### **Winning the Policy**

Once Senator West introduced the bill, the coalition of organizations mounted a campaign based on local education and mobilization. In addition to testimony from the leadership of the organizations, several hundred citizens traveled from around the state to Austin for a day of lobbying.

In a move that ACLU Director Will Harrell considers key to the success of the bill, Senator West called a meeting with the civil rights organizations backing the bill and its expected opponents: the Department of Public Safety, state troopers, police union representatives, city police executives, and small-town sheriffs. Harrell relates, “The Senator showed them the bill, told them that some racial profiling bill was going to pass, and here was their chance to negotiate its terms.”<sup>2</sup> In the effort to neutralize the opposition, additional meetings were held. Once civil rights groups and law enforcement agencies agreed on a negotiated version of the legislation, it passed through the legislature very quickly.

After passage by the conservative legislature, the Calendars Committee was responsible for scheduling the bill for consideration by the Governor. It was at this stage that conservative members of the committee began anonymously “tagging” the bill, preventing the committee from scheduling it each week. After months of tireless lobbying, letter-writing, and testifying, ACLU’s Harrell and the leaders of the NAACP and LULAC confronted the Calendars Committee’s chairman in his capitol office and held an impromptu sit-in, refusing to leave until the bill was forwarded to the Governor. In June 2001, Republican Governor Rick Perry signed into law the nation’s strongest statute against racial profiling to date. In part, Harrell attributes the success of the bill in a conservative legislature with a conservative governor to the Republicans’ attempts to court the Latino vote.

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<sup>2</sup> Will Harrell, phone interview, June 2, 2004.

## **Challenges**

One of the compromises reached before passage of the bill was to split the data collection into two tiers. Tier One mandated that every police department would collect and report data of people who were issued citations and searched. This requirement would go into effect the first year of the legislation. Tier Two data is information on the race of individuals involved in any “law enforcement-initiated action,” including those who were stopped by police but were not issued tickets, which is the situation where the civil rights groups maintained racial profiling is most obvious. Tier Two data collection would be phased in after two years. However, Tier Two data did not need to be collected if a law enforcement agency had a video camera in every police car or had even *applied for funds* for the cameras.

Also, since the bill does not create a state-centralized data collection mechanism, racial justice organizations have to request data from each of over 1,000 individual law enforcement agencies in the state.

## **Replicability**

The Texas racial profiling bill was a key policy win in a conservative, “law-and-order” state, and was passed and signed the first year it was introduced. While that remarkable achievement may not be easily attained in other situations, some of the most important elements can be coalesced in other places: a broad-based community campaign, strategic engagement with opponents, and consistent follow-through to make use of this type of legislation to promote racial justice.

In addition, advocating for stronger data collection could also be replicated in efforts to track racial patterns in school suspensions. Moreover, as issues of racial profiling have taken on greater meaning in a post-9/11 context, immigrant rights groups could advocate for data collection on the race or ethnicity of individuals who face punitive measures from immigration enforcement agencies to show systematic targeting of certain immigrant groups.