April 9, 2014

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Attorney General Holder and Secretary Johnson:

The undersigned immigrant rights organizations and groups representing northern and southern border communities write 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 (hereinafter “the Guidance”). Our organizations have advocated for years for much needed reforms to the Guidance. We write to renew our request for you to strengthen the DOJ Guidance to address profiling by: 1) closing the loopholes for border and national security; 2) prohibiting profiling based on religion or national origin; 3) applying the Guidance to state and local law enforcement agencies that work in partnership with the federal government or receive federal funding; 4) covering surveillance activities; and 5) making the Guidance enforceable. The reforms we seek are more important now than ever, especially in light of the implementation of the discriminatory “show me your papers” provision of Arizona’s SB 1070 legislation and similar state laws.

While we would like to see all of these revisions included, we are particularly troubled by the broad exceptions for national security and border integrity currently included in the Guidance. These two exceptions are broad enough to swallow the rule. They permit profiling in border communities and in any location where a national security justification can be invoked. While the inclusion of additional protected classes such as religion, gender, national origin or sexual orientation would be welcome and set the standard for law enforcement agencies across the country, maintaining these broad exceptions for national security and border integrity would render that protection meaningless for millions in the U.S.

Closing these loopholes is important to protect racial, ethnic and religious minorities who are singled out and stopped by Customs and Border Protection and Immigration and Customs Enforcement agents for no reason other than their name or appearance. It would also ensure that federal agents cannot board buses and trains to perform “immigration checks,” and cannot ask individuals for immigration documents without individualized suspicion that the person is in violation of immigration law. It would prevent CBP from targeting and detaining Muslim travelers (or those perceived to be Muslim) and questioning them based on first amendment protected activities. Profiling under the guise of national security or border integrity is as invidious and ineffective as discrimination in any other law enforcement activity. We urge you to close the national and border security loopholes.

After five years of intra-agency review, it is long past time for DOJ to strengthen the Guidance. We look forward to an imminent action by this administration to revise the Guidance and close the loopholes.

Sincerely,

American Civil Liberties Union
American Immigration Lawyers Association
Americans for Immigrant Justice
Border Action Network
Campaign for an Accountable, Moral and Balanced Immigration Overhaul
Council on American-Islamic Relations
Detention Watch Network
Interfaith Center for Worker Justice of San Diego County
Lutheran Immigration and Refugee Service
National Domestic Workers Alliance
National Guestworker Alliance
National Immigration Project
National Immigration Law Center
National Immigrant Justice Center
National Network of Arab American Communities
The New Orleans Workers' Center for Racial Justice
North Carolina Justice Center
Northern Borders Coalition
Political Asylum/Immigration Representation Project
Sisters of Mercy of the Americas
Southern Border Communities Coalition
United We Dream