May 7, 2012

Eric Holder Attorney General US Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

Dear Attorney General Holder,

A year and a half ago, numerous civil rights, human rights, immigrant rights and faithbased organizations wrote to you regarding the ongoing review of the Department of Justice's (DOJ) June 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies (hereinafter "Guidance")

application of the DOJ Guidance to these classifications to fully and meaningfully protect all people from discriminatory law enforcement activity.

Second, the DOJ Guidance permits broad exceptions for national security and border integrity. These two exceptions are broad enough to swallow the rule and permit profiling in border communities and anywhere that a national security justification can be invoked. For example, Border Patrol has boarded buses and trains travelling in upstate New York within 100 miles of the Canadian border, even if the trains and buses did not cross or even approach the borders, asking people for their papers.<sup>9</sup> Discrimination in national and border security law enforcement, as exemplified by these practices, is as invidious as discrimination in any other law enforcement activity. We recommend that the national and border security exceptions be withdrawn.

Third, we recommend that the DOJ Guidance explicitly state that the ban on profiling applies to data collection and analysis, assessments, and predicated investigations carried out by law enforcement agencies subject to the DOJ Guidance. People residing in the United States are being subjected to an unprecedented degree of warrantless, suspicionless surveillance often based on their race, ethnicity, national origin or religion. Documents obtained through an American Civil Liberties Union Freedom of Information Act request show that the FBI has been mapping a broad spectrum of communities including the Muslim community, the Hispanic community, the African American community, the Russian American community and the Chinese American community without any basis for individualized suspicion.<sup>10</sup> The NYPD has spent extensive resources monitoring Muslims in mosques, grocery stores, cafés and Muslim student associations not only in New York City but also in upstate New York, New Jersey, Pennsylvania and Connecticut.<sup>11</sup> The omission of surveillance and other intelligence activities from the guidance leaves many communities subject to law enforcement scrutiny based on their race, religion, national origin or ethnicity.

Fourth, the DOJ Guidance does not contain enforceable standards. Enforceability is critical to achieving outcomes that uphold human rights. Without clear lines of accountability, confusion can cause chaos. An example is the recent struggle in San Francisco to address the police department's partnership with the FBI and restrictions that were placed on the police department to prevent its officers from spying on residents not suspected of criminal activity. Although the state has laws in place to prevent such behavior on the part of the police, documents obtained through an ACLU and Asian Law Caucus public records request uncovered the Joint Terrorism Task Force (JTTF) MOU which purports to allow the local police to spy on law abiding residents by

content/uploads/2009/04/Returning%20Home.pdf

http://www.muslimadvocates.org/documents/Unreasonable\_Intrusions\_2009.pdf.

<u>fbi\_engaged\_in\_unconstitutional\_racial\_profiling\_and\_racial\_mapping\_0.pdf</u>. <sup>11</sup> As

found at <u>http://www.nytimes.com/2010/08/30/nyregion/30border.html?pagewanted=all</u>

http://www.aclu.org/files/assets/aclu eye on the fbi alert -

http://www.ap.org/nypd/ (last visited March 16, 2012).

recommendations outlined above to strengthen the existing DOJ Guidance. As

Immigration Equality (New York, New York)

International Center for Advocates Against Discrimination (ICAAD) (New York, New York

Sikh Coalition *(New York, New York)* South Asian Americans Leading Together (SAALT) *(Takoma Park, Maryland)* Southern Poverty Law Center *(Montgomery, Alabama)* Teamster Defense Guard *(Calumet City, Illinois)* Unitarian Universalist Association of Congregations *(Boston, Massachusetts)* 

## Regional/State Organizations

Advocates for Basic Legal Equality, Inc. (ABLE) (Toledo, Ohio) Alliance for Immigrants Rights and Reform - Michigan (Detroit, Michigan) American Arab Anti-Discrimination Committee - Michigan (ADC - Michigan) (Dearborn, Michigan) American Center for Outreach (Nashville, Tennessee) Arab Community Center for Economic & Social Services (Dearborn, Michigan) Arizona CODEPINK Community (Phoenix, Arizona) Association of Mexicans in North Carolina, Inc. (AMEXCAN) (Greenville, North Carolina) Border Network for Human Rights (El Paso, Texas) Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) (Los Angeles, California) Coalition for the People's Agenda (Atlanta, Georgia) Colorado Progressive Coalition (Denver, Greeley & Pueblo, Colorado) Eastern North Carolina Latin American Coalition (ENCLACO) (Greenville, North Carolina) Farmworker Association of Florida (Apopka, Florida) Florida Immigrant Coalition (West Palm Beach, Florida) Georgia Peace & Justice Coalition/Atlanta (Atlanta, Georgia) Georgia Rural Urban Summit (Decatur, Georgia) Greater Rochester Coalition for Immigration Justice (Rochester, New York) Highlander Research and Educational Center (New Market, Tennessee) Idaho Community Action Network (Boise, Idaho) Illinois Coalition for Immigrant and Refugee Rights (Chicago, Illinois) Indian People's Action (Butte, Montana) Interfaith Alliance of Colorado (Denver, Colorado) Islamic Shura Council of Southern California (Anaheim, California) Justicia Migrante / Migrant Justice (Burlington, Vermont) Kentucky Coalition for Immigrant and Refugee Rights (Louisville, Kentucky) Korean American Resource & Cultural Center (KRCC) (Chicago, Illinois) Legal Services for Prisoners with Children (San Francisco, California) Lutheran Community Services Northwest (Seattle/Tacoma, Washington) Maine People's Alliance (Lewiston, Maine) Massachusetts Immigrant and Refugee Advocacy Coalition (Boston, Massachusetts)

Trans(forming) (Atlanta, Georgia) Casa Esperanza (Plainfield, New Jersey) Casa Latina (Seattle, Washington) Causa Justa: Just Cause (Oakland, California) CCM-DFW (Dallas, Texas) Center for Pan Asian Community Services, Inc. (CPACS) (Atlanta, Georgia) Central American Resource Center (CRECEN) (Houston, Texas) Central American Resource Center - Los Angeles (Los Angeles, California) Centro Hispano of Dane County (Madison, Wisconsin) Centro Laboral de Graton (Graton, California) CEO Pipe Organs/Golden Ponds Farm (Delafield, Wisconsin) Circleville, Ohio Quakers (Circleville, Ohio) CLUE, LA Black-Brown Clergy Collaborative Coalition of Latino Leaders-CLILA (Dalton, Georgia) Community to Community Development (Bellingham, Washington) Comunidad Liberación/Liberation Community (Denver, Colorado) Council on American-Islamic Relations - Cincinnati (Cincinnati, Ohio) Council on American-Islamic Relations - San Antonio (CAIR-SA) (San Antonio, Texas) Council on American-Islamic Relations - San Diego Chapter (San Diego, California) Council on American-Islamic Relations - San Francisco Bay Area (San Francisco, California) Council on American-Islamic Relations - Washington State (CAIR-WA) (Seattle, Washington) Counselors Helping (South) Asians/Indians, Inc. (CHAI) (Ellicott City, Maryland) Creating Law Enforcement Accountability & Responsibility (CLEAR) Project (New York, New York) Desis Rising Up and Moving (DRUM) (Jackson Heights, New York) Equality Alliance of San Diego County (San Diego, California) Filipino Advocates for Justice (Oakland, California) Filipino Community of Seattle (Seattle, Washington) General Political Activists (Portland, Oregon) Gentle Spirit Christian Church (Atlanta, Georgia) Georgia Undocumented Youth Alliance (Atlanta, Georgia) Gert Town Revival Initiative, Inc. (New Orleans, Louisiana) Greater New York Labor-Religion Coalition (New York, New York) Hijra House (Biloxi, Mississippi) Hispanic Community Dialogue of Virginia (Virginia Beach, Virginia) Houston Interfaith Worker Justice Center (Houston, Texas) The Houston Peace and Justice Center (Houston, Texas) Houston United (Houston, Texas)