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## STATEMENT OF

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**South Asian Americans Leading Together (SAALT)**

**“Ending Racial Profiling in America” Hearing**

**SENATE COMMITTEE ON THE JUDICIARY**

**SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS**

**UNITED STATES SENATE**

**APRIL 17, 2012**

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: I am honored to submit this testimony for the record on behalf of South Asian Americans Leading Together (SAALT) regarding today’s hearing on racial profiling. SAALT is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT works with a base of individual members and advocates and is the coordinating entity of the National Coalition of South Asian Organizations (NCSO), a network of 40 organizations in 13 geographic regions that provide direct services to, organize, and advocate on behalf of the South Asians in the United States.

SAALT denounces the use of profiling based on race, religion, ethnicity, national origin, nationality, and immigration status. Especially since September 11<sup>th</sup>, South Asians, Sikhs, Muslims, and Arab Americans have been subjected to policies that are based in profiling by federal, state, and local law enforcement agencies. SAALT works closely with partner organizations to identify the impact of profiling tactics and advocate against their utilization. SAALT strongly urges the passage of federal legislation, such as the *End Racial Profiling Act*, that eliminates profiling in all its forms, including those resulting from post-September 11<sup>th</sup> policies and practices.

We thank you for holding this critical and timely hearing on racial profiling and the *End Racial Profiling Act*. SAALT is particularly concerned about many policies and programs at the national, state and local level which encourage or incentivize discriminatory law enforcement practices such as racial and religious profiling. We believe that these practices are counterproductive, waste public resources and violate the civil and human rights of persons living in the United States.

### **RACIAL AND RELIGIOUS PROFILING AND ITS CONSEQUENCES**

Profiling is a law enforcement tactic that connects individuals to crimes based on characteristics unrelated to criminal conduct, such as race, religion, ethnicity, national origin, and perceived immigration status. Federal, state, and local law enforcement officials often use these factors as predictors of criminal activity. Historical and contemporary examples include the use of racial profiling

*Strengthening South Asian Communities in America*

when stopping African-American motorists, interrogating Latino travelers, and questioning and searching South Asian, Muslim, Sikh, and Arab individuals. Despite its widespread use, often in the name of national security as it relates to the South Asian community, profiling does not work and often leads to ineffective law enforcement. It diverts limited law enforcement resources; in many cases, law enforcement agents miss actual criminal activity by focusing on racial or religious characteristics. It undermines trust between targeted communities and the government; individuals from these communities can end up feeling disempowered and marginalized resulting in many becoming hesitant to reach out to law enforcement. It threatens community safety as individuals become wary about reporting criminal activity or cooperating in investigations. And it perpetuates public misperceptions and stereotypes of targeted communities as government endorsement of prejudices and preconceptions can entrench these views among the general population.

## **RACIAL AND RELIGIOUS PROFILING AND THE SOUTH ASIAN EXPERIENCE**

Since September 11<sup>th</sup>, South Asian community members continue to encounter government scrutiny based on their race, national origin, and religion in various arenas. For example, premised on the faulty presumption that these communities are more prone to “radicalization” leading to homegrown terrorism, interrogations of community members and infiltration of places of worship by local law enforcement and the Federal Bureau of Investigation (FBI) has become routine. Most recently, a series of Associated Press reports came to light regarding the NYPD’s focus on Muslim communities through infiltration of Muslim student groups throughout universities in the Northeast; monitoring of Shia mosques; continuous and widespread screenings during police trainings of the film, *The Third Jihad*, which proclaimed that Muslims want to “infiltrate and dominate” the United States; and, with the help of the Central Intelligence Agency (CIA), spying and demographic mapping of Muslims in the city. In addition, for South Asian, Muslim, Sikh, and Arab travelers, various changes in security procedures since September 11<sup>th</sup>, carried out by U.S. Customs and Border Protection (CBP) and the Transportation Security Administration (TSA) within DHS, have resulted in additional screening of community members because of religious attire or being asked personal questions related to faith and political beliefs. Moreover, the merger between national security and immigration laws, including increasingly punitive immigration enforcement and deportation policies targeting particular communities, has led to the families being torn apart. Perhaps the most telling example of how South Asian communities have been profiled as a result of post-September 11<sup>th</sup> immigration policies is the National Security Entry-Exit Registration System (NSEERS) program, where non-citizen, non-immigrant, men and boys above the age of 16 from 25 Muslim-majority nations, including Bangladesh and Pakistan, as well as North Korea, were required to report to local immigration offices between November 2002 and April 2003; while the program has been modified in recent years, its framework nevertheless remains on the books and community members are still affected by its negative immigration consequences.

In order to capture the ongoing effects of profiling on the daily lives of South Asians, seven organizations, DRUM - Desis Rising Up and Moving, The Sikh Coalition, UNITED SIKHS, South Asian Youth Action (SAYA!), Coney Island Avenue Project (CIAP), Council of Peoples Organization (COPO), and SAALT recently released a report, ***In Our Own Words: Narratives of South Asian New Yorkers Affected by Racial and Religious Profiling***<sup>1</sup>, that documented the experiences of over 600 South Asian community members in New York City through questionnaires, focus groups, and interviews. While the report focused on New York City, our organization knows that South Asian community members in other parts of the country often endure similar experiences and their consequences. What the experiences of

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<sup>1</sup> Report is available at <http://www.saalt.org/filestore/Reports/In%20Our%20Own%20Words%20Web%20FINAL.pdf>.

community members show is that profiling has affected virtually every facet of the individuals' daily lives – from how to dress, how to travel, how to practice one's faith, how to express one's identity, and how to interact with family members, neighbors, and the government.

The following findings and community testimonials from the *In Our Own Words* report illustrate the harsh consequences of racial and religious profiling; how they have wreaked havoc on community members' lives; and the need for robust anti-profiling policies.

***Profiling results in South Asians being frequently questioned about their faith or national origin by government officials.*** Community members conveyed that they were being singled out by government agencies because of their faith, ethnic background, or country origin. For example, among the subset of questionnaire respondents who provided details on interactions with law enforcement, 73% reported being questioned about their national origin and 66% reported being questioned about their religious affiliation. Similarly, among questionnaire respondents who reported being subjected to additional screening at ports-of-entry, 41% indicated that airport CBP agents inquired about their religious or political beliefs.

The following testimonials underscore how law abiding community members endured scrutiny as a result of racial and religious profiling:

*I recall when FBI and Department of Homeland Security agents had surrounded our neighborhood in Brooklyn. They would wait for the restaurant workers to show up at work. My colleagues in the restaurant kitchen were often questioned by [these] agencies. They were asked about their religion and their affiliation with terrorist organizations that we never heard [of] before. They also asked about immigration status, ethnicity, and so on.*

– 68-year-old South Asian restaurant worker in New York City

*I was stopped by an FBI agent while I was coming back from work in the evening. He asked me to show my ID. He asked me questions like which masjid [mosque] I go to pray and [if] I know any terrorists in my neighborhood. I said to him, "No, I don't."*

– South Asian construction worker in New York City

*In mid-March 2008, a 23-year-old Muslim woman was traveling with her 2-year-old son from Canada to New York at La Guardia airport. She went through the regular screening with her son, but, then, was asked to step aside for further security purposes. She was the only one asked to step aside [from those in] line. She was wearing a hijab and was questioned about what was underneath it. The immigration officers led her and her child to a different room where she and her son were both patted down. Her luggage was also opened and checked. After the officer found nothing, the woman was told to wait for another officer to call her because she had to be questioned. The other officer rudely asked her questions like, "Where are you originally from? Why are you traveling with a child and whose child is he? Why didn't you change your maiden name after marriage? Why do you travel so much? Where is your husband? What does he do? What is his status? Has he ever been arrested?"*

– South Asian community member in New York City

***Profiling results in South Asians being questioned by government officials about their immigration status which is used to pressure individuals to spy on fellow community members.*** Often, individuals who are stopped and questioned by law enforcement are then asked by the very same agents to spy on their own communities in order to obtain supposed counterterrorism intelligence. At times, community

members are promised immigration benefits if they comply or else face adverse immigration consequences if they do not. In fact, among the subset of questionnaire respondents who provided details on interactions with law enforcement, 85% reported being questioned about their immigration status and 42% of those interactions involved entities other than immigration officials.

The following testimonials reveal how exactly this plays out for community members in their interactions with law enforcement and the sense of insecurity they feel as a result of being immigrants:

*In 2002, I was arrested when I came back from work by FBI and ICE. I went through hell with five nights of questioning. They asked me about my [religious] affiliation or knowledge of terrorism. They asked me if I [had] any knowledge of [the] planning [for] the September 11<sup>th</sup> attacks. I had no clue why they were asking me these questions. When I refused to spy on my community and falsely trap them, I was locked up in a detention center for six months.*

– 60-year-old Pakistani restaurant worker

*[An FBI agent] offered me immigration benefits such as a green card and asked me to cooperate with him. I was trembling with fear and could not speak well. He let me go by saying that he will come back again and that I should think about it.*

– South Asian construction worker

***Profiling results in South Asians feeling viewed as “suspects” by the general public, within their community, and even within their families.*** Whether as a result of profiling by airport officials, immigration authorities, or police and FBI agents, many community members report fearing nearby witnesses would subsequently view them with suspicion. Community members end up feeling humiliated, viewed as suspects by the general public, and recognizing that they are treated differently from other Americans. In some instances, relationships with friends, colleagues, and family members became strained following baseless questioning. The effect of such monitoring and questioning has also sowed mistrust of law enforcement and caused them to lose faith in turning to police for assistance during times of need.

The following testimonials illustrate the profound impact of profiling on South Asians sense of identity and its negative consequences in their daily lives:

*I felt like I was being threatened more than just being questioned. While it was happening, I was just always scared of the outcome, like, would I go with them and sit in [the] back of the car in handcuffs? For whatever reason, that would also be a scare for me. It would go up on my record and I’m trying to get a job. They are gonna see my record and then they are gonna be, like, you have been arrested for what reason? And, also, socially, find out, like – hey, yeah, my son got arrested this many nights. It’s not really a proud thing for your parents to tell other people, so it has affected my family and my education as well.*

– 18-year-old Bangladeshi Buddhist high school student, Jackson Heights, Queens

*I was arrested by a School Safety Agent in Flushing, Queens, in 2009. I was searched ... [and] questioned. My friend was present with me from school. The tone of the conversation was aggressive and hostile. I was scared ... and I thought, I am gonna get arrested. [A]ll of [this] affected my school work, family life, and relationship with my friend. So, now, whenever I get stopped by cops, they’ll notice [the arrest] after they run my name. Also, my friend and family don’t talk to me anymore. My family thinks I am a criminal. I told my family members about this incident, but they take the*

*[government's] word over mine, so they don't believe or trust me. It [also] impacted my school life because I failed that marking period.*

– 18-year-old Indian Hindu male high school student, Jackson Heights, Queens

*The most humiliating aspect was being put in a clear glass chamber in the middle of the security section [while] waiting for the TSA agent. I saw people looking at me as they walked past – no one was pulled aside except me. In the minds of most people, even if I saw it happen to someone else, I would wonder why the person was pulled aside. I would assume there was a reason and, hence, raise my suspicions of the individual.*

– 32-year-old male Sikh software manager, JFK Airport

**Profiling results in South Asians altering their behavior and how they express their faith in an attempt to avoid additional scrutiny.** For some community members, profiling has become so routine that they have even changed their religious practices and everyday activities. For example, among the subset of questionnaire respondents who indicated the frequency at which they are subjected to secondary security screening by TSA agents, 25% stated being selected more than half the time they traveled. As a result, many respondents reported changing their activities, such as flying less frequently or removing religious attire prior to travel.

The following testimonials demonstrate the chilling effect of protected First Amendment rights resulting from profiling for South Asian community members:

*After [being subjected to questioning about my personal life and my husband after traveling while wearing a hijab], the next time [I] traveled, [I] did not wear the hijab. [I] was not asked for further screening or questioning. [I] was approached very politely. [I] had mixed feelings; [I] didn't know whether to feel happy or sad. It felt nice to be treated like everyone else, but, then again, it was upsetting to feel [I] was mistreated just because [I] wore a hijab.*

– Muslim community member in New York City

*I went through a stage where I couldn't control my anger. So, I stopped wearing a turban through the airports for a long time. [I] would just wear a hat and take it off when going through. [I] calmed down eventually [and] decided [I was] going to wear a turban again, [but it] kept happening. It has me thinking twice, and I shouldn't have to think twice.*

– Sikh community member in New York City

*I took off my kara [religious steel bangle worn by Sikhs] to avoid a secondary check. It's not something I like doing but, to avoid being profiled, it's something I do.*

– 32-year-old male Sikh software manager, JFK Airport

**Profiling results in South Asians losing faith in the government's ability to protect them in times of need.** Particularly among individuals who had experienced questioning or arrests by the local police or the FBI, community members who reported to bias or discrimination in the private sphere to law enforcement have felt that their requests for help can go unheeded.

*My son was arrested in August 2004. Since then, we have been getting these calls and anti-Muslim hate letters [at] my husband's store. I did complain to the police about this, and I still do have the*

*complaint number, but nothing was done about this. After all this happened with my son, I was so worried, paranoid, and stressed. I didn't know why it was happening to my family and [me].*

– Pakistani Muslim female homemaker, Jackson Heights, Queens

*At a movie theater in Kew Gardens, my friends and I went to see Iron Man 2 on a Friday evening. There was a couple who started calling us names referring to my turban, like "Osama bin Laden – I wouldn't want to mess with you. God knows what you be hiding in that s—t." The staff of that cinema not only noted what he said but contacted the NYPD and said there was a possible terror alert. We were escorted out and detained by 12 cops and three undercover detectives.*

– 23-year-old Sikh security agent, South Ozone Park, Queens

As illustrated through these testimonials, the effect of racial and religious profiling on South Asian community members, both personally and collectively, has included impermissible inquiries about individuals' faith and background; being viewed as suspects by the broader community; and becoming hesitant to reach out to law enforcement for assistance. Perhaps even more concerning is that profiling has affected "everyday people" as they go about their daily lives and undermined their sense of self-worth and identity in the process. This underscores the need for policies that prohibit the practice of profiling.

## **CONCLUSION**

SAALT is heartened by the Subcommittee's leadership in holding this hearing and we are grateful for the opportunity to present our position on the unjust, ineffective and counterproductive practice of racial profiling. We urge the Committee to move swiftly and take concrete actions to prohibit racial profiling at the federal, state and local level:

- Congress should pass the "End Racial Profiling Act (S.1670)" and institute a federal ban on profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- The Subcommittee should urge the Department of Justice to amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable.

*For further information about the impact of profiling on the South Asian community, contact Priya Murthy, SAALT's Policy Director, at [priya@saalt.org](mailto:priya@saalt.org) or (301) 270-1855.*