

The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Concern Regarding Potential Nomination of NYPD Commissioner Ray Kelly for Secretary of Homeland Security

Dear President Obama,

The National Coalition of South Asian Organizations (NCSO), a network of organizations coordinated by South Asian Americans Leading Together (SAALT) that serve, organize, and advocate on behalf of the South Asian community, is deeply concerned about the potential nomination of New York City Police Department (NYPD) Commissioner Ray Kelly to the role of Secretary of the Department of Homeland Security. As a group of South Asian organizations, many of which are New York City based, we have expressed our disappointment and alarm over the NYPD's problematic policies under Commissioner Kelly's leadership. The NYPD's practices of profiling and surveillance are ineffective, violate the civil rights of Americans, and destroy community relations.

Based on the Administration's *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States*, building relationships and trust between law enforcement and communities are a priority to the safety of our nation.¹ Additionally, casting suspicion on entire communities undermines these relationships and takes the focus away from individuals that might pose a real threat.² Unfortunately, Commissioner Kelly's actions have not been consistent with these principles.

Instead, Commissioner Kelly has supported and participated in programs that engage in the profiling and surveillance of Muslim Americans in New York City as well as surrounding areas. For example, Commissioner Kelly placed tens of thousands of Muslims under surveillance, collecting intelligence on at least 250 mosques, 12 Islamic schools, 31 Muslim student organizations, 10 non-profit organizations, and 263 "ethnic hotspots" since 2011.³ The methods for obtaining this information were very invasive on the everyday lives of Muslim Americans as they often involved undercover officers and paid informants spying on individuals in places of worship, at cafes, on student whitewater-rafting trips, and during many other personal activities. Much like other forms of profiling, such as the National Security Entry-Exit Registration Program,⁴ these measures have also been ineffective.⁵ However, Commissioner

¹ Executive Office of the President of the United States, *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States* (December 2011) available at <http://www.whitehouse.gov/sites/default/files/sip-final.pdf>.

² *Id.*

³ Elizabeth Flock, *Leaked NYPD Document Lists Watched Mosques, Islamic Schools: A former police reporter published a list of monitored areas the NYPD watched as a part of a questionable program used to spy on Muslims* (June 4, 2012) available at <http://www.usnews.com/news/articles/2012/06/04/leaked-nypd-document-lists-watched-mosques-islamic-schools>.

⁴ The National Security Entry-Exit Registration Program was program created as a result of 9/11 that required certain male nationals from predominantly Muslim countries to report to immigration authorities for interviews and processing. As a result, approximately 13,000 men were placed in removal proceedings, though not one was ever prosecuted for a terrorism-related crime. Rushing, Keith, *Rights Working Group Advocacy Efforts Defeat Racial Profiling Amendments in Mark up; Problematic Graham Amendment Passes* (May 21, 2013) available at <http://www.rightsworkinggroup.org/content/advocacy-efforts-defeat-racial-profiling-amendments-mark-problematic-graham-amendment-passes>.

Kelly has minimized the scope of the program and continued to defend it despite its ineffectiveness.⁶

Additionally, Commissioner Kelly fails to understand the harmful effects that these methods have on law enforcement and government relationships with communities. As with other forms of profiling, surveillance of Muslim Americans has resulted in an erosion of trust with the NYPD, making it unlikely that individuals from these communities will reach out to the NYPD to report crimes, thereby making all of society less safe. Additionally, these methods have a chilling effect on the fundamental rights of Muslim Americans to practice their religion. For example, as a result of the NYPD's actions under Commissioner Kelly, many Muslim Americans avoid attending mosques, engaging in social-religious activities and Muslim student organizations, and discussing politics, religion, world events, and the like.⁷ The effect of these actions is so far reaching that it not only destroys these relationships, but also creates an environment in which Muslim Americans cannot make choices about their daily activities without taking into consideration whether they want their privacy violated by the NYPD.

Commissioner Kelly further demonstrates his lack of understanding of the repercussions of these methods of profiling by overseeing the distribution of reports that equate Islam with terrorism,⁸ falsely denying knowledge of his use of a NYPD training video that casts suspicion on Muslim Americans,⁹ and dismissing concerns regarding the impact of these methods on individuals, communities, and the safety of our society.

As a result of these policies, numerous actions have taken place that exemplify concern or even distaste for the NYPD's practices under Commissioner Kelly. For example, members of New York City Council voted overwhelmingly for oversight of the NYPD by an independent inspector general through the Community Safe Act, the Department of Justice supported a court-appointed monitor of the NYPD, and organizations and community members have pursued legal recourse against the NYPD, to name a few. Numerous other individuals and agencies have taken similar positions, evoking concern for the NYPD's

⁵ See *Handschu v. Special Servs. Div.*, No. 71CIV.2203, Galati Dep. 128-129 (June 28, 2012) (Lt. Paul Galati admitted during sworn testimony that in his six year tenure this monitoring unit did not have any criminal leads).

⁶ Ray Kelly, *The NYPD: Guilty of Saving 7,383 Lives: Accusations of racial profiling ignore the fact that violent crime overwhelmingly occurs in minority neighborhoods* (July 22, 2013) available at <http://online.wsj.com/article/SB1000142412788732444810457861633588719320.html> (Commissioner Kelly downplays the use of surveillance on Muslims and justifies any practices by the NYPD stating, "Anyone who implies that it is unlawful for the police department to search online, visit public places or map neighborhoods has either not read, misunderstood or intentionally obfuscated the meaning of the Handschu Guidelines...As a city, we have to face the reality that New York's minority communities experience a disproportionate share of violent crime."); see also Tina Moore and Jonathan Lemires, *Ray Kelly Defends Spying on Students, Calling it an Essential Safety Strategy for City*, (March 3, 2012) available at <http://www.nydailynews.com/news/crime/raymond-kelly-defends-spying-calling-essential-safety-strategy-city-article-1.1032607> ("Claiming reconnaissance was necessary to gather intelligence needed to penetrate dangerous groups, Kelly defended the NYPD's focus on Muslim neighborhoods and student groups. 'We know that while the vast majority of Muslim student associations and their members are law-abiding,' Kelly said, 'we have seen too many cases in which such groups were exploited.'"); Joseph Goldstein, *Kelly Defends Surveillance of Muslims* (February 27, 2012) available at <http://www.nytimes.com/2012/02/28/nyregion/new-york-police-commissioner-defends-monitoring-of-muslims.html> (quoting Kelly, "[a]pologize for doing what I'm paid to do, for being realistic about the way we protect this city, and what we know about the way radical Islam works?" Mr. Kelly said in the column. "Not happening.").

⁷ The Muslim American Civil Liberties Coalition, The Creating Law Enforcement Accountability & Responsibility, The Asian American Legal Defense and Education Fund, *Mapping Muslims: NYPD Spying and its Impact on American Muslims* (2013), available at <http://www.law.cuny.edu/academics/clinics/immigration/clear/Mapping-Muslims.pdf>.

⁸ "Radicalization in the West: The Homegrown Threat." Available at http://www.nyc.gov/html/nypd/downloads/pdf/public_information/NYPD_Report-Radicalization_in_the_West.pdf

⁹ See <http://www.nytimes.com/2012/01/25/nyregion/police-commissioner-kelly-helped-with-anti-islam-film-and-regrets-it.html>

practices, such as Newark's FBI Chief and the CIA Inspector General.

The problematic nature of Commissioner Kelly's practices has been felt from community members and organizations to legislators and government agencies. Not only are these practices a violation of our civil rights and ineffective, but the destruction of trust between communities and law enforcement have far-reaching negative effects and run contrary to the ideals of our nation. Increasingly since September 11th, Muslim, Sikh, South Asian, and Arab Americans have been profiled at alarming rates and the detrimental impact of profiling and surveillance has been felt by individuals, communities, and our nation as a whole. Creating an environment of trust between community members and law enforcement is essential to the safety of our nation, and yet, Commissioner Kelly has done more harm to that trust than good.

For these reasons, the NCSO has grave concerns regarding the possibility of Commissioner Kelly becoming the Secretary of the Department of Homeland Security. His actions display methods of aggressive policing at the expense of civil rights and community relations and without regard for the expense to individuals, communities, and our nation. We ask that you consider these issues in your decision.

If you have any questions, please contact Manar Waheed, Policy Director at South Asian Americans Leading Together (SAALT) at (301) 270-1855.

Sincerely,

Adhikaar for Human Rights
Apna Ghar
ASHA for Women
API Chaya
Chhaya CDC
Coney Island Avenue Project
Council of Peoples Organization
Counselors Helping (South) Asians/Indians
Daya
Desis Rising Up and Moving
Hamdard Center
Indo-American Center
Maitri
Manavi
Michigan Asian Indian Family Services
Narika
Raksha
SAATHI of Rochester
Sakhi for South Asian Women
Satrang
Sikh American Legal Defense and Education Fund
Sneha
South Asian Americans Leading Together
South Asian American Policy and Research Institute
South Asian Council for Social Services

South Asian Health Initiative
South Asian Mental Health Awareness in New Jersey
South Asian Network
South Asian Progressive Action Collective
South Asian Public Health Association
South Asian Youth Action
The Sikh Coalition
Trikone Northwest
Turning Point for Women and Families
UNITED SIKHS
Westchester Square Partnership