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March 21, 2013

The Honorable Michael F. Bennet
The Honorable Richard J. Durbin
The Honorable Patrick J. Leahy
The Honorable Robert Menendez
The Honorable Charles E. Schumer

Re: Prohibiting Racial Profiling in Immigration Legislation

Dear Senators Bennet, Durbin, Leahy, Menendez, and Schumer:

On behalf of The Leadership Conference on Civil and Human Rights, and the undersigned national organizations, we express our strong support for the immigration reform principles' commitment to a roadmap to citizenship—which should be broad, welcoming, and not contingent upon more border enforcement. We also support the inclusion of language in any immigration bill that will not only strengthen prohibitions against racial profiling and inappropriate use of force, but also enhance the training of border patrol agents, increase oversight, and create a mechanism for a meaningful opportunity for border communities to share their input.

Racial profiling is the use of race, color, ethnicity, religion, or national origin by law enforcement agents as a factor in deciding whom to question, investigate, stop, search, or arrest, except where these characteristics are part of a specific suspect description. It results in serious human rights violations, the misallocation of law enforcement resources, and is an ineffective law enforcement practice. Racial profiling is a pervasive and harmful practice that negatively impacts both individuals and communities, resulting in a loss of trust and confidence in local, state, and federal law enforcement. Individuals and communities impacted by racial profiling are less likely to cooperate with law enforcement agencies they have grown to mistrust, which hinders criminal investigations and makes all communities less safe.

Immigration and border enforcement measures, including routine actions by state and local law enforcement seeking to determine an individual's immigration status, create a risk of racial profiling. For example, Customs and Border Protection (CBP) claims jurisdiction within 100 miles of all U.S. borders. Some agents have focused their attention on people of color without regard to citizenship merely because they are perceived to look or sound "foreign."¹ These discriminatory practices have understandably led immigrant communities and communities of color to fear and avoid police.

Immigration enforcement programs have expanded their scope and partnerships to the point where every law enforcement agency—federal, state, tribal and local—plays a role. The devolution of immigration enforcement to state and local law enforcement has exacerbated racial profiling. Federal programs like the Criminal Alien Program, the 287(g) program, and Secure Communities, along with state laws like Arizona's SB 1070, have created incentives for the police to make pre-textual arrests based on racial stereotypes and other impermissible

bases so that immigration status can be checked.ⁱⁱ In order to address racial profiling in the context of immigration enforcement, Congress should include in the upcoming legislation a strong reaffirmation of federal preemption over state and local immigration enforcement, and all law enforcement agencies must be held accountable.

Our nation's immigration laws should reflect the values of fair and equal treatment and due process under the law. Current federal law enforcement guidance and state laws provide incomplete solutions to the nationwide problem of racial profiling.

We strongly urge you to support this vital component of immigration reform legislation, which would ensure that law enforcement and transportation security agencies are prohibited from impermissibly using race, color, ethnicity, religion, national origin in carrying out their duties.

Please feel free to contact Lexer Quamie, Senior Counsel at The Leadership Conference at quamie@civilrights.org or (202) 466-3648. We thank you for your serious attention to this matter.

Sincerely,

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Advocates for Basic Legal Equality

AFL-CIO

African American Ministers in Action

African Services Committee

American Civil Liberties Union

American Federation of Teachers, AFL-CIO

American Humanist Association

Asian American Justice Center,

member of Asian American Center for Advancing Justice

Asian Pacific American Legal Center,

member of Asian American Center for Advancing Justice

Black Alliance for Just Immigration

Blacks in Law Enforcement of America

Breakthrough

Center for National Security Studies

Community Action Partnership

Council on American-Islamic Relations

Disciples Justice Action Network

Human Rights Watch

International Union, United Automobile,

Aerospace and Agricultural Implement Workers of America, UAW

Japanese American Citizens League

Latin American Coalition

Latino Justice PRLDEF

Lawyers' Committee for Civil Rights Under Law

The Leadership Conference on Civil and Human Rights

League of United Latin American Citizens

Lutheran Immigration and Refugee Service

Mexican American Legal Defense & Education Fund

Muslim Advocates
Muslim Legal Fund of America
Muslim Public Affairs Council
NAACP
National African American Drug Policy Coalition
National Asian Pacific American Bar Association
National Association of Criminal Defense Lawyers
National Association of Social Workers
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Jewish Women
National Fair Housing Alliance
National Gay and Lesbian Task Force Action Fund
National Immigrant Justice Center
National Immigrant Solidarity Network
National Immigration Law Center
National Korean American Service and Education Consortium
National Lawyers Guild
National Legal Aid & Defender Association
National Network for Arab American Communities
National Queer Asian Pacific Islander Alliance
National Urban League Policy Institute
North American South Asian Bar Association
OneAmerica
Open Society Policy Center
Parents, Families, & Friends of Lesbians & Gays
Pax Christi USA
Progressive National Baptist Convention, Inc.
Refugee & Immigration Ministries, Christian Church (Disciples of Christ)
Sikh American Legal Defense and Education Fund
South Asian Americans Leading Together
Student Action with Farmworkers
Unitarian Universalist Service Committee
United Food and Commercial Workers International Union
UNITED SIKHS

ⁱ See “Justice Derailed, What Raids on New York’s Trains and Buses Reveal about Border Patrol’s Interior Enforcement Practices” New York Civil Liberties Union, at 7, Nov. 2011, at

http://www.nyclu.org/files/publications/NYCLU_justicederailedweb_0.pdf; Nina Bernstein, Border Sweeps in North Reach Miles Into U.S., *N.Y. Times*, Aug. 29, 2010, available at <http://www.nytimes.com/2010/08/30/nyregion/30border.html>.

ⁱⁱ See generally “The C.A.P. Effect : Racial Profiling in the ICE Criminal Alien Program,” The Warren Institute, September 2009, found at http://www.law.berkeley.edu/files/policybrief_irving_FINAL.pdf, “Secure Communities by the Numbers: An Analysis of Demographics and Due Process,” The Warren Institute, October 2011, found at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf, and “Local Democracy on ICE: Why State and



Local Governments Have No Business in Federal Immigration Law Enforcement,” Justice Strategies, February 2009, found at <http://www.justicestrategies.org/sites/default/files/publications/JS-Democracy-On-Ice.pdf>.