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September 29, 2022

The Honorable Lisa Monaco  
Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Deputy Attorney General Monaco,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the rights of all persons in the United States, I write to share the below recommended revisions to the U.S. Department of Justice Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity.

In a 2015 letter to President Obama, The Leadership Conference and 80 organizations shared serious concerns regarding the 2014 Guidance — in particular, that the revised 2014 Guidance preserved loopholes from the 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies and failed to address critical matters relating to implementation.<sup>1</sup> These concerns remain, and the need to eliminate profiling by law enforcement has only grown in urgency.

We ask that you consider these revisions to the 2014 Guidance:

1. Eliminate distinctions between “routine or spontaneous activities in domestic law enforcement” and all other activities. The 2014 Guidance begins by setting out two different standards: “routine or spontaneous law enforcement decisions, such as ordinary traffic stops” and “all activities other than routine or spontaneous law enforcement activities.”<sup>2</sup> These two standards provide for the first loophole that allows for profiling in the contexts of a “threat to national or homeland security,” a “violation of Federal

<sup>1</sup> The Leadership Conference on Civil and Human Rights to President Barack Obama. “Re: Concerns with the U.S. Department of Justice Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity.” *Civilrights.org*. February 24, 2015.

<sup>2</sup> Dept. of Justice. “Guidance For Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity.” December 2014. [https://www.dhs.gov/sites/default/files/publications/use-of-race-policy\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/use-of-race-policy_0.pdf) (hereinafter DOJ Guidance on Profiling).

**President and CEO**

Maya Wiley



immigration law,” or “an authorized intelligence activity.”<sup>3</sup> Updated guidance should wholly eliminate any distinction between law enforcement activities.

2. DOJ should eliminate footnote 2’s mention: “In addition, this Guidance does not apply to interdiction activities in the vicinity of the border, or to protective inspection, or screening activities,” and ensure the updated guidance applies to any geographic area in which U.S. law enforcement has jurisdiction, including the vast “border” region.
3. Lastly, updated guidance should apply to federal law enforcement agencies, and all state and local agencies that receive federal funding and/or participate in joint operations or partnerships with federal law enforcement agencies.

Your staff may contact Nadia Aziz, senior director of the Fighting Hate and Bias Program, at [aziz@civilrights.org](mailto:aziz@civilrights.org) with any follow up questions.

Sincerely,



Jesselyn McCurdy  
Executive Vice President of Government Affairs

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<sup>3</sup> DOJ Guidance on Profiling.