Subcommittee on the Constitution, Civil Rights, and
Civil Liberties

Hearing on Racial Profiling and the Use of Suspect
Classifications in Law Enforcement Policy

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Testimony of

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Thank you for allowing me to testify this afternoon about racial profiling. Having worked on this issue with community groups and law enforcement for over ten years, I would like to share with you some of the lessons I've learned. I am going to speak first about racial and religious profiling in the context of national security.

The first and most important lesson is this: racial or religious profiling is neither a necessary nor effective component of a comprehensive law enforcement and/or counterterrorism strategy. It is a sloppy and lazy substitute for the kind of strategic and intelligent law enforcement that we need to keep our homeland safe. While it may be tempting to target Arabs and Muslims, using race, religion or ethnicity as a proxy for involvement in crime is both too broad and too narrow.

Targeting Arabs is too broad because most of the Arabs in this world are non-violent, law-abiding people not dangerous terrorists.

It is too narrow because there is no such thing as a "Middle Eastern" look. Arabs come in all colors and sizes. Egyptians can be blue-eyed and blonde. Numerous Americans who trace their heritage to Mexico, Spain, Greece , India and Italy all share a "Middle-Eastern" look. Indeed, many of the most famous accused terrorists are not Arab. They are: John Walker Lind, a white American; Zacarias Moussaouri, an African with a French passport; Richard Reid, a Half-West Indian, half Englishman with a British passport; Jose Padilla, a Hispanic American; David Hicks, an Australian; Colleen LaRose,(aka Jihad Jane) a blonde, middle-aged, white American; and Daniel Patrick Boyd, a middle-aged white American male from North Carolina.

Many of them share one characteristic: They are Muslim. But adding Muslim to the profile also complicates matters. Muslims can be of any nationality or origin, including African and Asian. Moreover, it would broaden the category to the point of uselessness because it is a characteristic shared by 20 percent of the world population. It is simply too widely shared a characteristic to be meaningful.

Second, whatever profile we create, terrorists and criminals will respond by modifying their behavior and recruitment practices. If we target " Middle-Eastern" looking males, they will respond with a Jihad Jane - - a blonde , white, middle-aged woman who does not fit the profile.

The second lesson I learned is this: The key to effective counterterrorism is information.   Much of the information needed to thwart terrorism, including homegrown terrorism and radicalization resides within the Arab, Muslim and Sikh communities. When law enforcement officers partner with these communities, the communities are more likely to share information about any suspicious activity or unusual newcomers. Through these partnerships law enforcement agencies can also obtain the cultural and linguistic insights that might help them to better understand and evaluate the information they receive. Moreover, potential terrorists often look to evade law enforcement by exploiting the cultural and linguistic characteristics they share with certain American communities. By working with law enforcement to make their communities immune from enemies within and enemies outside of their neighborhoods, they can become a critical component of a national deterrence strategy. This approach not only produces stronger community relationships, it also results in a more effective counter- terrorism strategy.

The third lesson I have learned is this: We cannot indiscriminately target, arrest, profile, deport, fingerprint and harass this community in the morning and then ask them to partner with us to thwart terrorism in the afternoon. If we need community tips to thwart terrorism, particularly homegrown terrorism, then we cannot continue to engage in racial profiling, a practice which alienates and angers community members who feel that they are being unjustly targeted.

The fourth lesson I've learned is that smart policing involves the strategic and intelligent use of information to target individuals based on their behavior. Successful behavioral assessment systems have been developed and use in a variety of settings.

The fifth lesson I've learned is that to prevent profiling, you need to collect data on the race and ethnicity of those being stopped and searched. I urge this committee to support federal legislation that would require that as a condition of receiving federal funds, law enforcement agencies begin to collect data as to each stop conducted, identifying the name of the officer, the name, race, and ethnicity of the person stopped, and the reason for the stop. This would allow law enforcement agencies and reviewing officials to monitor their own conduct and evaluate whether a department, or certain officers within the department, are engaging in racial profiling.

The final lesson I have learned is that effective community-oriented policing and data collection efforts need to have the proper infrastructure to succeed. Thus, Congressional funding for an academic center to guide and implement these ideas will improve the quality of policing in this country.