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**HEARING OF THE SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND
SECURITY ON**

**21ST CENTURY POLICING: HOW SMART POLICING TARGETS CRIMINAL
BEHAVIOR**

TESTIMONY OF

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**WHY SMART POLICING MEANS BUILDING STRONG
PARTNERSHIPS BETWEEN POLICE AND THE
COMMUNITIES THEY SERVE**

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Chairman Smith, Ranking Member Conyers, I am honored to have the opportunity to speak to both of you and other members of the Subcommittee today. Targeting criminal behavior is fundamental to assuring public safety in every American city and town. Smart policing means that we must get the maximum public safety benefit for every bit of effort our brave police officers put forth. Thus smart policing, and the ability to target criminal behavior effectively, we must begin with an understanding of what makes police work as effective as it can be. One central part of the answer to this question is too often overlooked: police and the

communities they serve must take on public safety challenges together. To do this, they must have strong relationships and real partnerships, based on trust in each other. Anything that undermines that relationship ultimately harms public safety.

LAW ENFORCEMENT THINKING, THEN AND NOW

Twenty-five years ago, if we had asked the police leadership in America what makes law enforcement effective, we would have gotten answers focusing on resource inputs: more officers; more squad cars; more and better weapons. Surely, law enforcement needs more resources now, as it did then; having adequate tools for the job always plays an important role in success. But in the last twenty years, we have learned that this is not enough to put police and communities ahead of crime, instead of just responding to it.

What makes for the most effective policing possible – what makes policing “smart,” to use the word in the title of this hearing – is targeted, precise, and fresh information and intelligence. Only with the best information about the criminals and predators on our streets can our police officers do the most effective job of which they are capable. With it, our police leaders and officers can act preemptively, to solve problems and address the communities’ needs. Without it, our officers are flying blind, and are left to respond to crime, violence or terrorism after it occurs and the damage is done.

SOURCES OF REAL INTELLIGENCE FOR SMART POLICING

Police have different possible sources of information about the activity of criminals on the streets. It can come from patterns observed in reports of crimes already committed; this is the foundation of the Compstat model, and of the “hot spots” approach to deploying police

resources. Police may also use confidential informants. At times, they may use the tools of electronic surveillance. But in today's world, in the second decade of the twenty-first century, police across the country know that the best, most consistent, and most reliable source for information on the current and future activities of criminals on the street are the people who live there: community residents themselves.

The reason that police everywhere understand this stems from the fact that among the most innovative anti-crime initiatives of the last twenty years is the idea of community policing. This idea, one of the most effective and important parts of policing in our era, has taken many forms in many places. Where it has been successful, community policing has been not a one-off effort or an add-on to what police already do, but a philosophy that permeates the entire department. And at the heart of that philosophy is the realization is that neither the police nor the community can create public safety alone. Rather, they can only do this together, in partnership. And this is largely because only a community policing partnership can assure that police receive a continuous stream accurate and targeted information about what is really happening on the street. That information is only in the possession of the people who live in that community.

This approach has made a difference in crime fighting, and even in fending off terrorism. For example, the first terrorist cell broken up on American soil after September 11, 2001, was found in Lackawanna, New York, a small community outside of Buffalo. Law enforcement did not detect the members of the cell and their activities through confidential informants planted in the community. They did not discover the terrorists through electronic surveillance, or through sneak-and-peek searches under the USA PATRIOT Act. Rather, law enforcement became aware of the men because the community in Lackawanna – immigrants and U.S. citizens who hailed

from Yemen -- came to both the FBI and to their local community police officer and gave them the information. Before that, neither the FBI nor the police department had any awareness of the cell in Lackawanna. The community members knew, and they came forward.

THE IMPORTANCE OF CREATING THE PROPER CLIMATE AROUND ROUTINE LAW ENFORCEMENT ACTIVITY

The central importance of accurate, timely information to the success of smart policing means that we must pay close attention to how our police officers perform routine law enforcement activities around the nation every day. If we do not, there is little question that our ability to launch and sustain effective smart policing initiatives will be handicapped, or may even fail.

Think about routine aspects of police procedure – for example, making traffic stops, conducting stops and frisks on persons, and questioning people deemed suspicious. All such activity involves a personal, face-to-face encounter with a citizen. In each, the police officer exercises his or her power over a civilian, putting the civilian in a potentially embarrassing position, often in public. Police are required to meet legal standards to take these actions – for example, there must be “reasonable suspicion” about the suspect’s criminal activity involving a weapon to perform a stop and frisk. But we do not expect police to always be correct about their suspicions. So some number – usually most – of those people stopped and frisked will not be guilty of anything and will be allowed to leave. Thus it is easy to understand how treatment by police that those undergoing stops or searches see as improper could create a deep negative impression and a long memory about the incident, likely to be passed from person to person within families and communities.

If those involved in these personal encounters with police see the police action as unjustified, disrespectful, or unlawful, this will begin to break down and corrode any relationship with the community – both its individual members and the community as a whole. It will erode trust; instead, it will sow fear. And when people do not trust a police officer or police department, or when they begin to fear contact with police officers because of the way they have been treated, communication becomes difficult. Fear and distrust lead to the end of communication. When fear replaces trust, when distrust replaces partnership, bonds between police and those they serve disintegrate. The flow of information slows or stops, and officers are back to “flying blind.”

THE PROBLEMS RAISED BY RACIAL AND ETHNIC PROFILING

Among the practices by police that are likely to do the greatest damage to relationships between police and communities they serve is the use of race or ethnic appearance as one factor among others in deciding who officers stop, frisk, search or question. Using race or ethnic appearance as a way to describe a suspect who has been seen by a witness presents no problem; race is one of a number of visible, salient and permanent aspects of appearance that should be used by police in physical descriptions whenever a witness can supply these facts. But when race or ethnic appearance are used not to describe a suspect someone has seen but to predict who is more likely to have engaged in as-yet-undiscovered crimes, real dangers emerge.

Chief among these dangers is that people in the community who are subjected to routine police investigation based on racial or ethnic profiling will come to distrust and fear the officers who operate in this way. If being stopped when driving or frisked when on foot becomes a common negative experience for a large percentage of an identifiable group, stories of those

experiences are passed around the community, to all of its members. This makes those who might otherwise share information with police less likely to do so. They see the police as, at best, not to be trusted as partners, and at worst as targeting not criminals but members of certain racial or ethnic groups. This diminishes or cuts off the ability of police to learn anything from those they serve.

RACIAL PROFILING ANALYSIS AND STUDIES

There are those who raise objections to the idea that racial profiling should be taken seriously. They have pointed out that some methods of analysis used in some places to determine whether racial profiling has taken place are flawed, or that some methods used cannot determine whether racial disparities seen in the data in many studies constitute discrimination. Still others make the argument that police are simply reacting to higher levels of offending by minorities. They also argue that criticism of racial profiling is itself racist, because police success in using profiling and related tactics has only made minorities safer, and therefore those who want to do away with racial profiling would actually harm minorities who now enjoy the fruits of police success using the tactic, and are therefore safer when police are allowed to use race. All of these arguments fail.

It is, of course, true that some of the methods used to measure profiling have been flawed. For example, the comparison of the racial composition with those drivers stopped by police in a location with the census population of minority citizens in that location – a technique used in some studies – does not measure what it should; the correct comparison is not with census population, but with the racial composition of the location's driving population. Other methods may also have their flaws. But no serious researcher or authority in this field contends

that none of the methods work; clearly, some do. For example, the observational methods pioneered by John Lamberth, formerly of Temple University, have been replicated and have been accepted as evidence in court. Moreover, the use of poor methods in some cases does not define a problem away.

While some of the analytical methods in use cannot distinguish well between mere disparity and discrimination, others do. For example, the analysis of consent searches – searches in which officers need no probable cause, but ask to search anyway – gives a clear indication of how and against which demographic groups police use this completely discretionary tactic, and there is no denominator or comparison problem involved. Further, the use of consent search “hit rates” – the rate at which police succeed in finding evidence in a search, when the search is done by consent – shows just how productive these searches are. In almost all hit rate studies of which I am aware, the hit rates for whites exceeds the hit rates for other minorities, proving that the use of these stops and searches, which begin with the use of racial or ethnic characteristics, are not effective crime-fighting tactics. More recently, the work of Dr. Phillip Goff of UCLA and the Consortium for Police Leadership in Equity and his colleagues has shown a definitive link between measured attitudes toward other racial groups, and the actions that police take with regard to members of those groups. This work, which consists of field studies, laboratory research, and studies that combine field and laboratory work, closes the link between racially biased attitudes and action in police work: in short, there is now little doubt that racial bias can influence police behavior. I commend to you Dr. Goff’s own written testimony submitted to the Subcommittee for this hearing, and his voluminous work on the subject. Given the quality of his research and its strong ability to help law enforcement make positive changes, it is no accident that the Major Cities Chiefs, an organization of the leaders of the largest police departments in

the U.S., has endorsed the work of the Consortium of Police Leadership in Equity, which Dr. Goff directs. Many of those police departments have begun active research partnerships with the Consortium.

As for the idea that stops, searches and frisks have only been motivated by higher offending rates by minorities, this is belied by years of data showing that a report by a witness who saw the race of a perpetrator was a factor in who was stopped and frisk very infrequently – not often enough to account for the differences between white and minority stops and frisks. If the argument is not that police are responding to descriptions by witnesses (the most frequent form of the argument) but rather that officers simply rely on who usually gets arrested and incarcerated and therefore is most likely to be involved in crime, what we quickly get is a self-fulfilling prophecy. Because more blacks and Latinos get arrested and jailed, police stop and frisk more of them, which of course leads to more of them being arrested and jailed.

As for those who argue that profiling, as a successful crime-fighting tactic, actually serves communities of color by improving their safety, this view rests on two faulty assumptions. First, there is no evidence that using race or ethnic appearance actually improves police work. As discussed above, it actually hurts the ability of police to get criminals off the street; race distracts, and has police stopping and searching by appearance instead of according to criminal behavior, and this results in the lower hit rates for minorities that we see across virtually all studies. Second, the argument assumes that subjecting minority communities to disparate treatment is the only way to make them safe, and that therefore, it is just common sense to accept this method. In fact, this is not true. Drops in crime in communities of color have been true in

cities and towns across the nation – and not all police departments in these places utilize racial or ethnic targeting.

CONCLUSION

In order to engage in smart policing, law enforcement must use every advantage and asset it has. Chief among them is the intelligence and information about current and future criminal activity that police can get – actually, that they can only get – from the people who live in these places. Thus it is of paramount importance that police avoid unnecessarily damage to their relationships with those they serve. Racial and ethnic profiling can only serve to injure the ability of police to have real partnerships with minority communities, and will cut off the flow of accurate and timely intelligence from those communities to law enforcement. Thus failing to address the profiling issue is something our country and our public safety cannot afford.

Mr. Chairman, Ranking Member Conyers, and members of the Subcommittee, I look forward to your questions.