

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

-----X

October 6, 2011

Start: 1:05pm

Recess: 4:28pm

HELD AT: Council Chambers
City Hall

B E F O R E:
PETER F. VALLONE, JR.
Chairperson

COUNCIL MEMBERS:

Council Member Margaret S. Chin
Council Member Erik Martin Dilan
Council Member Daniel Dromm
Council Member Helene D. Foster
Council Member Robert Jackson
Council Member Daniel R. Garodnick
Council Member Vincent J. Gentile
Council Member David G. Greenfield
Council Member Daniel J. Halloran III
Council Member Brad S. Lander
Council Member Ydanis A. Rodriguez
Council Member Deborah L. Rose
Council Member Eric A. Ulrich
Council Member James G. Van Bramer
Council Member Jumaane D. Williams

A P P E A R A N C E S (CONTINUED)

Raymond Kelly
Commissioner
New York City Police Department

Nahal Zamani
Advocacy Program Manager
Center for Constitutional Rights

Udi Ofer
Advocacy Director
New York Civil Liberties Union

Michael Price
Attorney
Brennan Center for Justice

Fahd Ahmed
Legal Director
Desis Rising Up and Moving

Linda Sarsour
Director, Arab-American Association of New York
Advocacy and Civic Engagement Coordinator, National
Network for Arab-American Communities

Cyrus McGoldrick
Civil Rights Manager, New York Chapter
Council on American-Islamic Relations

1
2 [background noise, pause, laughter,
3 gavel]

4 CHAIRPERSON VALLONE: Okay. Please
5 find seats, thank you. Thank you all for coming
6 this afternoon, to our second of two hearings that
7 the Public Safety Committee has held on the status
8 of public safety in New York City ten years after
9 9/11. Last week we had a hearing on the progress
10 made regarding first responder communications, and
11 today we'll be examining the tactics and
12 techniques that the NYPD has used to keep us safe
13 for the past ten years. We're lucky to have the
14 Police Commissioner with us today. He will be
15 testifying for at least an hour. The police will
16 be here for an hour after that, to continue to ask
17 questions, I'll go through that more in a little,
18 in a little while. As know, on 9/11, the federal
19 government failed us, the FAA failed us, the CIA
20 failed us, the FBI failed us. And pretty much
21 every agency charged with protecting New York City
22 failed us, even after the first attack on the
23 World Trade Center. Commissioner Kelly went by
24 the old adage, "Fool me once, shame on you; fool
25 me twice, shame on me." Now we hope that the

1
2 federal government is doing its job to protect New
3 York City, and I'm pretty sure they're doing a
4 better job than they were. But just in case they
5 aren't, the NYPD will. We will not be fooled a
6 second time. That's why New York City has the
7 largest, most sophisticated municipal anti-
8 terrorism unit in the entire world. Some,
9 including me, would say it's more effective than
10 most other countries. One can't argue with
11 results. The results of this gargantuan effort
12 have been that at least 13 planned attacks on New
13 York City have been prevented. Some in
14 conjunction with the federal government, some
15 based on NYPD intelligence alone. And one, the
16 Times Square bombing, attempted bombing, was pure
17 luck. But as Louis Pasteur said, "Luck comes to
18 those who are prepared." NYPD tactics, which
19 we'll hear about today, range from gathering
20 intelligence in foreign countries to sending out
21 random teams of armed officers to critical points
22 in the City, includes building a large
23 infrastructure of security cameras to help monitor
24 threats. This Committee did tour the Lower and
25 Midtown Manhattan Security Initiative, and we

1
2 found it very impressive. And it was also
3 encouraging to see the private/public relationship
4 that's going on down there when it comes to
5 security. We'll learn more about that, we'll
6 learn about their ability to protect us from
7 potential nuclear and radiological threats, and
8 perhaps about their ability to take down a small
9 plane, which we recently learned about. Also, one
10 of the areas that we learned needed a good deal of
11 improvement after 9/11, from the 9/11 Commission,
12 from the Kinsey [phonetic] Report, from the
13 findings of this Committee, was the communication
14 between, and cooperation between the federal
15 government and the NYPD. That's clearly been
16 improving and we hope to learn more today about
17 the cooperation between the NYPD and the CIA. As
18 I said, we have our Commissioner here for at least
19 an hour. I want to thank you for making time to
20 do that, for giving my--and I want to thank my
21 Committee for their work preparing for this
22 hearing, and last week's hearing. And thank you
23 for your briefing that you gave us personally, for
24 three hours the other day. And we will, as I
25 said, well, I'll give some more information about

1
2 questioning later. We've been joined by Council
3 Members Jackson, Rodriguez, Halloran, Dilan, Dromm
4 and Foster, welcome all, I'm sure more will be on
5 the way. As I said today, ten years after 9/11,
6 we continue our ongoing oversight and look at the
7 safety of New York City, what the NYPD is doing,
8 and what may still need to be done. Commissioner,
9 thank you again for your efforts every day, and
10 especially for your work with this Committee. And
11 we look forward to your extensive testimony.

12 RAYMOND KELLY: Thank you very
13 much, Mr. Chairman. I'm accompanied by Deputy
14 Commissioner of Management and Budget Ed Allocco,
15 and our Deputy Commissioner of Counterterrorism,
16 Richard Daddario. Thank you for the opportunity
17 to testify. As you know, over the past ten years,
18 the mission of the New York City Police Department
19 has expanded dramatically, to address the evolving
20 threat of terrorism. We've relied mainly on
21 existing law and on the safeguarding of
22 constitutional guarantees, to build a deterrent
23 that has helped to protect the City from 13
24 terrorist plots since September 11th. There were
25 terrorist attacks in New York City in each of the

1
2 decades of the 1970s, 1980s and 1990s, including
3 the first attack on the World Trade Center, and
4 the murder of Ari Halberstam on the Brooklyn
5 Bridge just a few blocks from where we sit.
6 However, there has not been another terrorist
7 attack against New York in the last ten years,
8 since 9/11. It is not as if Al Qaeda and its
9 followers aren't trying. To the contrary, they
10 have repeatedly attempted to return to kill more
11 New Yorkers. But so far, they've been deterred at
12 every turn by the efforts of the NYPD and our
13 federal partners. We've also been lucky. At the
14 same time, our police officers haven't given an
15 inch in the fight against crime. Which has fallen
16 every year since 2001, and by 35 percent overall.
17 Because of budget cuts after 9/11, and the recent
18 financial crisis, we have been operating with
19 6,000 fewer officers than we had in 2001. We
20 simply do not have the resources to mount the
21 defense we require without federal support.
22 Homeland Security grants have been crucial to our
23 ability to keep this City safe. From federal
24 Fiscal Year 2002 through 2010, we received a total
25 of \$941 million, which we used to pay for a

1
2 variety of needs, including: the salaries of some
3 of our intelligence analysts and the 104 officers
4 assigned to antiterrorist transit teams; overtime
5 costs for security posts; cameras and related
6 technology for the Lower and Midtown Manhattan
7 Security Initiative; boats; helicopters;
8 radiological detection equipment; computer systems
9 for intelligence collection and analysis;
10 counterterrorism training programs; personal
11 protective equipment; explosive detection devices;
12 and other items. All of this helps tremendously.
13 But we still bear the substantial personal cost of
14 protecting this City. Last year, that need
15 amounted to \$306 million, including overtime and
16 related expenses. We continue to rely on federal
17 funding to support our operations. As for the
18 most recent grant awards from federal fiscal year
19 2011, we expect to receive only slightly less than
20 the previous year. While total federal funding
21 for the Urban Area Security Initiative Grant
22 Program was cut by 20 percent in federal Fiscal
23 Year 2011, the number of cities eligible to
24 receive those grants was reduced by more than half
25 by Secretary of Homeland Security, Janet

1 Napolitano, leaving fewer localities to compete
2 with. That's good news for New York City, but
3 moving forward the future is unclear. We're
4 especially concerned about legislation put forth
5 in the House and Senate, that would cut federal
6 counterterrorism grant programs anywhere from 35
7 to 47 percent in federal fiscal year 2012. This
8 could have a significant effect on everything we
9 put in place. By now, members of the Committee
10 are familiar with what we've done, and what's at
11 stake. But for the purposes of our discussion
12 today, I'd like to revisit our core initiatives.
13 I'd like to also describe how we see the threat
14 and tell you what we intend to do to keep the City
15 safe. September 11th forever changed how the NYPD
16 views its mission and the world around us. As
17 soon as the Bloomberg Administration took office,
18 we reorganized our operations to address the
19 threat of terrorism. We could not defer this
20 responsibility to others. In January, 2002, we
21 became the first police department in the country
22 to develop our own counterterrorism bureau. We
23 established a division within this bureau
24 responsible for training and equipping every one
25

1
2 of our police officers for counterterrorism
3 duties. We also restructured our intelligence
4 division, which prior to September 11th spent a
5 significant portion of its time protecting
6 visiting dignitaries. We removed the division
7 from its place within the detective bureau, so
8 that office now reports directly to the Police
9 Commissioner. We also gave the division a new
10 international focus. While it continues to
11 coordinate the protection of diplomats and world
12 leaders, its mission now includes gathering and
13 analyzing global information. We now devote the
14 fulltime equivalent of more than 1,000 police
15 officers to counterterrorism duties on a daily
16 basis. To help guide our new functions, we've
17 turned to leaders from outside the Police
18 Department with extensive federal and
19 international experience. They include
20 individuals like Marine Corps Lieutenant General
21 Frank Libutti, who once commanded all marines in
22 the Pacific Theater; Michael Sheehan, a former
23 Special Forces Commander and Ambassador at Large
24 for Counterterrorism under President Bill Clinton;
25 Richard Falkenrath, one of the architects of the

1
2 Department of Homeland Security under President
3 George W. Bush; and Richard Daddario, who served
4 as the Department of Justice's attaché in Moscow,
5 and as a Chief in the Manhattan U.S. Attorney's
6 Office for 14 year, supervising and prosecuting
7 international terrorism cases. Commissioner
8 Daddario with us today, of course. Now to head
9 our restructured intelligence division, we
10 recruited David Cohen, a 35 year veteran of the
11 CIA, who led both the operational and analytical
12 branches of the agency. We also benefit greatly
13 from having several former FBI executives serving
14 in the ranks of our intelligence division. They
15 include the NYPD's Assistant Commissioner of
16 Programs, Sid Caspersen, who held a senior
17 executive post in the FBI's New York field office,
18 and was the former Director of New Jersey's Office
19 of Homeland Security, prior to joining us. The
20 Director of International Liaison Program, Ed
21 Curran [phonetic], served previously as FBI Senior
22 Executive Service Officer and Director of
23 Counterintelligence at the Department of Energy.
24 And the NYPD's former Director of Surveillance
25 Training, Bill Weisskopf [phonetic], had been the

1
2 FBI's premier expert in this field before joining
3 the NYPD. Over the years, the caliber of people
4 that we've been able to attract has played a major
5 role in our ability to protect New York. We've
6 hired civilian intelligence analysts who are
7 experts in military intelligence and foreign
8 affairs. They study terrorist groups, regions of
9 the world that we're concerned about, and methods
10 of attack. Our information gathering is greatly
11 supported by the senior NYPD officers that we've
12 assigned as liaison to police and intelligence
13 agencies in eleven cities around the world:
14 London; Madrid; Paris; Tel Aviv; Abu Dhabi; Amman,
15 Jordan; Lyon, France; Montreal, Toronto, Singapore
16 and Santo Domingo. From these locations, our
17 liaisons can travel to the scenes of terrorist
18 attacks that occur throughout Europe, the Middle
19 East and Asia. With every major attack or
20 conspiracy, they look at the specific tactics
21 used, the type of weaponry and explosives
22 involved, where the planning was conducted, and
23 the nature of the targets. We want to gather
24 every conceivable detail in order to learn how
25 best to defend New York City against a similar

1
2 attack. In some cities, our work is facilitated
3 by having liaisons fluent in the language of the
4 countries where they're serving. The NYPD is
5 fortunate to have a deep pool of bilingual
6 officers. This has also allowed us to build a
7 foreign linguist program with more than 800
8 registered speakers of 60 different languages,
9 including Arabic, Urdu, Pashtu, Farsi, Russian,
10 Mandarin and Spanish. This capacity is the direct
11 result of one of our most important organizational
12 strengths, which is the remarkable diversity in
13 our ranks. Now more than ever, the makeup of the
14 Police Department reflects the population of New
15 York City. Since 2002, we've made a concerted
16 effort to tap into this resource by recruiting
17 more officers from minority and immigrant
18 communities. These efforts have been very
19 fruitful. Whereas the uniformed ranks of the NYPD
20 were once composed primarily of white officers,
21 today our recruit classes are typically majority
22 minority. That is, more than 50 percent African-
23 American, Hispanic and Asian officers. In 2006,
24 for the first time, the rank of police officers
25 became majority minority. Since that time, we've

1
2 hired officers born in 88 different countries,
3 representing dozens of ethnicities, nationalities
4 and faiths. Many of them have formed fraternal
5 organizations, including in just the last few
6 years, the Muslim Officers Society, as well as the
7 DC [phonetic] Society for officers and civilians
8 who trace their heritage to South Asia. Our
9 diversity has bolstered every aspect of our
10 mission, from counterterrorism to crime fighting,
11 to community relations. The Department and the
12 public have also benefited from initiatives like
13 our new immigrant outreach unit, which we created
14 in 2002. We assigned liaisons to the Arab and
15 Muslim, Chinese, Eastern European, Hispanic and
16 West African communities. They help connect
17 immigrants to needed services. Three years ago,
18 we launched Police Department sponsored youth
19 soccer and cricket leagues. The leagues have
20 become extremely popular, especially among teens
21 who have immigrated from the Caribbean, Middle
22 East, South Asian and West Africa. In addition to
23 the community outreach that we've done, we also
24 cast a wide net for collaboration with outside
25 partners, including the federal government,

1 regional law enforcement agencies, and the private
2 sector. On September 11, 2001, there were just 17
3 NYPD detectives serving on New York City's Joint
4 Terrorism Task Force with the FBI; in 2002, we
5 increased that number to more than 120. Since
6 that time, the JTTF has function as our chief
7 conduit for receiving intelligence developed
8 overseas about terrorist plots related to New
9 York. The also provide the FBI with information
10 through our intelligence division, including
11 allegations and leads related to federal crimes of
12 terrorism by individuals, groups and
13 organizations. The information is passed to them
14 in reports and briefings. We also share
15 information with 117 law enforcement agencies
16 throughout the northeast, in a program called
17 Operation Century. We do this knowing that it is
18 often easier for terrorists to develop a plot
19 outside the target area. For example, to plant
20 the bomb at the World Trade Center in 1993 was
21 hatched across the Hudson River in New Jersey.
22 Suicide bombers that struck the London Transit
23 System in 2005 built their bombs in the City of
24 Leeds, 180 miles north of the target. And Faisal
25

1
2 Shahzad, who attempted to detonate a car bomb in
3 Times Square last year, assembled his explosives
4 in Connecticut. We conduct various types of
5 training with our Century partners and hold
6 videoconferences on emerging threats. Following
7 the London attacks, the NYPD convened the Amtrak
8 Security Coalition, a public sector partnership
9 made up of law enforcement agencies along Amtrak's
10 northeast corridor. The purpose of the coalition
11 is to bolster security and improve cooperation
12 along the rail route, which is one of the most
13 sensitive and heavily traveled in the nation. We
14 know transit system nationwide are a vulnerable
15 target. Indeed, among the wealth of data
16 recovered from Bin Laden's compound in Pakistan
17 were handwritten notes proposing to derail a train
18 on the tenth anniversary of 9/11 or another
19 significant date. In an unprecedented initiative
20 supported by the Department of Homeland Security,
21 we're also posting radiation detection equipment
22 throughout neighboring jurisdictions, and at key
23 points of entry into the five boroughs, so that
24 the City is in effect ringed with an alarm system.
25 This program, called Securing the Cities, includes

1
2 150 law enforcement agencies in dozens of nearby
3 cities and towns. The NYPD distributes all of the
4 radiation detectors used by our partners. When it
5 comes to the private sector, we collaborate with
6 more than 10,000 members of the region's private
7 security industry, sharing information and
8 training through a program called NYPD Shield.

9 Under another initiative, Operation Nexus, our
10 detectives make thousands of visits to the kind of
11 businesses that might be exploited by terrorists:
12 truck rental outfits, fertilizer stores, chemical
13 supply companies. We asked them to contact us if
14 they see anything unusual, anything that gives
15 them pause. We also partnered with the private
16 sector to secure areas of the City known to be
17 covered by terrorists. We do this through our
18 lower and Midtown Manhattan security initiatives,
19 in which private companies have given us access to
20 the feeds from their surveillance cameras.

21 Combined with our own network of public cameras,
22 we have detailed coverage of street activity in
23 Manhattan, south of Canal Street. We also
24 continued to increase our coverage from 30th
25 Street to 60th Street, in Manhattan. The cameras

1
2 operate on a single, centralized network. This
3 makes it possible for us to scan recorded footage
4 for specific objects and colors. If we're looking
5 for a person in a red jacket, we can call up all
6 the red jackets film in the last 30 days. We can
7 also program the system to alert us to potentially
8 suspicious scenarios: a bag left unattended, a
9 car driving against the flow of traffic, or a
10 person walking through a restricted area. We can
11 view the footage from any camera remotely, from
12 our Lower Manhattan Coordination Center. We now
13 have approximately 2,000 out of a planned network
14 of 3,000 cameras feeding into the center.

15 Eventually, this system will also provide alerts
16 from our chemical, biological and radiological
17 sensors. Across the City, we've distributed 2,800
18 radiation pages to officers from the patrol
19 counterterrorism and transit bureaus, as well as
20 highway division and specialized units. We also
21 have highly sensitive detection equipment on the
22 boats we use to patrol New York's Harbor, and in
23 police vehicles. Our officers use a truck based
24 radiation sensor capable of picking up not just
25 the presence of alpha and gamma radiation, but the

1
2 particular isotope in a passing car. A recent 60
3 minute broadcast raised the question of NYPD's
4 ability to incapacitate small aircraft in extreme
5 circumstances. This generated headlines the next
6 day which were somewhat surprising, given the,
7 that the same newspapers had covered this exact
8 story six years ago in 2005. Our decision to
9 equip police helicopters with 50 caliber rifles
10 stemmed from an early Al Qaeda plot to use crop
11 dusters to spray cities with chemical or
12 biological weapons, like anthrax. Manuals on this
13 subject were discovered among the belonging of
14 Zacharias Moussaoui, the so-called 20th hijacker.
15 And were taken so seriously that all crop dusting
16 aircraft were grounded in late September of 2001.
17 We did not want to be left unprepared in an
18 extreme situation in which New York City was
19 attacked in this way. We're paid to think about
20 the unthinkable. In this scenario, we would
21 envision coordinating closely with the federal
22 government and the military. In our joint
23 operations center, we have a direct line to the
24 FAA towers at local airports. We also maintain
25 contact with scores of small airport operators in

1
2 the New York metropolitan area. In addition, the
3 same Al Qaeda threat was, has prompted us to work
4 with the insecticide industry, so that they don't
5 become unwitting accomplices. We are also
6 constantly looking to disrupt surveillance every
7 day. Based on the intelligence we have, we deploy
8 teams of heavily armed officers to make
9 unannounced visits to iconic locations. We staged
10 multiple surges throughout the day, of as many as
11 100 patrol cars, that proceeded in formation,
12 lights flashing, to prearranged locations. We
13 also place particular emphasis on the subway
14 system, five million New Yorkers use the system
15 every day. Protecting this system is one of our
16 top priorities and greatest challenges. That's
17 because the entire system is designed to be open.
18 Its very strength as mass transit leave it
19 vulnerable to attack. After the bombing of the
20 London Transit System in 2005, we began screening
21 the bags and backpacks of subway passengers. We
22 also inspect all 14 underwater subway tunnels
23 daily. Thanks to a federal grant last year, we
24 were also able to hire 104 police officers for our
25 transit impact program, and reassign an equal

1
2 number of veteran officers to our antiterrorism
3 unit. They conduct mobile screenings, transit
4 order maintenance sweeps, surges and counter
5 surveillance. We've heightened uniform patrols
6 underground and we conduct regular security sweeps
7 on subway carts. These are some of the tools
8 we're using to keep pace with the evolving threat
9 of terrorism. The philosophy behind them is
10 simple: We have to develop the best intelligence
11 available, expand our partnerships and take
12 protective measures to defeat whatever our enemies
13 might be planning next. Since September 11, 2001,
14 terrorists have targeted New York City with plots
15 against the New York Stock Exchange, Citigroup
16 headquarters, the Brooklyn Bridge, John F. Kennedy
17 Airport, Times Square, Ground Zero, the subway
18 system, major synagogues, and other sites. More
19 than any other place in the world, New York City
20 remains in the crosshairs of Al Qaeda and its
21 affiliated groups. That is the consensus of the
22 global intelligence community. Last we learned of
23 the demise of another top Al Qaeda leader, Anwar
24 al-Awlaki. This was another milestone achievement
25 in the fight against terrorism. Al-Awlaki

1 transformed Al Qaeda in the Arabian Peninsula into
2 a terrorist organization with global reach. He
3 targeted Americans like no other. He was a
4 powerful recruiter of terrorists in the United
5 States. His lieutenant, Samir Khan, was also
6 killed in the same strike. Khan, who once lived
7 in Queens, had extensive contacts in New York
8 City, and published the English language Inspire
9 Magazine, which instructed lone wolves on how to
10 build bombs at home. The most recent issue
11 identified Grand Central Station as a target.
12 Like the death of Osama bin Laden, the elimination
13 of these Al Qaeda leaders area success with
14 complications. We know they had followers in the
15 United States, including New York City. And for
16 that reason, we remained alert to the possibility
17 that someone might want to avenge their deaths by
18 striking New York again. In addition to
19 monitoring potential threats from abroad, we have
20 to be concerned about those that originate at
21 home. Six of the 13 plots against us since 9/11
22 involve citizens or residents of the New York City
23 area. In several of these cases, the use of
24 undercover officers and confidential informants
25

1
2 was crucial to defeating the conspiracy. Covert
3 operations may be the only effective way to
4 identify homegrown terrorists, who are often
5 living here legally and operating alone or with
6 just one or two accomplices. We've used these
7 operations to stop a number of dangerous
8 individuals in their tracks. They include
9 Brooklyn resident Matin Siraj, who plotted to bomb
10 the Harold Square subway station; New Jersey
11 residents Carlos El Monte and Mohamed Alessa, al
12 Qaeda sympathizers who were determined to receive
13 terrorist training in Somalia; and Queens resident
14 Ahmed Ferhani, who pledged to "blow up a synagogue
15 in Manhattan and take out the whole entire
16 building." We'll continue to train, recruit and
17 closely supervise undercover officers in order to
18 infiltrate a terrorist cell before it has the
19 chance to reach maturity and kill New Yorkers. In
20 conducting these sensitive operations, we adhere
21 to a set of guidelines issued by a federal judge.
22 I'm referring to the Handschu Consent Decree, and
23 its modifications. The current version of the CRE
24 [phonetic] imposes a common sense standard that
25 any investigation must meet. It establishes

1
2 strong mechanisms to provide careful oversight of
3 all investigative activities, up to and including
4 review by a federal court. By operating within
5 the framework of the modified consent decree, we
6 ensure that our investigations comport with the
7 U.S. constitution. We do not employ undercovers
8 or confidential informants unless there is
9 information indicating the possibility of unlawful
10 activity. We go where the leads take us. We'll
11 continue to abide by the Handschu guidelines, and
12 to lawfully resist public dissemination of
13 investigative information that could undermine our
14 ability to protect this City. Indeed, this right
15 has already been upheld in federal court. Last
16 year, the U.S. Court of Appeals for the Second
17 Circuit, vacated an order by a lower court, that
18 the NYPD hand over field reports made by
19 undercover officers, as they prepared to secure
20 the City during the Republican National Convention
21 in 2004. Doing so would have revealed both the
22 methods we used and the identities of our
23 officers. In applying that doctrine, the court
24 relied upon and clarified earlier precedents
25 involving federal agencies such as the CIA and the

1
2 FBI. The court recognized that releasing such
3 information could compromise our ability to
4 protect the City. In addition to carrying out our
5 own investigations, we have to be prepared in the
6 event we receive an alert of a terrorist presence
7 in the New York area. We want to know how
8 individuals traveling here to do us harm might
9 communicate and conceal themselves. We must be
10 able to quickly pinpoint the likely areas in which
11 a foreign operative might find resources, or evade
12 law enforcement. What internet café in which
13 borough would they be likely to use? At which SRO
14 might they find lodging? Establishing this kind
15 of geographically based knowledge of the City's
16 communities save precious time in deterring fast
17 moving plots. It is also in keeping with the
18 Handschu guidelines which allow us to prepare
19 terrorist assessments for strategic planning
20 purposes. Let me also say that gathering
21 intelligence is one of the things we do every day,
22 as a police department, to protect the public.
23 Having a comprehensive understanding of the
24 communities we serve enhances our ability to
25 disrupt drug dealing, human trafficking, organized

1
2 crime, fraud and other complex criminal
3 activities. Why wouldn't we do the same to combat
4 terrorism? In addition, we must be prepared to
5 assess how religious and ethnic tensions are
6 brought, could affect the various communities of
7 New York City. Let me also comment on another
8 important aspect of this work. And that's our
9 relationship with the Central Intelligence Agency.
10 Earlier I mentioned our expanded federal
11 partnerships. As established by presidential
12 executive order, U.S. intelligence agencies,
13 including the CIA's, are authorized, "to provide
14 specialized equipment, technical knowledge or
15 assistance of expert personnel for use by any
16 department or agency, or when lives are
17 endangered, to support local law enforcement
18 agencies." Operating under this legal basis, the
19 CIA has advised the Police Department on key
20 aspects of intelligence gathering and analysis,
21 that have greatly benefited our counterterrorism
22 mission, and protected lives in New York City. I
23 also want to add that given the Police
24 Department's impact on the daily lives of New
25 Yorkers, everything we do, from the training we

1
2 provide to our counterterrorism policy, receives
3 legal scrutiny. Our team of experts includes
4 former federal prosecutors, assistant district
5 attorneys who were bureau chiefs, and an NYU
6 professor of criminal procedure. All of them
7 exceptionally distinguished individuals with
8 decades of experience. They have ensured that our
9 counterterrorism programs accommodate civil
10 liberties to an even greater extent than the law
11 requires. For example, when we launched our Lower
12 and Midtown Manhattan security initiatives, we
13 developed a statement of privacy principles to
14 govern what we do. It can be found on our
15 website. Modeled on guidelines published by one
16 of the nation's leading legal think-tanks, our
17 policy sets limits on the retention of data and
18 provides other safeguards to reduce the potential
19 for misuse. In a broad sense, the value we place
20 on privacy rights and other constitutional
21 protections is part of what motivates the work of
22 counterterrorism. It would be counterproductive
23 in the extreme if we violated those freedoms in
24 the course of our work to defend New York. For
25 this reason, the protection of civil liberties is

1
2 as important to the Police Department as the
3 protection of the City itself. A decade after
4 9/11, New York enjoys the distinction of being the
5 safest big city in America. It is also
6 commercially vibrant, culturally diverse and free.
7 I would argue that fact, that we can claim these
8 successes is due in no small measure to the 50,000
9 uniform and civilian members of the New York City
10 Police Department, who have demonstrated
11 initiative and imagination in upholding the law
12 and all of its constitutional guarantees. Thank
13 you, Mr. Chairman, for the opportunity to testify
14 and I'd be happy to take your questions.

15 CHAIRPERSON VALLONE: Thank you,
16 Mr. Commissioner. We have been joined by Council
17 Members Lander, Gentile, Garodnick, Williams, Van
18 Bramer and Rose. I'm going to ask a few questions
19 I could probably ask, you know, three hours'
20 worth, but I, as I said before, most Council
21 Members were here, the Commissioner only has about
22 an hour, the Department will be here for an hour
23 after that. I'm going to ask everybody to stay
24 within five minutes, so that all, everyone can get
25 to ask a question and a follow up at least, I

1
2 hope. If you don't do that, you know, I can't
3 have you dragged by your earlobe, but you will be
4 affecting your other Council Members if you don't
5 try to abide by those rules. And if it's just, if
6 it's an issue that does not have to do with this
7 hearing, or is specific, specifically relating to
8 your district, I'm sure the Commissioner can
9 discuss that with you at another time.

10 Commissioner, my first question. You discussed
11 right off the bat your ability to fight crime and
12 terror. You also said you were down 6,000
13 officers and I would say closer to 7,000 officers.
14 I'd like to know about your ability to do both
15 with the decreased manpower you have. Recently
16 there have been published reports about taking
17 officers from Operation Impact, which is one of
18 your most successful anti-crime strategies, and
19 putting them at the World Trade Center, taking
20 anti-terror crimes from Hercules duty and putting
21 them in high crime areas. How is your ability to
22 do both of these incredibly important jobs
23 hindered by having close to 7,000 less cops than
24 we had on 9/11?

25 RAYMOND KELLY: Mr. Chairman, may I

1
2 just say that Devorah Halberstam has joined us,
3 the mother of Harry Halberstam, and I mentioned
4 Harry, he was killed on the Brooklyn Bridge, the
5 terrorist attack by any definition. So, very good
6 to have you here, Ms. Halberstam. Now, obviously,
7 we'd like to have more resources, no question
8 about it. We were down at one point 7,000 police
9 officers from where we were; we're up now to a
10 little under 35,000 officers, 1,600 of which are
11 in the Police Academy, obviously they're not in an
12 operational mode. So far, so good, crime is down
13 35 percent. We haven't had a successful terrorist
14 attack. I would hope that we'd be able to stay at
15 this level. As I say, we'd love to have more,
16 but I think that's unrealistic given the economic
17 environment that we find ourselves in. We have
18 just, as the rest of City agencies have been, hit
19 with a, the PEG, which is a Program to Eliminate
20 the Gap, a three percent reduction, which would
21 amount to over \$100 million of our budget. That's
22 just for this fiscal year, which of course was you
23 know goes to June 30th of next year. How we
24 implement that, obviously, is going to be very
25 difficult and something that's still, that we have

1

2 to examine closely. But we, as I say, would hope
3 to be able to maintain roughly the level that
4 we're at now.

5

CHAIRPERSON VALLONE: Does the
6 recently announced PEG affect you when it comes
7 to, is there a hiring phrase as it relates to the
8 Police Department?

9

RAYMOND KELLY: Yes.

10

CHAIRPERSON VALLONE: So that will
11 not affect the current class because that was last
12 year's budget. The class that's going in in--
13 well, the class that's in in July, and the class
14 that's going in this January. But it will affect
15 the July class?

16

RAYMOND KELLY: Well, right now, I
17 would have to assume that everything is being held
18 up, so I can't say with any certainty about the
19 January class.

20

CHAIRPERSON VALLONE: Well, that's
21 news, because I've been arguing we need at least
22 1,800 and the Academy, which would be our largest
23 class in years, I know you were hoping to get at
24 least 900 or so in there to stay at the level we
25 are at now.

1
2 RAYMOND KELLY: Correct, sure,
3 yeah.

4 CHAIRPERSON VALLONE: And now
5 you're saying we may not even have that 900 coming
6 in in January, which would, I would say, make us
7 substantially less safe than we are today.

8 Commissioner, on page four, you mentioned that Bin
9 Ladan's compound found handwritten notes proposed,
10 proposing to derail a train on the tenth
11 anniversary of 9/11, or another significant date.
12 Was that the specific credible but uncorroborated
13 threat we had heard about and were prepared for?

14 RAYMOND KELLY: No.

15 CHAIRPERSON VALLONE: No? Okay.
16 You mentioned, well maybe I did, the World Trade
17 Center, how have you been involved at the Police
18 Department in making, in planning to make that
19 safe? And what will your future involvement be?

20 RAYMOND KELLY: Well, we work
21 closely with the Port Authority, we have a
22 memorandum of understanding that was signed by the
23 Executive Director. We work with the Port
24 Authority Police Department, we've assigned over
25 200 officers to our World Trade Center command, a

1
2 newly created command, to provide security at and
3 in the vicinity of the new national memorial. And
4 we've also made a commitment in that memorandum of
5 understanding, as construction goes forward at the
6 World Trade Center site, to have a unit command of
7 637 officers assigned to that general area. That
8 will be our, in coordination with our LMSI
9 initiative.

10 CHAIRPERSON VALLONE: So those will
11 be 637 cops out of your, around 34--

12 RAYMOND KELLY: That's right.

13 CHAIRPERSON VALLONE: --thousand
14 police officers. Okay.

15 RAYMOND KELLY: That's correct,
16 right, well, we have already taken 200 out.

17 CHAIRPERSON VALLONE: Right. Not
18 that they're not necessary, I'm just pointing out
19 the strains on your department. My last question
20 for now is, 'cause as I said I want to be fair to
21 the fellow Council Member and try to get as many
22 people to ask questions as possible, one of the
23 threats you discussed is radiation, is a nuclear
24 radiological threat. Can you describe more about
25 our covert team, what we've done to prepare for

1
2 that? And also discussed the fact that there was
3 a bill that Chief Falkenrath was promoting a while
4 ago, which was apparently very important, but
5 regarding regulating private radiation detectors,
6 which is no longer going forward, so apparently
7 we're dealing with that in a different way. So if
8 you'd please update us?

9 RAYMOND KELLY: Well, as I said, in
10 my remarks, we have 2,800 radiation detectors that
11 we have distributed to our offices, the Fire
12 Department has radiation detectors, some other
13 City agencies do. So, that is all part of
14 Securing the Cities, which is a program funded by
15 Department of Homeland Security, that made the
16 NYPD sort of the hub for distribution of radiation
17 detection equipment and training exercises in the
18 tri-state area: Connecticut, New York and New
19 Jersey. It's part of an effort to, as I said,
20 create a ring, a detection ring around the City
21 and in the City. The bill that you're referring
22 to, I think was not passed by the City Council. I
23 think we made an argument a few years ago that we
24 were concerned about the liability of a lot of the
25 radiation detectors that are out there. I think

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

we're still concerned, but we also at the same time, have distributed a lot of these radiation detection devices, so it gives sort of a backup. But the concern was unreliability.

CHAIRPERSON VALLONE: So, in addition to the 2,800 handheld, I assume there were larger units throughout the City, or no?

RAYMOND KELLY: There are larger units?

CHAIRPERSON VALLONE: Radiological detection units.

RAYMOND KELLY: Yes.

CHAIRPERSON VALLONE: Yes.

RAYMOND KELLY: We have both waterborne detection equipment and truck, vehicle born radiation detection.

CHAIRPERSON VALLONE: And just say a quick scenario then. If a alarm, either false or not false, would be set off by one of, either a private detective or your detective, what would happen next.

RAYMOND KELLY: We'd have response. And you know, we are equipped, our emergency services offices are equipped to respond, the--

1
2 there's a HAZMAT capability that we have that the
3 Fire Department has, if in fact, you know, it
4 might be some sort of radiation leak. We would be
5 able to respond and take hopefully appropriate
6 action if it was not, you know, and overwhelming
7 amount.

8 CHAIRPERSON VALLONE: Okay, as
9 always, I'd like to follow up, but I want to be
10 fair to the fellow Council Members. We've got at
11 least eight people on the list already. As I
12 said, the Commissioner himself doesn't have that
13 much more time, so the quicker you are, the more
14 of your colleagues will get to ask questions. We
15 will go first to Council Member Jackson. And
16 please stay within five minutes.

17 COUNCIL MEMBER JACKSON: Thank you,
18 thank you, Chair Vallone, and I do plan on staying
19 within the time limits. Commissioner, let me
20 thank you first for who you are and what you've
21 done for our City and our nation. In fact, I've
22 always been a supporter of NYPD, not necessarily
23 agreeing with everything that happens, but overall
24 very, very supportive. And in fact, in listening
25 to you give your statement, I'm impressed about

1
2 the security that we're placing our great City, in
3 order to keep the people of our great City safe.
4 I attended a press conference prior to coming to
5 this hearing, sponsored by the Progressive Caucus
6 of the City Council of New York, cosponsored by
7 the Black, Latino and Asian Caucus, and which I
8 co-chair, and the Brennan Center for Justice. And
9 what was raised there were some issues concerning
10 the intelligence gathering tactics used by the
11 NYPD. And in fact, one of the speakers, Udi Ofer,
12 who is the Advocacy Director for New York Civil
13 Liberties Union, indicated that racial profiling
14 is illegal. And the allegations are that NYPD, in
15 this intelligence, is using racial profiling. So,
16 that's what my first question is. Is racial
17 profiling illegal and are you using that at NYPD
18 with in reference to profiling Muslim Americans?

19 RAYMOND KELLY: Racial profiling is
20 prohibited by our own internal regulation. We did
21 that, this Administration did that in 2002, when
22 Mayor Bloomberg took office. No, we don't
23 racially profile, we follow leads wherever those
24 leads take us. And as I said in my prepared
25 remarks we follow the guidelines laid out in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Handschu stipulation. So, we don't racially profile.

COUNCIL MEMBER JACKSON: I, and I raise the question, Mark, in your testimony about the Handschu Agreement, and I'm not on this Committee, so I don't particularly know all the particular details, but--and I'm going to find out later with our staff, but I asked the question at the press conference, and I ask you now, I am the only Muslim member of the City Council of New York. And I am an American citizen, born and raised in New York City. So the question that I need to know is, have I been under surveillance by NYPD? That's what I want to know. And I ask the question publicly.

RAYMOND KELLY: I would have--I don't believe so, no. No. [laughter]

COUNCIL MEMBER JACKSON: Well, I will follow up with NYPD, because--

RAYMOND KELLY: You pay all your summonses?

COUNCIL MEMBER JACKSON: I have, I have one outstanding ticket that I'm fighting, which is my right to do. [laughs] But, not, ser-

1
2 -and that's, even though we're joking and, about
3 the summons, but that's a serious question,
4 because I do raise that question. I am the only
5 Muslim in the City Council of New York, I know
6 that, many other people know that. I've talked to
7 Muslims all the time, I talk to Christians all the
8 time, I talk to all kind of people in all kind of
9 religions all the time, in my capacity as a member
10 of the City Council, and as co-chair of the New
11 York City Council Black, Latino and Asian Caucus,
12 I talk to many, many individuals around not only
13 New York City, but around the world. So, that's I
14 guess a question that I have, and which I'm going
15 to follow up with your Department. But I guess
16 I'm concerned about the allegations that have been
17 raised about NYPD, in layman's terms, stepping on
18 the civil rights of people in your surveillance.
19 So, that's what my question is. With respect to
20 you said, in your testimony, that you are, even
21 giving, protecting more rights than are guaranteed
22 by the law.

23 RAYMOND KELLY: That's correct.

24 And I had mentioned that we have a team of first
25 class attorneys, that review all of our policies.

1
2 We simply follow leads. Now, those leads may take
3 us into religious institutions, it may be people
4 in a particular religion, but we're going to
5 follow those leads wherever they take us. We're
6 not going to be deterred, but we're certainly not
7 singling out any particular group.

8 COUNCIL MEMBER JACKSON: Well, I
9 just, let me just finalize by saying that I agree
10 with you, that if leads take you wherever they go,
11 that in my opinion, NYPD has to follow those
12 leads, in order to protect the safety and security
13 of our great City. So I appreciate what you're
14 doing, but obviously the issue and concern is
15 opinions of unrestricted surveillance of people
16 and citizens of our great City. From what you're
17 saying, it is not unrestricted, that you're
18 mandated as per the agreement that you're
19 following, the Handschu Agreement, is that
20 correct?

21 RAYMOND KELLY: Yes, we're
22 authorized, so we're - -

23 COUNCIL MEMBER JACKSON:
24 [interposing] Now is that a public document, or
25 that is not a public document?

1
2 RAYMOND KELLY: Currently, it's a
3 document that you can get, it's a legal citation.

4 COUNCIL MEMBER JACKSON: Right.

5 RAYMOND KELLY: That will, that you
6 can find that document. And actually, the
7 modifica--it started in 1971, the Handschu
8 Agreement, that actually the legal process did.
9 It was [time bell] signed in 1985, and was
10 modified in 2003, by--I don't know what that is.

11 COUNCIL MEMBER JACKSON: You can
12 answer. That's my limit. I can't answer any more
13 questions. [laughter]

14 RAYMOND KELLY: Signed, signed in
15 2003 by the Judge, it actually is 13 separate
16 decisions. But yes, it is a public document.

17 COUNCIL MEMBER JACKSON: Okay.
18 Thank you very much, thank you, Mr. Chair.

19 CHAIRPERSON VALLONE: Thank you.
20 And Commissioner, this Committee already keeps
21 Robert Jackson under surveillance, so you don't
22 have to, don't worry. [laughter] And, the next
23 Councilman we should probably surveil is Council
24 Member Halloran.

25 COUNCIL MEMBER HALLORAN:

1
2 Commissioner, as the only polytheist on the
3 Council, I want to make sure I'm not under
4 investigation. [laughter] And I say that
5 flippantly, because having served in the NYPD,
6 having had the privilege of working with officers
7 as a prosecutor, I know how hard your job is, and
8 how great lengths you go to to make sure you
9 balance liberty and security. Let me just start
10 off by addressing the programs that you've
11 started, Nexus, Shield and Atlas, in working with
12 both business communities, the private sector,
13 security forces and the uniform patrol, in looking
14 at this issue. Does Shield, in particular, deal
15 with Department of Defense, industrial security
16 clearing office? The other federal agencies that
17 sort of work in hand with security, private
18 security contractors, to protect the bigger
19 facilities that still do some form of government
20 contracting here in the City?

21 RAYMOND KELLY: Not really. Shield
22 is an umbrella organization that has, as I said,
23 over 10,000 members, essentially security
24 directors, of all different types of businesses.
25 Mostly, the vast majority are in New York City,

1
2 but some are outside of New York City. So we have
3 a sort of a daily Blackberry relationship, we put
4 information out every day to our Shield members.
5 We have training sessions, we've had 25 different
6 conferences with Shield members, we started it in
7 2005, I believe. They're a tremendous force
8 multiplier for us. They're our eyes and ears for
9 the, for the Department. We train them in a
10 variety of areas, we give them up-to-date
11 information that, publicly available information.
12 I, the reason that the program has grown, I
13 believe, is because of its effectiveness and the
14 quality of the training that the, that we give.
15 It has been very well received, and it continues
16 to grow, it's a separate website, and it imparts I
17 think very valuable information to the private
18 sector. And of course, we're looking for feedback
19 from them as well.

20 COUNCIL MEMBER HALLORAN: In
21 addition, you mentioned the Grand Central Station,
22 Stock Exchange, JFK, synagogues; in '02, it was
23 the cyanide attacks in the subways; 2003 was the
24 Brooklyn Bridge; 2004, Herald Square; 2006, the
25 Path Train to Ground Zero; 2010, Times Square

1
2 bombing; and then in 2011 that college student who
3 was planning on detonating car bombs. Of all of
4 those terror threats that you've been able to
5 successfully defuse before they took off, all of
6 those were related to Islamic fundamentalism, not
7 any other form of terrorist activity, is that
8 correct?

9 RAYMOND KELLY: That's correct.

10 COUNCIL MEMBER HALLORAN: Okay. In
11 the course of the intelligence division looking at
12 these issues, do we have any documented incidents
13 of non-fundamentalist Islamic terrorist attack in
14 that ten year window against the City of New York?

15 RAYMOND KELLY: In the City? No.

16 COUNCIL MEMBER HALLORAN: No.
17 Okay. The Aspen Institute last year talked about
18 some of the impacts of the federal cuts that might
19 happen to Homeland Security money being directed
20 at us, and the federal government backpedaled from
21 its 60 cities down to 31. There was about a 780,
22 \$700 million cut across the boards. What are you
23 hearing right now in terms of next fiscal year,
24 and what do you think the focus should be, should
25 we be reducing that number down to L.A., D.C.,

1
2 Wash--Chicago, and New York? I mean, is that
3 really what we should really be doing?

4 RAYMOND KELLY: Well, what's
5 happened is, as I said in my remarks, the
6 Secretary Napolitano has reduced the number of
7 cities, urban area security initiative of cities,
8 and that works to our benefit. It's a move
9 towards realism. You know, it's recognizing that
10 over 100 cities are not realistically, really in
11 the crosshairs of terrorists and Al Qaeda. But
12 the, the reductions are going to be significant by
13 all accounts, all reports, emanating from the
14 House and supported in the Senate, as well. It's
15 difficult to say what ultimately happens in the
16 negotiation process, but I'm, we're anticipating
17 that we're going to be hit. I can't give you a
18 number, but I think the environment in Washington
19 is such that, you know, that's one of the areas
20 that they're going to hit significantly.

21 COUNCIL MEMBER HALLORAN: Well, I
22 know at least newly minted Congressman Turner's
23 been appointed to the Homeland Security Committee,
24 and I know he'll be working closely with Peter
25 King on that. One last question, Commissioner.

1

2 You mentioned that six of the 13 plots foiled
3 involved New York City residents or citizens. Or
4 geographically proximate in the area.

5 RAYMOND KELLY: People in the [time
6 bell] metropolitan area.

7 COUNCIL MEMBER HALLORAN: And I
8 think it belies us to have that conversation a
9 little more broadly. One of them was a Whitestone
10 resident, a naturalized citizen of the United
11 States living in my district. And I just want
12 you, if you could, briefly just mention something
13 about human intelligence gathering versus the
14 technical intelligence gathering that goes on,
15 because I know the CIA's repeatedly said, "Human
16 intelligence is really the most important factor,"
17 and that's I believe where you've concentrated
18 your efforts. Could you just go on a little bit
19 about that.

20 RAYMOND KELLY: Well, yeah, I
21 think, you know, in the '70s there was a, a major
22 pushback against human intelligence, in general.
23 And we sort of shifted as a country towards using
24 technology or electronic means to get
25 intelligence. And I think the intelligence

1
2 professionals will agree, there's nothing like
3 human intelligence. It's expensive, it's
4 difficult to get, it can be dangerous, of course.
5 But as, there's nothing like it. And I think
6 you'll see, you've seen a bit of a movement in, on
7 the federal level, back towards that, in that
8 direction, to get the HumInt, as it's called,
9 human intelligence. Because it was, we were
10 lacking certainly in the, in the '90s, in the
11 early part of this decade.

12 COUNCIL MEMBER HALLORAN: Thank
13 you, Commissioner, and I yield back to you, Mr.
14 Chairman.

15 CHAIRPERSON VALLONE: Thank you,
16 Council Member. After the police panel, there
17 will be an invited panel of guests from the Center
18 of Constitutional Rights, and the NYCLU; after
19 that, the public. We were joined by Council
20 Member Ulrich and Greenfield, who's still here,
21 and we're going now to Council Member Dromm, to be
22 followed by Lander and Williams.

23 COUNCIL MEMBER DROMM: Thank you
24 very much, Mr. Chair. And I, too, was at the
25 press conference earlier. I'm the Chair of the

1
2 Immigration Committee, and I have some very deep
3 concerns about the NYPD in terms of the protection
4 of civil liberties regarding the Muslim issue and
5 the surveillance of the Muslim communities, and
6 what has been reported in the AP. And I think
7 that while we got a giggle out of my colleague's
8 question about whether or not you've infiltrated
9 his office, it really is indicative of a sentiment
10 within the Muslim community, and within immigrant
11 communities in general, about the direction that
12 the NYPD is going in terms of policing those
13 communities. And I also have a question myself in
14 regard to my own office, but I'll wait for the end
15 of my questioning to do that. But it's not a
16 laughing matter, to be honest with you, especially
17 if you're a member of one of those communities.
18 And so, I want to go back to your testimony, which
19 is on page seven. And it says that you have a,
20 you must also be able to quickly pinpoint the
21 likely areas in which a foreign operative might
22 find resources or evade law enforcement. What
23 internet café in a borough were they likely to
24 use? At which SRO? "Establishing this kind of
25 geographically based knowledge of the City's

1
2 community saves precious time in deferring fast
3 moving plots." So, I'm assuming that that's a
4 reference to the allegation that was made in the
5 AP stories that you have mapped out Muslim
6 communities that you know where the bars are, that
7 you know where the mosques are in Muslim
8 communities, that you know where Muslims
9 congregate. Is that in reference to that AP
10 story? Have you done that in the Muslim
11 community?

12 RAYMOND KELLY: We've done it in a
13 lot of different communities. We've done it--

14 COUNCIL MEMBER DROMM: Okay.

15 RAYMOND KELLY: --we have something
16 called a "Zone Assessment Unit," we used to have
17 something called a "Demographics Unit," that was
18 expanded to a Zone Assessment Team, if you will,
19 and it gathers information about geographical
20 areas in the City. Would it include mosques?
21 Would it include internet cafés? Yes.

22 COUNCIL MEMBER DROMM: Have you,
23 can you tell us what other communities you've
24 mapped out like that?

25 RAYMOND KELLY: All the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

communities.

COUNCIL MEMBER DROMM: In the same way.

RAYMOND KELLY: All the communities.

COUNCIL MEMBER DROMM: So you have one for the Irish community--

RAYMOND KELLY: - - This is the most diverse City in the world.

COUNCIL MEMBER DROMM: So--

RAYMOND KELLY: We have information, we certainly use census data, to give us information, totally authorized by the way by the Handschu - -

COUNCIL MEMBER DROMM:
[interposing] But Commissioner, I'm asking a very specific question. Do you have one of the Irish community? Do you have one of Greek community? How, how many communities have you mapped out in the same way that you've mapped out the Muslim community?

RAYMOND KELLY: When we say communities, we don't, we don't do it ethnically. We do it geographically. So we're not, not

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

mapping out ethnicity, we're mapping out geography.

COUNCIL MEMBER DROMM: So what exactly are you mapping out? If you're not mapping out--

RAYMOND KELLY: The - -

COUNCIL MEMBER DROMM: --the establishment, you said internet cafés, what type of internet cafés? Whose internet? You know where every internet café is in New York City?

RAYMOND KELLY: We, we know where a lot of them are, yes.

COUNCIL MEMBER DROMM: And for what purpose do you need to know that?

RAYMOND KELLY: In case someone perhaps uses that, comes from another country, is a particular ethnicity in that geographical area.

COUNCIL MEMBER DROMM: I find it hard to believe that you've just mapped out every single internet café, every single food establishment, schools, for example, were another area that you were looking into, that you were infiltrating and spying on. And I think that we have very deep concerns about that. I think we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

need other--

RAYMOND KELLY: Okay, where are you getting this information from?

COUNCIL MEMBER DROMM: From the AP stories--

RAYMOND KELLY: Where are you getting this information.

COUNCIL MEMBER DROMM: --that we've read.

RAYMOND KELLY: Well, I wouldn't believe everything that I read.

COUNCIL MEMBER DROMM: I don't believe everything, and that's why I'm here to ask you these questions, to see how you can respond to them.

RAYMOND KELLY: Well, what are the questions?

COUNCIL MEMBER DROMM: What, what other communities have you mapped out?

RAYMOND KELLY: Like I mentioned to you, we're mapping it out geographically. You're, you're making it ethnically based or focused, - -

COUNCIL MEMBER DROMM: Well, we have here the Moroccan locations that you mapped

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

out, for example. In certain communities. So you obviously did just Moroccans, Muslims, in one community, and I'm trying to find out what other communities you did it in.

RAYMOND KELLY: Well, you--well, you, that is a different story there. Because what we were doing is following leads. I mentioned before that we follow leads that are authorized by the Handschu Stipulation.

COUNCIL MEMBER DROMM: But so--

RAYMOND KELLY: So that's where the, the Moroccan information came, I know exactly what you're showing me there. But the Moroccan issue that was mentioned had to do with a specific investigation.

COUNCIL MEMBER DROMM: So, you mapped out all of the Moroccan communities in the City? Like Christoria [phonetic] for example, on Steinway Street. How did you determine that?

RAYMOND KELLY: We, we know, based on census data, and our own adding to that data, where certain communities reside, where people reside.

COUNCIL MEMBER DROMM: But it's the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

whole community that you're looking at.

RAYMOND KELLY: Well, it, we do that now, based on geography.

COUNCIL MEMBER DROMM: It seems to me like that's profiling when you take a whole community, you map out a whole community.

RAYMOND KELLY: It's not profiling.

COUNCIL MEMBER DROMM: And you're looking at a whole community.

RAYMOND KELLY: Well, we're doing it based on a geographical, as I say, a geographical approach. But it identifies what groups might be in that geographical area.

[time bell]

COUNCIL MEMBER DROMM: May I just ask my last question? I held a--Mr. Chairman, thank you--I held a "I Am Muslim, Too" Day in my office, where we held up signs and we supported the Muslim community in response to Peter King's investigations, or hearings, I should say, down in Washington. Did you infiltrate my office?

RAYMOND KELLY: No, I know what you're--

COUNCIL MEMBER DROMM: Did you have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

community informants?

RAYMOND KELLY: I know what you're talking about. No.

COUNCIL MEMBER DROMM: And you can say that categorically that you were not there.

RAYMOND KELLY: At your office.

COUNCIL MEMBER DROMM: Yes.

RAYMOND KELLY: I have, I don't believe so, no. I have no reason for us to be there.

COUNCIL MEMBER DROMM: Thank you.

CHAIRPERSON VALLONE: Thank you, Commiss--Council Member. We're going to go to Council Member Lander, followed by Williams and Garodnick.

COUNCIL MEMBER LANDER: Thank you, Mr. Chairman, thank you, Commissioner, both for being here today and for all that you do to keep us safe. I'm glad to hear about what a robust counterterrorism program you have. I'm glad to know what you're doing both with technology and with human intelligence. I think the subway programs, the radiation programs, even some things which infringe on liberties like the Lower

1
2 Manhattan Security Initiative, I think are part of
3 a thoughtful effort to make sure that we are safe.
4 I'm glad to hear your statement that the
5 protection of civil liberties is important to the
6 Police Department, as the protection of this City,
7 and that you only follow leads. And I don't want
8 to make your job harder, but I am concerned that
9 the revelations in those AP stories simply don't
10 square with the statement that the NYPD is only
11 following leads. The Moroccan Initiative, the
12 surveillance of Imam Reda Shata. I mean, you
13 know, I'll just go further, these Moroccan
14 locations, this is an NYPD document that was
15 provided by the AP. There's no reference to
16 crimes, there's no reference to leads. The only
17 thing that I can see that's a lead is that the
18 café, for example, is in close proximity to the
19 Islamic Society of Bay Ridge.

20 RAYMOND KELLY: I, I think the
21 document--

22 COUNCIL MEMBER LANDER: What's the-

23 -

24 RAYMOND KELLY: --I think there'll
25 be other documents and other information that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

might--you just can't take that out, you know, on its own, and say that's, you know, that document is not the result of an investigation.

COUNCIL MEMBER LANDER: Well, I mean, I'm glad to provide you with this one, this one is just a long list of cafés. And honestly the only thing is about the--

RAYMOND KELLY: What I'm saying to you is I think it's part of a, a larger operation.

COUNCIL MEMBER LANDER: So who has, who has oversight of--so, I think it's not a simple question, what's a real lead? And what's, that they serve Moroccan food, or that they preach Islam from the pulpit. So, who has oversight of whether an investigation is following it?

RAYMOND KELLY: You know, I--a lead, a lead is information that indicates the possibility of unlawful activity.

COUNCIL MEMBER LANDER: No, but who dec--I mean, to me, this document looks like the leads are profiling, it looks to me like the leads were, that there's a Muslim mosque and that there's Moroccan cuisine. Whose responsibility, who has oversight of whether civil liberties are

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

being protected by determining whether people are actually following legitimate police leads, or whether we're creeping into religious and ethnic profiling?

RAYMOND KELLY: Well, we, we have attorneys embedded in our intelligence division.

COUNCIL MEMBER LANDER: NYPD--

RAYMOND KELLY: That look at these investigations, yes.

COUNCIL MEMBER LANDER: NYPD personnel.

RAYMOND KELLY: Correct.

COUNCIL MEMBER LANDER: So there's no civilian or external oversight.

RAYMOND KELLY: Well, there's a Handschu Authority, that if you, you take a look at the Handschu Stipulation, it lays out the oversight structure.

COUNCIL MEMBER LANDER: But it doesn't provide for civilian or independent oversight of, if you're going to put an undercover officer in a mosque, what's the standard for, was it for--

RAYMOND KELLY: Yes, it does, it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

does. I would advise you to take a look--

COUNCIL MEMBER LANDER: I have,
I've looked at the Handschu Decree.

RAYMOND KELLY: --at that stipu--
Well, when you look at it, you'll see that you
can't use undercover officers to check leads, but
you can for preliminary inquiry, that's in the,
right in the stipulation. Then, an investigation,
you can use undercover or confidential informants.
Then there's another level of investigation,
enterprise terrorism investigation. That
authorizes--so, if you look at that, it might
clarify some of your questions.

COUNCIL MEMBER LANDER: I, I have
looked at it, and unfortunately, combined, it's
just hard to square with the AP stories, with the
surveillance of Reda Shata, with the information
that's in here, to me it seems like there would be
some benefit to some--and look, it's got to be
done in a secure way that represents security
concerns. I don't think we should be talking
about individuals or particular mosques out in
public, but I think it doesn't--the AP stories
make it hard to believe we're getting the balance

1
2 right. It looks like we're targeting Muslim
3 neighborhoods and communities, that's not good for
4 us. You know, we have people out there who are
5 part--your partners, and who feel that a trust is
6 betrayed. And so without some more independent
7 oversight, to figure out what the standards are,
8 it's hard to believe that we're getting the
9 balance between civil liberties and protection
10 right. I guess let me ask--

11 RAYMOND KELLY: Well, I mean, that,
12 that's your opinion. Again, we're following the
13 Handschu Guidelines. You say you're, you're
14 familiar with it, if you take a look at it, you're
15 familiar with it, then you'll see that the
16 structure is there for oversight.

17 COUNCIL MEMBER LANDER: So, let's
18 just talk a little bit about the demographics
19 unit, which was reported in the AP story. I guess
20 the NYPD initially said it didn't exist, and then
21 said it used to exist, but it never had more than
22 eight officers. Can you tell us when it was
23 created, does it still exist, is there a successor
24 to it?

25 RAYMOND KELLY: It was created I

1
2 think in 2002, we merged it with that zone
3 assessment unit that I, that I mentioned, I think
4 it was eliminated organizationally a couple of
5 years ago. But it, it did what I said, it
6 basically augmented demographic information that
7 we [time bell] had from the census.

8 COUNCIL MEMBER LANDER: And what
9 happened to the information that it collect--my
10 last question, thank you, Mr. Chairman--what
11 happens with the information that it collected,
12 which I guess was reported to be stored on a
13 computer at the Brooklyn Army Terminal, separate
14 from the Central Intelligence database, some of
15 the Handschu guidelines relate to what dossiers
16 can be kept, and how they can be kept.

17 RAYMOND KELLY: Right.

18 COUNCIL MEMBER LANDER: So--

19 RAYMOND KELLY: That's right. We
20 adhere--

21 COUNCIL MEMBER LANDER: How about
22 the demographics unit information?

23 RAYMOND KELLY: We adhere to the
24 Handschu guidelines, in terms of what can be kept
25 and what can't be kept.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER LANDER: And so where is--the information gathered and collected by the demographics unit is where?

RAYMOND KELLY: Well, it just, I'm just going to tell you that we adhere to the guidelines.

COUNCIL MEMBER LANDER: All right, Mr. Chairman, I appreciate that my time is up. I want that to be true, but it's hard to square with the information that's been reported publicly, and with only the statement that it is. But I do thank you for your time.

RAYMOND KELLY: Well, again, I would say that everything that you read is not necessarily correct.

CHAIRPERSON VALLONE: Thank you, Council Member, and I appreciate everyone staying within the time limit. I know there's a lot you want to, you want to follow up on. Quickly, Commissioner, how many--I know you've got police officers in at least eleven different cities--what countries have you found most terrorist plots against New York City emanate from?

RAYMOND KELLY: Well, we've had 13

1
2 plot--what countries, I can go down each of the
3 plots. Some of them came here, from right here,
4 so but, when you say "What countries?" I'd have to
5 go through each one of 'em, it's not that clear.
6 Some of them are multiple countries. It's, it's a
7 complex world.

8 CHAIRPERSON VALLONE: Okay.

9 RAYMOND KELLY: Particularly the,
10 the plot that was announced in 2006, as far as the
11 Path, subway tubes, that actually had roots in
12 three countries.

13 CHAIRPERSON VALLONE: Which were
14 those?

15 RAYMOND KELLY: Iran, Tunisia and
16 U.K.

17 CHAIRPERSON VALLONE: Okay. So, if
18 you, if you find a lead coming from any country,
19 Iran, Morocco, let's say, that's come up, and if
20 you get a lead that there's a terror threat from a
21 certain area, a geographic area like Morocco,
22 you've testified that you want to know, and so
23 would I, where those terrorists would most likely
24 try to blend into if they arrived into New York
25 City. So, what actions do you then take once you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

get a lead regarding a specific country?

RAYMOND KELLY: Well, again, we, we go into the, we check for leads, as is authorized in the Handschu Stipulation. Then if there's something, some indication there, we'd move into the preliminary inquiry stage, which enables us to do a series of things, including, if necessary, using undercover or confidential informant people. Then it depends on the circumstances.

CHAIRPERSON VALLONE: Obviously, I could follow up, but I don't want to take more time from the other Council Members. Council Member Williams followed by Garodnick and Gentile.

COUNCIL MEMBER WILLIAMS: Thank you, Mr. Chair. First, I'd like to acknowledge, again, Mrs. Halberstam for being here, and I can't even imagine what it's like to lose a child, so thank you for coming out. And thank you for your testimony, Commissioner. And I want to thank you also for being responsive to me, and the crime that's going on in my community, and also agreeing to do an investigation about what happened to myself and Kirsten Foy [phonetic], he was in the audience, as well. And we're awaiting the results

1
2 of the--and thank you for the NYPD for continuing
3 to keep us safe. I do want to go to something
4 that was going on on page seven, that my colleague
5 read. What it seemed to me, according to that,
6 is, that paragraph that says, the cafés that you
7 are then allowed to do research even without
8 specific causes to do so. So, have you ever done
9 surveillance on any organization, mosque, cafés,
10 or persons, without a specific threat or cause?

11 RAYMOND KELLY: I don't know what
12 you mean by "surveillance." We would only do what
13 I would consider to be surveillance pursuant to an
14 investigation.

15 COUNCIL MEMBER WILLIAMS: So, have
16 you ever gone to any of these things without a
17 lead. Have you ever gone to a mosque, a synagogue
18 for that matter, an organization, a person,
19 followed a person, without having a specific lead?

20 RAYMOND KELLY: I, I can't say that
21 definitively, but we have a structure in place
22 with the Handschu Guidelines, that says you can
23 check leads, and then you do preliminary
24 inquiries. We follow that, that structure.

25 COUNCIL MEMBER WILLIAMS: And I'm

1

2 sorry, I'm going to push along, 'cause I want to
3 make sure I get everything. But you said you
4 can't say that definitively. Why would you not
5 know that?

6

RAYMOND KELLY: I don't know every
7 detail of every action or activity on the part of
8 our investigators, but I--I'm fairly confident to
9 say that we adhere to the structure of the
10 Handschu Guidelines.

11

COUNCIL MEMBER WILLIAMS: Okay,
12 thank you. Is there any outside agency that makes
13 sure that you adhere to the Handschu Guidelines?

14

RAYMOND KELLY: Well, it is a
15 federal court, and judge. And then there is an
16 entity, it's an inside/outside structure, where
17 there is appointed attorney by the Mayor, who
18 looks at any Handschu complaints that surface--

19

COUNCIL MEMBER WILLIAMS: So it's
20 complaint driven.

21

RAYMOND KELLY: --and there is the
22 internal, the head of Internal Affairs, and our
23 Deputy Commissioner of Legal Matters.

24

COUNCIL MEMBER WILLIAMS: It's, so
25 it's compl--

1

2

RAYMOND KELLY: So it's two people from inside the Department, and one person from outside the Department.

3

4

COUNCIL MEMBER WILLIAMS: But it's primarily complaint driven.

5

RAYMOND KELLY: I'm sorry?

6

COUNCIL MEMBER WILLIAMS: It's primarily complaint driven.

7

RAYMOND KELLY: Yes. But inside, now we have our own committee--

8

9

COUNCIL MEMBER WILLIAMS: I understand.

10

11

RAYMOND KELLY: --that looks at, a separate committee, that looks at our investigations, and make certain that we're in conformance with the Handschu guidelines.

12

13

14

COUNCIL MEMBER WILLIAMS: Okay. I hope some of my colleagues follow up on that.

15

16

17

RAYMOND KELLY: An internal investigation.

18

19

COUNCIL MEMBER WILLIAMS: But for the crime, on page one, it mentioned that you haven't given up an inch on crime. I was concerned about that, 'cause I know my shootings

20

21

22

23

24

25

1
2 have gone up in my district, and I believe it was
3 rape or one of those crimes that had actually gone
4 up. Have we considered redeploying or how we
5 deploy, 'cause I know we moved a lot of police
6 officers, to anti-terrorism, and I'm concerned
7 that they may have been the cause for some of
8 these increases in some crimes.

9 RAYMOND KELLY: Oh, I don't think
10 so. I--citywide, you know, crime is down, down 35
11 percent. Your area might see a spike, but it's
12 down significantly from what it was ten years ago.
13 I know you and I have had this discussion,
14 certainly down, way down from what it was 20 years
15 ago.

16 COUNCIL MEMBER WILLIAMS: But it's
17 on the rise, and I'm just wondering--

18 RAYMOND KELLY: Well, you know,
19 you're always going to get spikes. We're going to
20 get something, some area of the City where you're
21 going to see a rise in shootings or--

22 COUNCIL MEMBER WILLIAMS: Okay.

23 RAYMOND KELLY: --of violence,
24 that's the world in which we live.

25 COUNCIL MEMBER WILLIAMS: Well, and

1
2 I, for a stop and frisk, I know it's supposed to
3 lower crime, take guns off the street, I don't
4 think it has, I think it's led to a culture, part
5 of what's led to a culture that led to the
6 incident with me. Now, in 2007, there were 3.6
7 million white people stopped, 2.2 million black
8 people who were sotpped--

9 CHAIRPERSON VALLONE: Council
10 Member, this is an anti-terror hearing.

11 COUNCIL MEMBER WILLIAMS: Yeah, so
12 this is within the ten year period of the
13 terrorism.

14 CHAIRPERSON VALLONE: That's not
15 what this is about. You've got 51 seconds, follow
16 up, finish up.

17 COUNCIL MEMBER WILLIAMS: Those who
18 were, who were stopped where 94,530 whites,
19 453,000--I'm sorry, the first number was the
20 population, the next one was stopped, 453,042; the
21 number of stopped that did not result in arrests,
22 83,452 whites, 402,943 blacks and Latinos, just
23 blacks, sorry. That's 2007. So that represented
24 21.1 percent of the black population, 2.6 percent
25 of the white population. Of the ones that did not

1

2 lead to arrest, it's equal, it's about .008
3 percent, which means that just as a matter of who
4 you stop, you'll find people at that rate. So why
5 do we continue--

6

RAYMOND KELLY: Yes.

7

COUNCIL MEMBER WILLIAMS: --

8

stopping--

9

RAYMOND KELLY: Well, well we, we

10

have police officers, we have more police officers

11

in the areas where there's more crime. Reality is

12

that there are more police officers in minority

13

areas. And if you look at, and one of the things

14

we try to stop is shootings. 98 percent of the

15

shooting victims in our City are people of color.

16

And you know, there's all sorts of statistics, we

17

can go into statistics if you like, we don't stop

18

people based on race, we stop people based on

19

their--

20

COUNCIL MEMBER WILLIAMS: Oh, my

21

goodness.

22

RAYMOND KELLY: --on their actions.

23

And--

24

COUNCIL MEMBER WILLIAMS: Who!

25

RAYMOND KELLY: --again, the crime

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

is located in, in minority areas.

COUNCIL MEMBER WILLIAMS: I can't even follow up on that. I mean--

RAYMOND KELLY: Just, just as an example, you know--

COUNCIL MEMBER WILLIAMS: I mean, -
-

RAYMOND KELLY: --black males, age 15 to 29, make up three percent of the City's population; they make up 40 percent, almost 40 percent, of the homicide victims. So, I mean, crime is disproportionate in a minority community.

COUNCIL MEMBER WILLIAMS: I understand, Commissioner, I don't even have time to follow up.

RAYMOND KELLY: We can, we, well--

COUNCIL MEMBER WILLIAMS: So, but I have one last question.

RAYMOND KELLY: If you'd like to argue that, we can talk about it later.

COUNCIL MEMBER WILLIAMS: Yes.

RAYMOND KELLY: But as I say, 98 percent--

COUNCIL MEMBER WILLIAMS: And

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you're always available to me, so I appreciate that.

RAYMOND KELLY: 98 percent of the shooting victims are people of color; 96 percent of the homicide victims--

COUNCIL MEMBER WILLIAMS: And nobody's more concerned about that than the communities of more color which you--

RAYMOND KELLY: --are people of color. That's right. And that's what we're trying to address.

COUNCIL MEMBER WILLIAMS: But I just have one last question, and one, and this is not a joke, most of what's happened globally has happened in the financial institution. Has the police ever tried to figure out a sneak-and-peak system of Wall Street and the papers that they have, 'cause perhaps we can find out when the next global meltdown was going to happen? [laughter]

CHAIRPERSON VALLONE: Commissioner, you don't have to answer.

RAYMOND KELLY: Okay.

COUNCIL MEMBER WILLIAMS: I'm serious, no, that's a serious question.

1
2 CHAIRPERSON VALLONE: I'm serious
3 that that's not, has nothing to do with anti-
4 terror. Okay?

5 COUNCIL MEMBER WILLIAMS: Yes, it
6 does, within the last ten years after terrorism,
7 the prominent thing that has happened has been
8 financially and fiscal.

9 CHAIRPERSON VALLONE: Council
10 Member, you're taking your fellow Council Members'
11 time.

12 COUNCIL MEMBER WILLIAMS: No, no,
13 I'm not, I asked a very serious question.

14 CHAIRPERSON VALLONE: Yes, you are.

15 COUNCIL MEMBER WILLIAMS: Most of
16 the problems in the past ten years, besides the
17 specific terrorism has been financially, and
18 economically. And we are doing stop-and-frisks in
19 my community, but we're doing nothing to the
20 financial institution that's in New York City. My
21 question is have they set up any system to do the
22 same thing that they're doing with crime with the
23 financial system?

24 RAYMOND KELLY: And that's an issue
25 for the federal government.

1

2

COUNCIL MEMBER WILLIAMS: Thank

3

you.

4

CHAIRPERSON VALLONE: Thank you.

5

We'll see how many Council Member we still get to

6

ask, who still get to ask questions. Council

7

Member Garodnick, followed by Gentile and

8

Greenfield.

9

COUNCIL MEMBER GARODNICK: Thank

10

you, Mr. Chairman. Commissioner, I just want to

11

hone in on a particular area of your testimony, on

12

the subject of the devices that are equipped to

13

detect radiological threats. You noted in your

14

testimony that you distributed over 2,800

15

radiation pagers to officers, and you also noted

16

that there are truck based and boat based sensors.

17

Just for clarification, the distinction between

18

pager and sensor in your testimony, is that, is

19

there any distinction there?

20

RAYMOND KELLY: Pager, you would

21

call it a PRD, personal radiation detector, is

22

basically worn on the belt. Pager is probably not

23

the right term, but it, they look, they used to

24

look like pagers.

25

COUNCIL MEMBER GARODNICK: They're-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

-Okay. And so you have 28--

RAYMOND KELLY: It gives off a warning, it gives off a vibrate--or a sound. So that's why they're called--

COUNCIL MEMBER GARODNICK: It's a vibrator/sound that is detectable only to the officer, not--

RAYMOND KELLY: Yeah.

COUNCIL MEMBER GARODNICK: -- anywhere else.

RAYMOND KELLY: Right. But then we have more sophisticated devices that are in vehicles or on, on boats.

COUNCIL MEMBER GARODNICK: So, the 2,800, they are attached to 2,800 specific officers who are out and about during the course of any given day.

RAYMOND KELLY: Well, yeah, they're not all out at the same time. But yes.

COUNCIL MEMBER GARODNICK: Okay, so, you don't make sure that the 2,800 PRDs are out at any given moment, the point is that there are certain offices who are designated to move around with them. Is that correct?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RAYMOND KELLY: Yeah, right.

COUNCIL MEMBER GARODNICK: How sensitive are those PRDs?

RAYMOND KELLY: Well, they're, they're really quite sensitive. As I say, they can actually determine the isotopes, these new, sort of state-of-the-art devices that are being developed. We also have, now, the capacity to track them, it's a new aspect that they have, where we can, if we have several of them go off, we'll be able to see that at a central location.

COUNCIL MEMBER GARODNICK: So, it's--

RAYMOND KELLY: And we'll be getting more of those devices.

COUNCIL MEMBER GARODNICK: It's the PRDs that are able to detect the particular isotope, or is that the--

RAYMOND KELLY: The PRD.

COUNCIL MEMBER GARODNICK: So the PRDs, the ones that the individual officers have.

RAYMOND KELLY: Yeah, right.

COUNCIL MEMBER GARODNICK: And what is the furthest distance that one of those PRDs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

could actually detect radiation from?

RAYMOND KELLY: I would say maybe 40 feet, 50 feet. We have them where people will go, you know, you can drive by in a car, and the device will go off. Somebody may have had a medical test and they'll be stopped and, you know, we've had this happen at the, at the tennis tournament, the U.S. Open, where people who have had medical exams in the previous day or so, they'll be walking and officers will stop them, as they go through. So, I would say, you know, say 40 feet.

COUNCIL MEMBER GARODNICK: Do you get a lot of false positives on those PRDs?

RAYMOND KELLY: We get some, yeah.

COUNCIL MEMBER GARODNICK: I mean, it sounds like if you have a situation where people who've had medical treatment, if that could set it off at the U.S. Open, presumably it's not an infrequent occurrence for an officer to have that experience.

RAYMOND KELLY: It can happen, yeah.

COUNCIL MEMBER GARODNICK: So what,

1
2 what is their, what is the protocol for an
3 officer, if they were in that situation, let's
4 give the example, you just said--

5 RAYMOND KELLY: You stop and speak
6 to someone. I mean, obviously, what we'd be
7 concerned about is carrying radiological
8 materials. So, it's usually just entails a
9 discussion.

10 COUNCIL MEMBER GARODNICK: Right,
11 but I'm picturing the hypothetical you just gave,
12 actually the specific example about the PRD on a
13 specific officer, in a very crowded event where
14 they may not know exactly where the source of the
15 material was coming from. Might be, not be the
16 conversation with the person immediately in front
17 of them, but it actually could be somebody in the
18 distance. Is there a protocol for them in that
19 situation?

20 RAYMOND KELLY: Common sense, I
21 think would prevail there, we hope. Where a group
22 of people, you might try to get closer to someone
23 and see if it goes off. And then engage them in a
24 discussion. Again, what we're really, we're
25 concerned about is, you know, a significant amount

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of radiation.

COUNCIL MEMBER GARODNICK: Okay, I just think that I'm perhaps not understanding, then, how it is detecting it. Because I'm picturing it detecting something that is not seeable or not perceivable at a particular moment, so even if your common sense would say, "Okay, well this is not a high amount of radiation that we're detecting, but I don't exactly know where it is coming from around me, it might not actually lead to a conversation that could be had with any one particular person."

RAYMOND KELLY: It may not. So, I mean, you--

COUNCIL MEMBER GARODNICK: So is there--

RAYMOND KELLY: --make a record of it. You know.

COUNCIL MEMBER GARODNICK: Okay. So then there, is there an amount of radiation beyond which this becomes an issue for the officer? They, they know that if they're detecting above a certain amount, that's where they should be concerned. Is that how--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RAYMOND KELLY: Yeah.

COUNCIL MEMBER GARODNICK: --they
make that--

RAYMOND KELLY: I don't know
exactly what the deal is.

COUNCIL MEMBER GARODNICK: Okay.

MALE VOICE: [off mic] It's a
multiple of background radiation, so--It's a
multiple of background radiation.

COUNCIL MEMBER GARODNICK: Okay, so
there's a specific threshold beyond which, or
below which they are trained not to be overly
concerned.

[time bell]

MALE VOICE: That's correct.

COUNCIL MEMBER GARODNICK: Let me
just, one more, do you mind? Last one is, on, in
response to a question from the Chairman, you
noted that the procedure, if, if you get a
notification from a private entity that happens to
have one of these detectors, if it goes off, or if
you have an NYPD detector, you know, there's a
HAZMAT response, and it triggers a whole process.
Is it as, is it the same process for your guys, if

1

2

you get a notice from a private entity, that has detected some sort of radioactive material, as it would be if it is your own detector on a boat or a truck or one of these PRD devices?

6

RAYMOND KELLY: We would send out people there, and use our own detection devices.

7

8

COUNCIL MEMBER GARODNICK: Okay, the reason I, and the reason I ask, of course, and you can address this later if you wish, is because on the point of the reliability of those devices, it sounded like the NYPD was particularly concerned about what those circumstances would be in which that would be reliable enough to respond, but it sounds like you respond.

10

11

12

13

14

15

16

RAYMOND KELLY: Well, that, that-- yeah, I think that's what de facto has happened. You get a reading, then our people will respond. I think that this was a few years ago, when we were concerned about that, that there would be over response. I think quite frankly, that hasn't materialized, where it's an overwhelming number of calls.

17

18

19

20

21

22

23

24

COUNCIL MEMBER GARODNICK: Thank you.

25

1
2 CHAIRPERSON VALLONE: Thank you,
3 Council Member. And to follow up briefly,
4 Commissioner, what type of handheld radiological
5 devices are you most concerned about and how would
6 that threat most likely enter New York City?

7 RAYMOND KELLY: Device?

8 CHAIRPERSON VALLONE: Yeah.

9 RAYMOND KELLY: Oh, you mean, oh,
10 it would mean--

11 CHAIRPERSON VALLONE: Would it be
12 a--

13 RAYMOND KELLY: --supply or an
14 amount of?

15 CHAIRPERSON VALLONE: Well, yeah.

16 RAYMOND KELLY: Yeah, I think one
17 of the things initiated--

18 CHAIRPERSON VALLONE: Just actually
19 what is it, a small nuclear device? What are we
20 talking about that you're concerned about?

21 RAYMOND KELLY: We are concerned
22 about radiological material, say for instance from
23 hospitals, where you can gather a certain amount
24 of radiological material, and create what's
25 referred to as a dirty bomb. So, you could be,

1

2 you could be walking out of some location, with a
3 small amount on a regular basis, that you could
4 accumulate. So, you know, we're concerned about
5 something like that happening, but I can't give
6 you a specific amount.

7

CHAIRPERSON VALLONE: What would
8 the results of something like that happening be
9 for New York City?

10

RAYMOND KELLY: Depends. There was
11 a movie, sort of a documentary put together, the
12 British did it about eight years ago, called
13 "Dirty Bomb," and it, it talks about a dirty bomb
14 being detonated in London. And what it would do
15 would be, deprive access to an area in London for
16 several years. I mean, people were killed,
17 there's a whole, you know, there's a whole
18 scenario where people were killed as a result of
19 the explosion, but the radiological aspect denied
20 access to that location for several years. That's
21 how they, that's how the movie ends. So, it
22 depends, depends on the amount that is used.

23

CHAIRPERSON VALLONE: Thank you.

24

We'll do a movie screening at the next hearing.

25

Council Member Gentile, followed up by Greenfield

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

and Rose, and ending with Chin at this point.

COUNCIL MEMBER GENTILE: Thank you, Mr. Chairman. Commissioner, I'm not familiar with the Handschu Guidelines, but I do understand that they were advised after 9/11. Could you talk a little bit about that, and how they were revised? And what it is that it included that you now use?

RAYMOND KELLY: Yeah. Handschu, as I said before, actually was initiated in 1971, Handschu is the name of a plaintiff in a case that accused the Police Department of monitoring political activity. Anyway, the negotiations went on till 1985, when the Handschu Stipulation was, was signed. What it did was it, it required a criminal predicate before, in other words, actually had suspicion of a crime, a critical, criminal predicate. And you couldn't share the information that you receive with any other law enforcement agency, unless it adhered to the Handschu guidelines. Well, nobody would, why would they, why would they agree to it? So, and then it put in place a, sort of an oversight entity, similar to when I mentioned before, where it would have some from outside the Department and

1
2 two people from inside the Department to look at
3 these so-called political investigations. We went
4 to Judge Height [phonetic] in 2002, asked for a
5 modification of it, said that it wasn't realistic
6 for the environment that we found ourselves in.
7 The Judge ultimately agreed and as I said actually
8 was 13 separate decisions, apparently, that
9 emanated in the new Handschu Guidelines. And what
10 it, what it did was, eliminate the need for the
11 criminal predicate. And also, authorized the
12 sharing of this information. And it, it put in
13 place a structure to do investigation similar to
14 the FBI regulations. That's where there's four
15 steps that I mentioned before: check for leads,
16 preliminary inquiry, an investigation, and then a
17 terrorist enterprise investigations, all of them
18 have some specific information and timetables, as
19 to how long you can do an investigation, then you
20 have to go back to the Handschu Committee to get
21 it renewed, if you can, you make an argument for
22 that. So, basically, it, what it did was make the
23 restrictions in Handschu more in keeping with the
24 threat environment that we find ourselves in.

25 COUNCIL MEMBER GENTILE: So the, so

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the leads or the surveillance that you're now able to do can come before a criminal predicate.

RAYMOND KELLY: Correct. It-- again, if there is information as to the-- indicates a possibility of unlawful activity, you can do a lead inquiry.

COUNCIL MEMBER GENTILE: But just to be sure, the types of, the surveillance that you do, is public view type surveillance, other-- and any other--

RAYMOND KELLY: What do you mean by surveillance? I don't know what you mean.

COUNCIL MEMBER GENTILE: Just surveilling a location, for example. Would that be just a public, just a public view surveillance, and any other type of information that you would get would come from an informant, or--?

RAYMOND KELLY: Well, I--

COUNCIL MEMBER GENTILE: Or some, something within a particular organization.

RAYMOND KELLY: I mean, a lead may not necessarily be a phone call, it can come from a lot of, you know, different sources. We do have people who call in information, and it maybe

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

something, you know, publicly available information. It's hard to give you with exact specificity. You're using the world surveillance, surveillance--

COUNCIL MEMBER GENTILE: Right, it may not be--

RAYMOND KELLY: Yeah.

COUNCIL MEMBER GENTILE: --it may not be the exact terminology, but you're not, you're not in the first instance getting, eavesdropping or any type of electronic warrant, for particular locations.

RAYMOND KELLY: No.

COUNCIL MEMBER GENTILE: You, you would need those predicates.

RAYMOND KELLY: No, that is, in the checking for leads, that is precluded. You have to move through the other, the other stages--

COUNCIL MEMBER GENTILE: Right.

RAYMOND KELLY: Before you can do that. And of course, you'd have to go to a judge for that.

COUNCIL MEMBER GENTILE: Let me just end, then, with this inquiry: I'm curious

1
2 that an Imam from my area, my neighborhood, who
3 was, who was part of the Bay Ridge Islamic Society
4 [time bell] Imam Shata, was known--and this is my
5 last question, Mr. Chairman--was known to speak
6 out against terrorism. But I understand from
7 reading some of the reports, that he actually was
8 listed as a threat. Now, from the community's
9 point of view, he has always spoken out against
10 terrorism. So, are we talking about other
11 information that comes in about someone?

12 RAYMOND KELLY: I'm not speaking
13 about any specific case, I'm sorry.

14 COUNCIL MEMBER GENTILE: Okay.

15 RAYMOND KELLY: Yeah.

16 CHAIRPERSON VALLONE: Thank you,
17 Council Member. Thank you, again, for staying
18 within your time limit. I commend all Council
19 Member for that, and to figuring out how to ask a
20 question as the bell's about the ring. Very
21 impressive, all of you [laughter] have done that
22 very well. Council Member Greenfield, followed by
23 Rose and Chin.

24 COUNCIL MEMBER GREENFIELD: Thank
25 you, Mr. Chairman. We've had years of practice.

1
2 Commissioner, thank you for your testimony today,
3 and I have to say that obviously it's incredibly
4 impressive that in the last ten years, crime has
5 continued to go down and there has not been a
6 successful terrorist attack. And you've done that
7 with a lot less funding, and we're very grateful
8 for that. And so we give you a lot of credit for
9 that in particular. I just have some questions
10 about your testimony. You mentioned, I think you
11 specifically referenced and interview, "60
12 Minutes," a very popular "60 Minutes" broadcast,
13 where there was a question about the NYPD's
14 ability to take down small aircraft. And I think
15 that you said that that would be done through 50
16 caliber rifles. Just to be clear, do you have the
17 capacity to take down larger aircrafts, or is it
18 only smaller aircrafts?

19 RAYMOND KELLY: No.

20 COUNCIL MEMBER GREENFIELD: You
21 don't have the capacity. The next question I have
22 is that it's, you mentioned over here that you
23 obviously go through these, the unthinkable,
24 because that's what you have to do. And so you
25 discuss having a direct line to FAA towers, local

1
2 airports, etc. Who would make the decision to
3 take down a small aircraft? Would it be you?
4 Would it be the FAA? Would it be the Air Force?
5 Would it be the Mayor? Who has to make that final
6 decision?

7 RAYMOND KELLY: This would be, this
8 would be a very extreme situation.

9 COUNCIL MEMBER GREENFIELD: Of
10 course.

11 RAYMOND KELLY: Obviously, the
12 Mayor. Anytime there's a threat, the Mayor is
13 notified immediately. We would want to have the
14 federal authorities send resources here, as
15 quickly as possible. But what we didn't want to
16 be is totally helpless at 2:00 o'clock in the
17 morning--

18 COUNCIL MEMBER GREENFIELD: Sure.

19 RAYMOND KELLY: --with a small
20 plane disseminating anthrax over Manhattan. And
21 waiting for something to come from an Air Force
22 Base in Massachusetts, maybe. So, it gives us an
23 extra, a leg up for that specific threat.

24 COUNCIL MEMBER GREENFIELD:
25 Instance. So the Mayor would have the authority

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

for those specific instances himself.

RAYMOND KELLY: Well, I mean,
authority--

COUNCIL MEMBER GREENFIELD:
Without--

RAYMOND KELLY: Again--

COUNCIL MEMBER GREENFIELD: Yeah.

RAYMOND KELLY: You know, this
would be an extreme--

COUNCIL MEMBER GREENFIELD: Of
course, of course, of course, yes.

RAYMOND KELLY: --situation. You
know, it is a, again, it would be something that
the, there'd be no other reasonable alternative.
And--

COUNCIL MEMBER GREENFIELD: But it
would be the Mayor.

RAYMOND KELLY: --the Mayor would
be involved in that decision.

COUNCIL MEMBER GREENFIELD: And it
would be his decision that would be the final
decision, or would there be another--

RAYMOND KELLY: Well, I--you know,
yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER GREENFIELD: Okay.

I appreciate that. I want to, I want to briefly, and I know, and Chairman, bear with me for 30 seconds, you'll understand where I'm going with this. In terms of the stop and frisk that my colleague spoke about, obviously there's very significant numbers and a significant amount are minorities. Is there any value in terms of counterterrorism for stop-and-frisk? Is that used at all? Or is it purely for dealing with typical street crimes?

RAYMOND KELLY: Well, certainly, if someone was acting suspiciously, you know, and to get, rise to the level of reasonable suspicion, stop them and talk to them, and ask them appropriate questions.

COUNCIL MEMBER GREENFIELD: But in general you don't--

RAYMOND KELLY: It might be in a particular situation, yes.

COUNCIL MEMBER GREENFIELD: But that's not what it's generally used for, right? I mean it's not, is that part of the calculus in terms of the stop-and-frisk, is there a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

counterterrorism component at all, or not really?

RAYMOND KELLY: It's a
counterterrorism possibility.

COUNCIL MEMBER GREENFIELD: Okay.
What about, do you guys have any stats on how many
residents versus tourists, for example, and stop-
and-frisked? I know we have--

RAYMOND KELLY: Residents versus
what?

COUNCIL MEMBER GREENFIELD: New
York City residents versus tourists. Also,
working into the counterterrorism angle--

RAYMOND KELLY: No, I don't know
that.

COUNCIL MEMBER GREENFIELD: --
considering that we have millions of tourists in
the City, is there a way to get that, potentially,
in terms of the, knowing whether the folks are
residents versus they're from outside of New York
City?

RAYMOND KELLY: Not everybody gives
their address, in that situation, I don't know--

COUNCIL MEMBER GREENFIELD: Okay.

RAYMOND KELLY: --how valid it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

would be.

COUNCIL MEMBER GREENFIELD: Let me ask you this question. The Mayor, last month, made a remark where he indicated his, it was his belief that if the unemployment situation kept on creeping up in, throughout the United States, potentially we could have a situation where we would see riots. That was, those were the words that he used. Do you agree with his assessment? And if so, what measures are you taking to deal with that eventuality?

RAYMOND KELLY: I, I--I would defer with the Mayor, to the Mayor on that. I don't have an opinion on it.

COUNCIL MEMBER GREENFIELD: So are you taking, are you taking any--

RAYMOND KELLY: In terms of, in terms of prepared for, for disorder--

COUNCIL MEMBER GREENFIELD: -- measures for the potential of widespread riots and anarchy, which I mean--

RAYMOND KELLY: I--

COUNCIL MEMBER GREENFIELD: I only ask because if the Mayor brings it up--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RAYMOND KELLY: --that's the Mayor's, Mayor's opinion. You're asking me our ability?

COUNCIL MEMBER GREENFIELD: Yeah, I mean, I mean, if the Mayor brings it up, I imagine that's something that, I mean, I'm, I'm concerned because the Mayor spoke about it. I wasn't concerned until he spoke about it, but now I'm concerned. And I'm wondering [laughter] is there, has the NYPD, as a result of the Mayor's concern, has the NYPD taken any actions or any, done any inquiries in terms of what would happen if there were to be wide scale protests, a la Egypt, which is specifically what he was referencing.

RAYMOND KELLY: No, I can -- tell you that we have an ongoing program of disorder control training.

COUNCIL MEMBER GREENFIELD: Okay, final, final question. There has been a lot of media reports on the relationship, the relationship that the NYPD [time bell] has with the CIA. Can you just explain to us from your perspective, just what is that, what exactly is that relationship and what does it entail? 'Cause

1
2 I know, as you pointed out, sometimes information
3 gets out there that's not accurate. So perhaps
4 you can tell us from your perspective--

5 RAYMOND KELLY: Yeah, well, I
6 mentioned in my prepared remarks about the--

7 COUNCIL MEMBER GREENFIELD: Yeah.

8 RAYMOND KELLY: --we, we have, they
9 are authorized to assist local law enforcement.
10 We have someone who is employee of the CIA, who
11 works with us, gives us some technical assistance,
12 some tradecraft information, that sort of thing.
13 Obviously, we can't give him any information, he
14 doesn't have access to any of our investigative
15 files.

16 COUNCIL MEMBER GREENFIELD: Okay,
17 thank you, Commissioner.

18 CHAIRPERSON VALLONE: Thank you.
19 Council Member Rose.

20 COUNCIL MEMBER ROSE: Hi,
21 Commissioner.

22 RAYMOND KELLY: Hi.

23 COUNCIL MEMBER ROSE: You know,
24 well, I want to thank you for, you know, being
25 here, to testify at this hearing, on this very

1
2 important subject. And I'm distressed that we
3 can't get you to attend the stop-and-frisk
4 hearing. And so I'm looking forward to, you know,
5 I hope really in the near future, you attending an
6 oversight hearing on "Stop, Question and Frisk."
7 Because many of the elements that we're discussing
8 today are the same that exist under "Stop,
9 Question and Frisk" policy. And along that line,
10 in keeping, I'm concerned about how, the
11 information that is collected and recorded, what
12 do you do with that?

13 RAYMOND KELLY: What information
14 are you talking about?

15 COUNCIL MEMBER ROSE: Especially,
16 I'm talking specifically about the Moroccan
17 community, where you collected mundane, you know,
18 information as they went about their daily
19 activities.

20 RAYMOND KELLY: Well, under
21 Handschu--

22 COUNCIL MEMBER ROSE: What do you
23 do with that information?

24 RAYMOND KELLY: --some of that
25 information, information we're authorized to

1
2 collect, without an investigation, if in fact it's
3 pursuant to an investigation, it would be kept in
4 an investigative file.

5 COUNCIL MEMBER ROSE: So, you
6 maintain a database with all of this information?

7 RAYMOND KELLY: It depends on what
8 type of document we're talking about. But we do
9 have, we do have databases, yes.

10 COUNCIL MEMBER ROSE: And so, what
11 is the sort of lifespan of this database? How
12 long is this information kept?

13 RAYMOND KELLY: Well, there are
14 regulations in the City that documents have to be
15 kept for 40 years. There's the, the recordkeeping
16 requirements of the, of the City; unless there's
17 some other regulation that would allow it to be
18 destroyed.

19 COUNCIL MEMBER ROSE: So all of the
20 mapping and the demographic information that you
21 keep, you potentially keep--

22 RAYMOND KELLY: Well, it depends,
23 it de--

24 COUNCIL MEMBER ROSE: --for 40
25 years?

1
2 RAYMOND KELLY: --it depends, it's
3 not, it depends on how we, we obtain the
4 information.

5 COUNCIL MEMBER ROSE: So, when is
6 it purged? Or what's the process? What do you
7 look at in terms of relevance of purging this
8 information? Where this information is no longer
9 kept in an active database?

10 RAYMOND KELLY: Our demographic
11 information, we would keep. No reason not to keep
12 that information. Ideally, it would be upgraded
13 with census information, that sort of thing.

14 COUNCIL MEMBER ROSE: And the
15 mapping and the collection of--is there a specific
16 term that you use for the information that you
17 collected on the Moroccan community?

18 RAYMOND KELLY: No, I think I
19 answered that question. That was pursuant to--

20 COUNCIL MEMBER ROSE: This the
21 Handschu?

22 RAYMOND KELLY: --a particular
23 investigation.

24 COUNCIL MEMBER ROSE: Okay, so,
25 Handschu information that is collected, does that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

have a lifespan?

RAYMOND KELLY: Some, if we collect information at a public hearing, or a public event, we can't keep that, that information. In other words, if it's a handout or something, if it's not pursuant to an investigation, we can't keep that unless--we can't keep that information.

COUNCIL MEMBER ROSE: Okay, so, much like "Stop, Question and Frisk," that database, if it's not used as--

RAYMOND KELLY: That's a totally separate deal.

COUNCIL MEMBER ROSE: But it's also a database that, that you know, you collect, based--information.

RAYMOND KELLY: Yeah.

COUNCIL MEMBER ROSE: And so, if you're not, if you don't use it, if there's no arrest, at some point that information is purged.

RAYMOND KELLY: But--

COUNCIL MEMBER ROSE: Is this infor--

RAYMOND KELLY: Yeah, we, we--

COUNCIL MEMBER ROSE: I'm trying to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

find out, at what point do you purge this information that you're collecting on citizens that are not, you know, proven to be involved in terrorist, you know, activities?

RAYMOND KELLY: That, that purge, I think two years. I think it's--And now, we, we can't, we don't collect--in the database, there was just legislation that was passed, Governor Patterson assigned it, where we cannot put the names of people in the database. So, that's kept on a paper file in the local, local command. But names of individuals stopped are not in the database. As far as "Stop and Frisk" is concerned.

COUNCIL MEMBER ROSE: Okay. I'm just trying to find out how long you maintain this information that you're collecting, even through the CoIntelPro [phonetic] you know, information that you collect, how do you, you know, is there a point at which you no longer, you discard that information?

RAYMOND KELLY: Yes, I mentioned to you that if there's information that is handed out [time bell] at a, an event that we go to, and we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

can do that under the Handschu Stipulation--

COUNCIL MEMBER ROSE: Right.

RAYMOND KELLY: --we don't keep that information. Okay, we can't keep it, it's set aside.

COUNCIL MEMBER ROSE: Discarded.

RAYMOND KELLY: Otherwise, we keep records for 40 years. That's the requirement in the City. The City regulation. We keep anything that we generated for 40 years.

COUNCIL MEMBER ROSE: Okay. Thank you, my time is up, thank you.

CHAIRPERSON VALLONE: Thank you, Council Member. The last Council Member that's listed, and we're not putting anyone else on, because the Police Commissioner has been very generous. He was supposed to be here an hour and it's been over an hour and 45 minutes, it's going to be Council Member Chin. Thank you.

COUNCIL MEMBER CHIN: Thank you. Thank you, Chair. And thank you, Commissioner. I have two questions. One is are you, Park Row, reopening Park Row? [laughter] I know that we reopened Park Row to City buses, so I just hope

1

2 that you're considering like maybe allowing other
3 vehicle, maybe other buses, tour bus, to go
4 through?

5 RAYMOND KELLY: We would, we would
6 love to open Park Row. We understand that it's
7 been a burden on the community, and you have been
8 the, the Chinatown community has been unfairly
9 burdened. But it is, really, it is one of the
10 damages, you might say, collateral damage, of the
11 War on Terror, and 9/11. We have opened it up to,
12 to buses, we certainly look to see if we can open
13 it for any other buses. But right now, we don't
14 see it being open for free flow. It's just too
15 critical, we have a federal court complex there,
16 you've got the Manhattan Correctional Facility,
17 you have Police Headquarters. I know it's a big
18 issue for you, big issue for the community that
19 you represent. We, you know, this has been going
20 on for--

21 COUNCIL MEMBER CHIN: Yeah.

22 RAYMOND KELLY: --for quite a
23 while. But in terms of just opening it up free
24 flow, we, we don't see that happening.

25 COUNCIL MEMBER CHIN: But I think

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

we should have some discussion in terms of maybe opening up for some of the, you know, the tour bus that are visiting.

RAYMOND KELLY: Yeah, sure.

COUNCIL MEMBER CHIN: That would be very helpful.

RAYMOND KELLY: Yeah.

COUNCIL MEMBER CHIN: And my second question is around the World Trade Center Command Center. In terms of some update, how is that working, in terms of providing security, especially now that the memorial is open, around the World Trade Center site, with all the construction and all the visitors coming. You have, for the World Trade Center Command Center--

RAYMOND KELLY: Yes.

COUNCIL MEMBER CHIN: How is that working?

RAYMOND KELLY: Oh, we have a, we have a unit.

COUNCIL MEMBER CHIN: Yeah, how is that working in terms of providing the security down in that area, with now, with the memorial opened up, with so many visitors?

1
2 RAYMOND KELLY: We, we think it's
3 working well. So far, so good.

4 COUNCIL MEMBER CHIN: Are you
5 getting extra money, or resources, to--

6 RAYMOND KELLY: No.

7 COUNCIL MEMBER CHIN: --staff that?

8 RAYMOND KELLY: No, we'd love to
9 have it.

10 COUNCIL MEMBER CHIN: So--okay.
11 All right, thank you. Thank you, Chair.

12 CHAIRPERSON VALLONE: Thank you.
13 Commissioner, thank you for, for coming down
14 today. We, you deserve our thanks not just for
15 that, but for keeping us safe and our children
16 safe for the last ten years, and hopefully a lot
17 more to come. So, thank you for taking your time
18 today. We can, we look forward to continuing to
19 work with you on issues that we raised today, as
20 you always, as you always do. So, thank you again
21 to you and everyone you brought with you. In
22 fairness to the next panel, which will be the
23 Center for Constitutional Rights and NYCLU, we're
24 going to take a five minute break.

25 [pause]

1
2 CHAIRPERSON VALLONE: Okay, the,
3 the first, we're going to continue now. Thank
4 you. The first panel of guests who are invited
5 and responded, is Udi Ofer, whose name has already
6 come up from New York Civil Liberties Union, who
7 we've worked with many times in the past. I'm
8 sorry, I can't read this writing, with the last
9 name, is Amani [phonetic], I believe, from the
10 Center for Constitutional Rights. [background
11 comment] Okay, Nahal [phonetic], Nahal somebody.
12 Okay. [background comment] Okay. Thank you
13 both. I know, Udi, we've, we've been here before,
14 so you know the--

15 UDI OFER: Yes.

16 CHAIRPERSON VALLONE: So you know
17 the, how it goes, and you just, whoever wants to
18 begin. Thanks.

19 UDI OFER: So, what actually may
20 make more sense for Nahal to start, 'cause I'm
21 going to focus on the surveillance issue,
22 specifically, and Nahal is going to do more broad
23 strokes.

24 NAHAL ZAMANI: This on? Great.
25 Good afternoon. My name is Nahal Zamani, and I'm

1
2 an Advocacy Program Manager with the Center for
3 Constitutional Rights. The Center for
4 Constitutional Rights, or CCR, is a legal advocacy
5 and educational organization, dedicated to
6 advancing and protecting the rights guaranteed by
7 the U.S. Constitution, as well as the Universal
8 Declaration of Human Rights. In light of
9 Commissioner Kelly's emphasis on the protection of
10 civil liberties, I would like to take a couple of
11 moments to address the recent Occupy Wall Street
12 demonstrations. Particularly of concern, actions
13 committed by the NYPD, including allegations of
14 beatings, last night. Now this is a theme, you
15 know, we've been seeing peaceful political protest
16 activity across the country, including that which
17 is happening nearby, being met by brutal force, by
18 law enforcement, all while at the same time,
19 domestic surveillance activities by the
20 government, increasingly, dramatically, have been
21 increasing. That also includes the AP
22 investigation that was aforementioned, from
23 August, which outlines the relationship between
24 the NYPD and CIA, which was further elaborated
25 just one hour ago. You know, we do urge the City

1 Council to look into this matter immediately.
2
3 Because we are concerned not only about the
4 allegations of religious profiling, and the
5 illegal intrusive surveillance of entire
6 communities, as well as the threat to protected
7 activities under the U.S. Constitution. Further,
8 given Commissioner Kelly's discussion of the
9 makeup of the Police Department, I would like to
10 draw the Committee's attention to perhaps a less
11 diverse department--

12 CHAIRPERSON VALLONE: Ms. Zamani,
13 I'll give you some leeway on--

14 NAHAL ZAMANI: --the FDNY.

15 CHAIRPERSON VALLONE: --on Wall
16 Street, but now you're going to go into the FDNY?
17 You understand this is an anti-terror hearing,
18 right? We've got important things to discuss. If
19 you want to stick to anti-terror, I gave you a
20 little leeway, but you're going to go into a full
21 two paragraph on the Fire Department? You were
22 well aware of what this hearing was about. So,
23 you know, I'll give you a little leeway. Please,
24 please sum it up.

25 NAHAL ZAMANI: Sure. I did only

1
2 want to touch brief on the FDNY, with regards to a
3 landmark decision that came out yesterday,
4 regarding the discriminatory practices. And I do
5 urge the Public Safety Committee to consider this
6 decision and push the FDNY to make the steps
7 necessary. Now, given the discussions earlier and
8 Commissioner Kelly's emphasis on the impact of
9 daily lives of New Yorkers, I do want to touch
10 upon the issue of Stop and Frisk. We marked that
11 anniversary last month, of the terrible events of
12 September 11th. And I do also want to highlight
13 that in the same period of time, we'd seen the use
14 of this practice go up nearly 600 percent. CCR
15 has filed a federal class action lawsuit against
16 the City of New York, and the NYPD, challenging
17 these practices of racial profiling and
18 unconstitutional stops and frisks. We are seeing
19 them happening at alarming rates in communities of
20 color. I want to highlight three problems
21 surrounding this policy. First, it disparately
22 and unjustly affects black and Latino New Yorkers.
23 Second, the policy deteriorates the relationship
24 between the NYPD and the communities they police.
25 Third, the policy has proven itself ineffective in

1
2 its attempt to keep weapons or contraband off the
3 streets. Both the Committee, the City Council and
4 CCR regularly receive data from the NYPD about its
5 use of Stop and Frisk. We are currently analyzing
6 the first two quarters of data from 2011, but what
7 we do know, in 2011, a record three--sorry--a
8 record 600, over 600, 601 people were stopped,
9 that's over 600,000 people, 87 percent of which
10 were black and Latino residents, although they
11 only comprise, comprise only 50 percent of New
12 York City's entire and total population. These
13 numbers reflect an overuse of this practice in
14 black and Latino communities in New York. It
15 contributes the--sorry, the practice contributes
16 to continued mistrust, doubt and fear of police
17 officers in communities of color. Lastly, Stop
18 and Frisk has been proven to be ineffective at
19 reducing crime. In 2010, only 1.26 of all stops
20 resulted in the yield of weapons. Looking at the
21 first two quarters of 2011, we see that out of the
22 362,000 stops, only 1.85 percent of those led to
23 contraband being found, as well as only 1.17 of
24 those entire stops where weapons were found.
25 Further, as a member of the Campaign for Fair and

1
2 Just Policing, CCR asks the Committee to urge the
3 NYPD to end bias based policing, and to implement
4 policies that promote community safety and respect
5 the rights of all New York residents, particularly
6 in the light of the anniversary of 9/11, we must
7 ensure that the actions that purport to protect
8 New Yorkers are not in fact detrimental to their
9 safety. I thank you for your consideration.

10 CHAIRPERSON VALLONE: Thank you.

11 Udi, you've done this before, at least--

12 UDI OFER: Right.

13 CHAIRPERSON VALLONE: So please
14 keep your testimony--

15 UDI OFER: Yes.

16 CHAIRPERSON VALLONE: --to anti-
17 terror. You know, we just heard about Wall
18 Street--

19 UDI OFER: Yes.

20 CHAIRPERSON VALLONE: --the FDNY,
21 Stop and Frisk. The FDNY isn't even in this
22 Committee. I've allowed some leeway, but for
23 anybody coming up, it must be based on--and
24 there's a lot, a lot of civil rights stuff we just
25 discussed about anti-terror, which I'm sure you're

1
2 going to go into, which I look forward to hearing
3 your position on. Thank you.

4 UDI OFER: So I'm going to focus
5 solely on the issue of surveillance of Muslim, of
6 the Muslim community. And you have a copy of my
7 testimony, I'm going to read from it, it should
8 take about exactly three minutes. So, in a time
9 of national crisis, the government will exercise
10 its considerable powers to protect the public
11 safety. But, as is well documented in early
12 periods of American history, it is not only the
13 national security that is at risk. At such times,
14 individual civil rights and civil liberties often
15 come under attack, as well. On September 11,
16 2001, New York City and the nation entered, once
17 again, into such a time. It is in this context
18 that the NYCLU submits the following testimony
19 about various reports and accounts of NYPD
20 Counterterrorism activities that, if true, raise
21 serious concerns about the NYPD using national
22 security as a pretext for needlessly compromising
23 New Yorkers' rights and freedoms. In a series of
24 articles and broadcasts by the Associated Press,
25 Leonard Levitt, and National Public Radio, former

1
2 and current NYPD personnel have revealed that the
3 NYPD has conducted surveillance on New York City's
4 Muslim communities, targeting New Yorkers based on
5 their religious beliefs and practices, and with no
6 suspicion of wrongdoing. It is important that we
7 explain what those reports are. So, according to
8 these reports, the NYPD has one, dispatched
9 undercover officers to Muslim and Arab
10 neighborhoods in New York City in order to monitor
11 daily life, including at mosques, including at
12 bookstores, restaurants and internet cafés. Two,
13 the NYPD has deployed "mosque crawlers," to
14 monitor hundreds, if not thousands, of mosque
15 prayer services. Just one officer admitted to
16 having monitored hundreds of services, one
17 informant. Three, the NYPD has monitored
18 neighborhoods for "angry rhetoric and anti-
19 American comments" and targeted individuals based
20 on their reading habits and internet search
21 histories. Four, the NYPD has monitored Muslim
22 student associations at the area's colleges, such
23 as City College, Baruch College, St. John's
24 University, Queen College, and Brooklyn College.
25 Four, the NYPD has engaged in pretextual traffic

1 stops in Pakistani neighborhoods for the sole
2 purpose of recruiting informants to assist the
3 NYPD in targeting Muslim and Arab communities.
4
5 Five, the NYPD has built dossier, I'm sorry, six,
6 the NYPD has built dossiers on Muslim New Yorkers
7 engaged in no wrongdoing. And seven, the NYPD,
8 these news reports reveal, has destroyed documents
9 and other evidence to hide undercover operations.
10 The allegations contained in the media accounts
11 appear to be consistent with the radicalization
12 report released by the NYPD in 2007, which
13 conflated religious beliefs and practices with
14 preparations for terrorism, and focused
15 exclusively on people who practice Islam in the
16 United States. So why is this wrong? If these
17 allegations are correct, and we don't know yet if
18 they are correct, the constitution guarantees all
19 New Yorkers the equal protection of the laws. And
20 civil rights laws further protect us from
21 discrimination based on religion, ethnicity or
22 national origin. Yet despite these protections,
23 news reports suggest that the NYPD has singled out
24 Muslim New Yorkers for special scrutiny based on
25 their religious beliefs and practices. Both as a

1
2 matter of policy and as a matter of constitutional
3 principle, governmental conduct directed at
4 religious, ethnic or religious group, or at
5 individuals because of their religious, ethnic or
6 racial identities, is highly suspect and
7 presumptively impermissible. That's the wrong
8 presumption in the law, against religious, ethnic
9 or racial discrimination by government can only be
10 justified, if at all, if the government can
11 demonstrate that the practices in question are
12 necessary to achieve a compelling government
13 interest, and are narrowly tailored to achieve
14 that compelling interest. So the lawyers know
15 that as the strict scrutiny test. So, while
16 combatting terrorism may well provide the NYPD
17 with a compelling interest, and we're not arguing
18 that it does not, engaging in practices, to
19 subject entire communities of innocent Muslims, to
20 police scrutiny and surveillance, merely because
21 of their religion, are widely over broad, and
22 cannot possibly satisfy the requirements of the
23 law. The attacks of September 11, 2001, were
24 committed by Muslim men, but the common religious
25 practices of the 19 men must not be used as a

1
2 justification for the NYPD to engage in religious
3 and ethnic profiling on hundreds of thousands of
4 innocent New Yorkers. Our city's greatest
5 strength is its long history of integrating
6 diverse religions and cultures. The legitimate
7 fear of another terrorist attack cannot and must
8 not justify the profiling of law abiding New
9 Yorkers based on religion and ethnicity. Not only
10 have such practices shown to be unjust, but time
11 and again, they have shown to be ineffective.
12 Government programs that lead to the surveillance
13 of Muslim New Yorkers suspected of new wrongdoing,
14 of no wrongdoing, will not make New York safer,
15 but will tear apart the very fabric of our City's
16 democratic values. So serious charges are being
17 raised here about discriminatory NYPD activities,
18 and we ask the City Council not to wait until the
19 next news story before acting. So what are we
20 asking for? Number one, the City Council should
21 use its oversight authority in this Committee in
22 particular, to investigate NYPD operations that
23 target Muslim New Yorkers engaged in no
24 wrongdoing. Such oversight can and should take
25 place in a manner that will not threaten

1
2 legitimate criminal investigations. We recognize
3 that we must do so in a way that will not threaten
4 legitimate criminal investigation, but yet can be
5 done in such a manner that informs policy makers
6 in the public about how the NYPD deploys its
7 officers and spends taxpayer money. And secondly,
8 after conducting such an investigation, and
9 following further inquiry, the City Council should
10 determine whether there needs to be substantive
11 and procedural limitations to guard against these
12 abuses. I will end there.

13 CHAIRPERSON VALLONE: Thank you,
14 very, very informative and, and it's always good
15 to get the opinion of an attorney on these sort of
16 things. I don't know if you realize this, but
17 actually wrote the profiling law in New York City,
18 together with the late, great Phil Reed. And so,
19 there's another law involved here, which says that
20 religion or race cannot be the primary factor in
21 any--

22 UDI OFER: Determinative.

23 CHAIRPERSON VALLONE: --that, very
24 good, see?

25 UDI OFER: [laughs]

1
2 CHAIRPERSON VALLONE: I wrote it a
3 long time ago. Council Member Halloran.

4 COUNCIL MEMBER HALLORAN: Thank
5 you, Mr. Chair. I'm just going to direct one
6 question towards the testimony of Ms. Zamani. As
7 the Chairman said, this hearing was supposed to be
8 about 9/11. The Center for Constitutional Rights
9 is an organization dedicated to advancing and
10 protecting the rights guaranteed in the
11 constitution. Does that include the Second
12 Amendment? Probably not. I will now move back to
13 the NYCLU. [background comments] Is there--is
14 there--does that include the Second Amendment to
15 the Constitution?

16 NAHAL ZAMANI: I am not aware, but
17 I can get back to you.

18 COUNCIL MEMBER HALLORAN: Yeah, I
19 didn't think so. All right, let me talk about
20 some of the, this, the commentary in your report.
21 I am very concerned with liberty. I am very
22 concerned with the erosion of the Constitution,
23 and the amassing of power of the federal
24 government, which has decimated the Ninth and
25 Tenth Amendments. But by the same token, we're

1 balancing an incredibly difficult situation.
2 Commissioner Kelly testified that there has not
3 been a single non-Islamic extremist terrorist plot
4 in ten years aimed at the City of New York. Okay?
5 So, the exclusive issue before this Committee is,
6 how has the NYPD handled it, and has it been
7 satisfactory, given the balancing we are trying to
8 strike between liberty and security.

9
10 UDI OFER: Right.

11 COUNCIL MEMBER HALLORAN: And I
12 will agree with, with Ben Franklin who said, "If
13 you're willing to give up liberty for security, in
14 the end you'll have neither." But we're dealing
15 with a very specific type of threat. Absolutely
16 there are 99 percent of the Muslim population has
17 nothing to do with this. But unfortunately, in
18 New York, in Brooklyn, and in Flushing, Queens,
19 two mosques served as fronts for both channeling
20 money, channeling money, and recruiting local
21 terrorists. Six of the 13 plots broken up in the
22 last ten years involved local residents.
23 Certainly you're not saying that the Police
24 Department shouldn't be engaged in human
25 intelligence gathering. Right?

1
2 UDI OFER: That's correct, in
3 criminal intelligence gathering.

4 COUNCIL MEMBER HALLORAN: Okay.
5 And do you believe, do you have any basis to
6 believe, other than an AP story, do you have any
7 factual information that says the Police
8 Department is in violation, right now, of the
9 Handschu Consent Decree, which of course we all
10 know springs from the Black Panthers in 1971, and
11 the civil unrest that was created by surveillance
12 of local political groups, extending into the
13 Communist Party, and then requiring us to come to
14 that decision.

15 UDI OFER: Right.

16 COUNCIL MEMBER HALLORAN: Do you
17 have any direct evidence that that's the case?

18 UDI OFER: Look, the reality is
19 that we don't know a lot more than we do know, but
20 what we do know is bad enough to raise serious
21 concerns about Constitutional liberties and rights
22 being violated. And Council Member Halloran, you
23 know, I know that you, I think you describe
24 yourself as a Libertarian.

25 COUNCIL MEMBER HALLORAN: Mm-hmm.

1

2

UDI OFER: Which civil

3

libertarians, libertarians, we're one and the

4

same--

5

COUNCIL MEMBER HALLORAN: We're

6

very close, we're very close.

7

UDI OFER: --very close. And I

8

think, actually I would expect that you of all

9

people would understand that viewing this from the

10

prism of, if it's true, and I don't know if it's

11

factually accurate, but I will assume that

12

Commissioner Kelly's correct, that the only threat

13

that we have faced since 9/11 are threat from

14

people who practice the Muslim religion, is true--

15

COUNCIL MEMBER HALLORAN: Extreme

16

form of the Muslim religion. I'm--

17

UDI OFER: Okay, extreme form.

18

That in no way whatsoever, whether as a policy

19

matter or whether as a constitutional matter,

20

justify the surveillance of entire communities.

21

COUNCIL MEMBER HALLORAN: Agreed.

22

UDI OFER: As you know--

23

COUNCIL MEMBER HALLORAN: Agreed.

24

UDI OFER: --you mentioned the

25

Ninth and Tenth Amendment as the reasons that

1
2 you're concerned about the overreaching of the
3 government. We are much more concerned actually
4 about overreaching in the context of the Fourth
5 Amendment and the First Amendment.

6 COUNCIL MEMBER HALLORAN: First
7 Amendment, sure.

8 UDI OFER: And that is what
9 concerns us most here. The framers of our
10 Constitution were very clear that for the
11 government to intrude into the lives of
12 individuals, American citizens and non-citizens--

13 COUNCIL MEMBER HALLORAN: mm-hmm.

14 UDI OFER: --there needs to be
15 individualized suspicion--

16 COUNCIL MEMBER HALLORAN: Right.

17 UDI OFER: --of criminal activity.

18 COUNCIL MEMBER HALLORAN:
19 Articulable suspicion.

20 UDI OFER: That's right.

21 COUNCIL MEMBER HALLORAN: You're
22 absolutely right.

23 UDI OFER: If the AP stories are
24 true, then clearly the NYPD has overreached. And
25 that is--the problem is, we don't know if they're

1

2 true. And that's where I would say the burden
3 should not be on advocates to figure out whether
4 it's true, which we're going to try to figure out,
5 trust me.

6 COUNCIL MEMBER HALLORAN: Got you,
7 got you.

8 UDI OFER: And we've already filed,
9 you know, we're already back in court on Handschu,
10 as you know.

11 COUNCIL MEMBER HALLORAN: Sure,
12 sure.

13 UDI OFER: But I would say, and
14 give it back to you to say, it is up to the City
15 Council as the oversight entity of the New York
16 City Police Department, to figure out whether the
17 NYPD is overreaching and violating constitutional
18 rights.

19 COUNCIL MEMBER HALLORAN: And I
20 think that's really the questions that's in front
21 of right now, is what method do we use--Obviously,
22 the police are engaged in sensitive
23 investigations, some of which in a sense are
24 almost like national security investigations. And
25 articulable suspicion is the touchstone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UDI OFER: Right.

COUNCIL MEMBER HALLORAN: We don't want our government watching all of us, whoever all of us is, for no reason, simply because one is black, is white, is Muslim, is Christian, is-- absolutely agree. What we're trying to do, though, in the course of this, and I think the Chairman would agree with me, is that we're trying to find a way to balance both of those things in a context where we can have a public discourse on it, without it getting to the point of rhetoric. And that's--

UDI OFER: I agree.

COUNCIL MEMBER HALLORAN: --that's where I feel we keep, we keep missing, missing the ball. Now, certainly, in the past, the Ku Klux Klan, Christian Identity, National Socialists, in this country, have been monitored by the government. Why? Because their rhetoric isn't simply a political philosophy. It is a martial philosophy attached to it, a willingness to engage in violence to reach the ends of the political philosophy that they advocate. And I think we all know the crowd, the fire in a crowded theater

1
2 analogy, yes, you have First Amendment rights, but
3 they end where they are going to either directly
4 or indirectly affect the lives of another person.
5 And I think the Police Department is trying to
6 strike a balance. But I'll go one step further
7 and say that Brad Lander had an interesting
8 question, which doesn't have a good answer: Is
9 there an outside way to monitor that within the
10 Department? And the answer is right now no.
11 Perhaps that isn't the answer. Perhaps there
12 needs to be some stopgap, some safety valve,
13 looking at what's going on internally in a way
14 that the FISA Courts do it at the federal level.

15 UDI OFER: Mm-hmm.

16 COUNCIL MEMBER HALLORAN: I'm not
17 suggesting for a minute that that is
18 inappropriate--

19 UDI OFER: Can I actually give you-

20 -

21 COUNCIL MEMBER HALLORAN: Sure.

22 UDI OFER: --an advice. So, one of
23 the ways that Commissioner Kelly, I thought very
24 brilliantly actually sidestepped a question asked
25 by Council Members, is what do you define, how do

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you define surveillance?

COUNCIL MEMBER HALLORAN: Right.

UDI OFER: So, I would recommend for the Public Safety Committee to come up with a series of questions that actually go into detail, instead of using the broad language of surveillance, actually ask specific questions about the type of activities that we're concerned about, and ask simply "Have you engaged in this? And then if so, how many times?" How many bookstores have you gone into without criminal suspicion? How many times have you looked at a computer and searched its browsing history to figure out whether someone has gone on controversial websites? And by the way, what are those controversial websites. How many Muslim student associations at our area colleges have you gone into? He should be able to answer those questions without compromising safety, and that's a very important role that I think the Public Safety Committee can do. And I'll just end quickly, I know my time is up. I think whenever we're in these moments of crisis, it's important to provide a historical perspective.

1

COUNCIL MEMBER HALLORAN: Mm-hmm.

2

3

UDI OFER: And I would like for the

4

Committee to remember that in the beginning of the

5

20th Century, it was the Italian immigrants who

6

were being suspected. And being infiltrated by

7

the NYPD, this is very well documented. In the

8

1920s and '30s, it was the Russian and the Jewish

9

immigrants who were being infiltrated. In the

10

1950s and '60s, it was the civil rights movement

11

that was being infiltrated. We are, there is a

12

historical record that suggests that in times of

13

national crisis, the NYPD tends to overreach

14

unless it is being, there's a check on its

15

authority. And we're asking for this Committee to

16

be one of those checks.

17

COUNCIL MEMBER HALLORAN: Your

18

points are very well taken. From the suspension

19

of habeas corpus in the Civil War, to the

20

internment of Japanese and German Americans during

21

World War II, we have a unflattering picture of

22

compromising civil rights in the name of security.

23

I would just say that my experience with the NYPD,

24

and in particular Commissioner Kelly, he's tried

25

very hard to find that middle ground, but your

1
2 point about having some oversight over it, is a
3 perfectly legitimate one, and one we should be
4 concerned with. And I would, I would like to see,
5 perhaps, a little more detailed construct from
6 NYCLU as to what you think we should be doing in
7 terms of tailoring those questions, so as we can
8 achieve the goals of both maintaining the
9 confidentiality of ongoing investigations, and
10 going forward asking the questions that you think
11 will solve the riddle of what is being said and
12 not being said. I'd also just, just--yeah, I
13 know--just like to thank you for being here, I
14 really do appreciate it, and I didn't mean to be
15 sarcastic in the beginning, but I really do
16 appreciate it.

17 UDI OFER: Thank you, sir.

18 CHAIRPERSON VALLONE: Wow, I feel
19 like I should take notes of the [laughter] like at
20 a lecture. Like Council Member Greenfield said--

21 UDI OFER: Some of our law school
22 students are actually here, so. [laughter]

23 CHAIRPERSON VALLONE: Good, good,
24 then this is what democracy's about. Long and
25 [laughs] I just want to mention, before we get to

1
2 Brad Lander, that a lot of people have mentioned
3 oversight today. Sorry, Greenfield, first.
4 Oversight, and first of all, that's what we're
5 doing today, this is part of the oversight. And
6 every Council Member gets to ask their questions.
7 It's one of the reasons why grandstanding in
8 general gets me upset so much, because every
9 Council Member has a limited amount of time,
10 unfortunately, and I'd like them to get to the
11 good ques--today that didn't happen. Today there
12 was a lot of good questions, not a lot of
13 grandstanding, which is, which is rare. But
14 that's why, and we are, and so, we do oversight,
15 that's what this is about. We are severely
16 limited, though. I mean, you know that, we ask
17 the question, we get the answer, we don't have
18 subpoena power to, we have subpoena power to get
19 people here, but not to get, you know, anything
20 else. So we're bound by these answers, which we
21 get a lot of information. We just had the Police
22 Commissioner of New York City here answering our
23 questions.

24 UDI OFER: Yes, amazing.

25 CHAIRPERSON VALLONE: And we, we

1
2 have done more oversight with this Committee than
3 probably in the history of the City Council, and
4 probably in anywhere else in the country. We're
5 doing, we're limited, we understand that. This is
6 a very unusual situation, where you have a
7 municipal police department involved in overseas,
8 you know, operations. You know, should there be
9 some sort of federal, you know, oversight? Darn
10 good question. I'm not able to answer that right
11 now, it's a very interesting situation that's
12 never occurred before. But we are doing pretty
13 much all we can do with this Committee. Council
14 Member Greenfield.

15 COUNCIL MEMBER GREENFIELD: Thank
16 you, Mr. Chairman. I was going to joke that there
17 was going to be a test, but apparently there is
18 going to be a test for [laughter] students who are
19 here today. So I hope you're taking good notes.
20 Late at night you can catch this on cable
21 television in case you missed anything. Speaking
22 of cable television, I just, just to Ms. Zamani's
23 testimony, I just do, I do want to clarify 'cause
24 I think, I don't want there to be an implication.
25 I think we did hear from the Police Commissioner

1
2 in regards to the NYPD that they are doing an
3 outstanding job in terms of diversity, where they
4 have a minority majority police force, and I would
5 probably say that to my knowledge they're perhaps
6 the most diverse police force in the country. So
7 I think we need to give the Police Department
8 credit, 'cause I just, for people, for the twelve
9 people who watch us on cable at 4:00 o'clock in
10 the morning, I don't want them to think that you
11 were implying that the PD and Fire Department, and
12 as the Chairman pointed out, that's actually, we
13 have nothing to do with the Fire Department on
14 this Committee, it's not our, it's not under our
15 jurisdiction. I'm not sure why that is, Mr.
16 Chairman. [laughter] Maybe you can explain that
17 to me sometime. I guess Fire Department is not
18 Public Safety, who knew?

19 CHAIRPERSON VALLONE: No, no, what
20 actually happened is it was at one point, one
21 Committee. But the workload itself was just too
22 much, which is true. I mean, we have oversight
23 over the big, what could be the seventh largest
24 army in the world, and you're looking at our
25 staff. So [laughter] there were so many important

1
2 issues for two committees, that the form--one of
3 the former speakers [laughs] and not Gifford
4 Miller, okay, we're getting closer [laughter]
5 actually, broke it up into two different
6 committees. But that to do a better oversight
7 job, that's why.

8 COUNCIL MEMBER GREENFIELD: Got it.

9 I would just say we should hire more staff and
10 give them raises, and then that would solve our
11 problems. But seriously, seriously speaking, I do
12 have some questions for you, Mr. Ofer, about,
13 about your testimony. I just want to be clear,
14 'cause I think you kind of made this distinction
15 before, you said something to the effect of, you
16 know, "How do we know that this is happening?" We
17 don't actually know, right, I mean, when we, when
18 we discuss this, and this is not meant as a
19 criticism, it's just meant as a point of
20 clarification, 'cause I think it's an important
21 point, and the Commissioner before insisted, and
22 obviously we didn't have a chance to review
23 everything, but he did insist, and he was entitled
24 to do so, that just because you read something in
25 the paper, it's not true. And I can at least

1
2 vouch for the concept, and I'm sure you can as
3 well, that just because we read something in the
4 paper doesn't mean that it's true. So, my first
5 question is, and I understand your response in
6 terms of, "It could be true and need oversight,"
7 which is what we're trying to do and we need more
8 of it, but of these items that you've laid out,
9 and I think you numbered some of them, but they're
10 not numbered in our testimony, are there any that
11 you actually have evidence of? Or are these just
12 allegations?

13 UDI OFER: First of all, the AP
14 reports came out in late August. Commissioner
15 Kelly has now had a month-and-a-half to actually
16 provide specific distinctions between what in the
17 AP stories are true and what are not. There comes
18 a point where you can no longer just say, 'cause
19 we spoke about moving to a level beyond rhetoric,
20 when you could just say, "Well, you can't believe
21 everything that you read." I agree with that.
22 However, you have now had a month-and-a-half of
23 very specific examples of NYPD activities, that
24 Commissioner Kelly should at the very least be
25 able to answer yes or no to. Now, one Council

1
2 Member asked the question, "Do you engage in
3 surveillance of Muslims and mosques?" engaged in
4 overall and doing [phonetic]--and I was very
5 disturbed by the answer being, "It depends on what
6 you mean by surveillance." Right there, that
7 shows you that the answer, at least partially, is
8 yes. And that's where I don't think that the
9 burden should be on the advocates to prove when
10 there's already so many concerns being raised.
11 Having said all of that, having said all that--

12 COUNCIL MEMBER GREENFIELD: That's
13 not--

14 UDI OFER: --I know there are going
15 to be panels on after this, of community members
16 who this is not an academic conversation for, but
17 actually people who are attending mosque services,
18 who are attending, who parti--who go to the
19 bookstores at internet cafés, and the other places
20 that are being monitored, and live in the
21 neighborhoods that are being monitored, which a
22 lot of them actually I would assume fall into
23 Council Member Vallone's district, that I think
24 would be able to say, without hesitation, that
25 what is being described here is factually

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

accurate.

COUNCIL MEMBER GREENFIELD: So, Mr. Ofer, and I appreciate your response. I mean, I think they basically categorically denied it, if I remember correctly. So, I guess, I guess that's their version. I don't know if I would say that advocates shouldn't ask questions, I mean, if we, if advocates--I was an advocate once--if advocates didn't ask questions, then what would advocates do all day? Right, I mean, so--

UDI OFER: - - question things.

COUNCIL MEMBER GREENFIELD: So, so I'm saying, I think that's kind of roll. But you still didn't respond to my specific question.

UDI OFER: Okay, I will.

COUNCIL MEMBER GREENFIELD: And I just want that specific answer. Of these allegations, and I'm trying to help you clarify your point. This is not me challenging you, this is me trying to clarify the point. Which ones do you have definitive proof? It's helpful for us as a Committee when you come back and say, "Well, I know for a fact that four--" and "Here is a problem, and here's why," or "These are

1
2 allegations." And it's not to say that we don't
3 take allegations seriously, but allegations have a
4 process, allegations are not necessarily true.

5 And so--

6 UDI OFER: Right.

7 COUNCIL MEMBER GREENFIELD: --I'm
8 asking, of the allegations, and as you pointed
9 out, some people will testify later, but as the
10 umbrella civil liberties group--

11 UDI OFER: Okay.

12 COUNCIL MEMBER GREENFIELD: --which
13 one specifically do you know to be factual?

14 UDI OFER: But, wait, I'm not
15 trying to be flip here, but what the allegations
16 are of clandestine intelligence gathering
17 activities, and you expect me to come back and
18 say--

19 COUNCIL MEMBER GREENFIELD: I'm not
20 disagreeing, I'm not--

21 UDI OFER: Wait, wait, but I just
22 don't--

23 COUNCIL MEMBER GREENFIELD: Mr.
24 Ofer, I'm not disagreeing that these are serious
25 allegations, and I'm not trying to--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UDI OFER: No, but they're clandestine.

COUNCIL MEMBER GREENFIELD: I understand that--

UDI OFER: They're secret investigations.

COUNCIL MEMBER GREENFIELD: I understand that. I understand that, but they're obviously not such good--

UDI OFER: It's a bit of Catch-22.

COUNCIL MEMBER GREENFIELD: Well, they're not that secret, because there's a lot of footnotes and a lot of people who know about them. So, my point is, it's okay to say, it's okay to say that they're only allegations, we have no proof. There's nothing wrong with that, and we still take it seriously.

UDI OFER: I say it very, this whole--

COUNCIL MEMBER GREENFIELD: I'm just asking, is there anything that we know for a fact?

UDI OFER: The whole testimony is these are all allegations, and if they are true

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

they raise concerns, yes.

COUNCIL MEMBER GREENFIELD: Okay,
but there's nothing in particular that are
necessarily that we know for a fact?

UDI OFER: I know that there are
going to be people testifying later on that will
say, "I spoke with--I know that there was an
informant in my Muslim organization."

COUNCIL MEMBER GREENFIELD: Okay,
that's helpful.

UDI OFER: Yes.

COUNCIL MEMBER GREENFIELD: Okay,
very good. Thank you, I appreciate that. My
next, my next question is, you mentioned something
about internet search histories.

UDI OFER: Uh-huh.

COUNCIL MEMBER GREENFIELD: When we
say internet search histories, are we referring to
specific computers or are we talking about, are we
talking about cyber cafés? Do you know, for
example, if the NYPD has the ability simply to
track, track at a café, where that traffic is
being routed?

UDI OFER: Mm-hmm.

1
2 COUNCIL MEMBER GREENFIELD: How
3 much specificity do we have--

4 UDI OFER: Right.

5 COUNCIL MEMBER GREENFIELD: --in
6 this regard?

7 UDI OFER: Sure. So, what the AP
8 story was about--and I think both of your answers
9 are they're answers to both of your questions--
10 what the AP story was about was about the NYPD
11 going into internet cafés and checking the
12 browsing history of users of the computers, and
13 then taking up follow up action based on that
14 browsing history. That was what the AP stories
15 was about. And they gave specific examples. And
16 by the way, all the stories were based on current
17 information provided by current and former NYPD
18 personnel.

19 COUNCIL MEMBER GREENFIELD: Sure.

20 UDI OFER: Just to be clear about
21 that. Your other question, though, touches a
22 whole other issue, and actually mostly related to
23 the Patriot Act. Of law enforcement's ability to
24 track Americans use of the internet, under the
25 National Security letter provision of the Patriot

1
2 act, which has been used hundreds of thousands of
3 times since 9/11, local law enforcement does have
4 the ability, without going through the Foreign
5 Intelligence Surveillance Court, now local,
6 federal law enforcement has the ability, without
7 going through the Foreign Intelligence
8 Surveillance Court, to issue national security
9 letters that look at people's, you know,
10 transactional history over the internet. The NYPD
11 would have to get the Justice Department, the F--
12 to collaborate with the Justice Department and FBI
13 to get those national security letters. We know
14 that they do, we know - -

15 COUNCIL MEMBER GREENFIELD: - -
16 don't worry, they have a Joint Terrorism
17 Taskforce.

18 UDI OFER: Right, right - -

19 COUNCIL MEMBER GREENFIELD: It's
20 not that difficult for them, yes.

21 UDI OFER: So it's actually, and
22 just to be clear--

23 COUNCIL MEMBER GREENFIELD: Yes.

24 UDI OFER: --to get a national
25 security letter, you--'cause this has been the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

subject of litigation by the NYCLU.

COUNCIL MEMBER GREENFIELD: Low
threshold.

UDI OFER: You do not have to, it's
very low, you don't even have to prove criminal
suspicion, you just have to prove that essentially
it's somehow related to an ongoing terrorism
investigation.

COUNCIL MEMBER GREENFIELD: Okay,
you basically have to ask.

UDI OFER: Yes.

COUNCIL MEMBER GREENFIELD: And
then you got it.

UDI OFER: And how does--so you
agree that it's a low threshold.

COUNCIL MEMBER GREENFIELD:
[laughs] Yes.

UDI OFER: There was a letter
exchange between Commissioner Kelly and the Bush
Administration, when the Bush Administration
denied a Foreign Intelligence Surveillance Act
request by the NYPD, because they believed that
the NYPD had gone too far. This is the Bush
Administration telling the NYPD they'd gone too

1 far in their interpretation of the Patriot Act.

2 So, I think that gives you a bit of a sense of how
3 the NYPD views its anti-terrorism powers.

4 COUNCIL MEMBER GREENFIELD: Okay,
5 so I think that is helpful, right, so I think now
6 we have an understanding that the NYPD does have
7 the ability to track individuals' internet usage.
8 Do we think they would have the same for a café
9 where they could sort of gather all the
10 information that's in a café to see, you know, if
11 that's, that café has a lot of, you know, terror
12 related web hits, or whatnot?

13 UDI OFER: So, national security
14 letters are relevant to any business. They're for
15 business records, and for any kind of third party.
16 So, national security letters, you know, they
17 could give those to Google--

18 COUNCIL MEMBER GREENFIELD: So it's
19 doable.

20 UDI OFER: --they could give those
21 to AOL, they could give it to your local café,
22 they could give it to your bookstore, to your
23 university, they're very broad.

24 COUNCIL MEMBER GREENFIELD: Got it.
25

1
2 UDI OFER: And we know they've been
3 used hundreds of thousands of times.

4 COUNCIL MEMBER GREENFIELD: Okay.

5 UDI OFER: In the country, not in
6 New York City.

7 COUNCIL MEMBER GREENFIELD: Next,
8 my next, my next question: You were here for the
9 testimony of the Police Commissioner.

10 UDI OFER: I was, sir.

11 COUNCIL MEMBER GREENFIELD: There
12 were some questions back and forth. My colleague
13 Brad Lander and I went at it over Twitter. Is
14 there anything--[background comments]

15 UDI OFER: Wow. So impressed.

16 COUNCIL MEMBER GREENFIELD: --is
17 there anything, is there anything--

18 UDI OFER: I should monitor your
19 Twitter account. [laughter]

20 COUNCIL MEMBER GREENFIELD: Yeah, I
21 was going to say, the NYPD probably does.

22 UDI OFER: We've heard, be careful
23 there. [laughter]

24 COUNCIL MEMBER GREENFIELD: Yes.
25 [laughs] It's @nycgreenfield, in case you're

1

2 wondering. But seriously, the question that I
3 have is, was there anything in his testimony that,
4 from your perspective and your information, you
5 disagreed with. Brad had one item that he
6 disagreed with, and he'll point that out to us.
7 Was there anything that you felt that he said that
8 you thought wasn't accurate?

9 UDI OFER: Yeah, his denials that
10 they've violating the Handschu Agreement. I think
11 we adamantly disagree with that, and we've gone
12 back to court.

13 COUNCIL MEMBER GREENFIELD: Can
14 you--once again, this is just a different forum.
15 Like court is one forum, this is--

16 UDI OFER: Sure, I mean--

17 COUNCIL MEMBER GREENFIELD: --a
18 hearing. Can you just elaborate specifically--

19 UDI OFER: I can't get into too
20 much detail about Handschu--

21 COUNCIL MEMBER GREENFIELD: --no,
22 okay, yeah, yeah.

23 UDI OFER: --'cause it's an ongoing
24 litigation.

25 COUNCIL MEMBER GREENFIELD: Yeah.

1
2 UDI OFER: But at the very least I
3 can say this: that if the AP stories are correct,
4 then the NYPD has clearly been creating dossiers,
5 so clearly creating records, on people's lawful
6 activities, without suspicion of criminal
7 activity. And I have one, I could maybe submit
8 this as Exhibit A. This is a PowerPoint
9 presentation--

10 COUNCIL MEMBER GREENFIELD: We'll
11 take it. Yes.

12 UDI OFER: This is so much easier
13 than federal court. This is a PowerPoint
14 presentation--

15 COUNCIL MEMBER GREENFIELD:
16 [laughs]

17 UDI OFER: --that was obtained by
18 the AP, an NYPD PowerPoint presentation, about the
19 demographics unit, which just as a reminder for
20 the Committee, Paul Brown initially said that this
21 demographics unit never existed. And Commissioner
22 Kelly today admitted that it did exist. The last
23 page of this demographic unit, tells--

24 CHAIRPERSON VALLONE: I actually
25 don't know, did he say never existed, or doesn't

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

exist?

COUNCIL MEMBER GREENFIELD: That's

a good--

UDI OFER: I thought he said never

existed.

CHAIRPERSON VALLONE: I just don't

know.

UDI OFER: That's a fair point. I

thought he said never existed, but now that I

think about it, maybe--that he said doesn't?

Okay. Then, then I apologize for that, if that's

what he said.

COUNCIL MEMBER GREENFIELD: So

maybe they shut it down, is what we're saying.

UDI OFER: Right. But I would

follow up on that, and make sure that he said--

COUNCIL MEMBER GREENFIELD:

Interesting point, yes.

UDI OFER: -- never or doesn't. On

this last page in the PowerPoint--

COUNCIL MEMBER GREENFIELD: So you

can, you can, by the way, just so you know, you

can moot your pretrial motions there as well, so

this is helpful.

1
2 UDI OFER: [laughs] On the, on the
3 last page of the PowerPoint, and I actually think
4 this will be informative for the Committee,
5 there's a section that's called the Daily
6 Operations and Recordkeeping, that asks the NYPD
7 officers of the demographic unit, to gather
8 intelligence and report activity, individual
9 visits, on a daily activity report focusing on key
10 indicators. And the key indicators are things
11 like, I'm sorry, I'll do this quickly, you know,
12 community centers, local newspapers, local fliers,
13 religious schools, houses of worship. Any
14 reasonable reading of this PowerPoint suggests
15 that the intelligence gathering led to
16 recordkeeping. That would be in clear violation
17 of the Handschu Agreement, if it wasn't related to
18 individualized criminal suspicion. So I would say
19 that was one of the statements that he
20 consistently said that I would dispute, but it's
21 going back before the court, and hopefully we'll
22 know soon.

23 COUNCIL MEMBER GREENFIELD: One
24 final, final point, Mr. Chairman. We've had a lot
25 of conversations here about oversight, and

1
2 abilities, and document retentions, and oversight
3 in terms of the Council, and oversight in terms of
4 internally. I do want to reiterate what Council
5 Member Halloran has said, and I want to ask, I'm
6 going to put you on the spot and ask you if you
7 have a specific suggestion. Right, I mean,
8 obviously, you know, in the federal government we
9 have the federal courts, we have FISA, we also
10 have--bear in mind, of course, the attorney
11 general technically oversees the FBI. Right? So
12 we've got a whole, in theory at least, we have a
13 whole structure there, that, that has oversight
14 abilities, and clearly Congress has better
15 oversight tools than we do. Do you have any
16 specific recommendations? And it's okay if you
17 don't, but it's something that in terms would be
18 helpful. Might there be legislation, charter
19 revision, right, that would allow us to subpoena
20 documents, legislation that would create an
21 independent panel, refer to a specific court?
22 'Cause I think you do bring many legitimate
23 points, and is there a practical suggestion as to
24 what we can do, and I ask you this, of course,
25 'cause you're the expert--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UDI OFER: Mm-hmm.

COUNCIL MEMBER GREENFIELD: --of what we can, and if not would you consider giving one us, giving us those suggestions in the future?

UDI OFER: I'm going to have to ask to be able to give it to you in the future. We have many ideas, we haven't fully decided on which will be the best ones. So, with your permission I'd like to--

COUNCIL MEMBER GREENFIELD: Sure.

UDI OFER: --reserve that for the future. - -

COUNCIL MEMBER GREENFIELD:

[interposing] We can take a menu, by the way, no, I'm being serious, you could say, "You know, we like this, this are the pros, these are the cons," I just think it would be helpful in terms of, from our perspective, if there's something, if there is an action item, right, you know, we do oversight to the best of our ability, but at the end of the day, our abilities are limited, right? So, if there is a way for us to do more effective oversight, I think that's something that we would welcome. And with that, I want to thank you both

1
2 for your service and your, your diligence. And we
3 appreciate it and have a good day.

4 UDI OFER: Thank you.

5 CHAIRPERSON VALLONE: Thank you,
6 Council Member. I do want to just point out there
7 is a huge difference as to what surveillance
8 means, and again we're limited in getting specific
9 answers, but if there is knowledge that a threat
10 is coming from Morocco, then I, we're going to
11 disagree, but I believe they would be remiss if
12 they didn't go out and surveil locations they
13 think that someone coming from Morocco would try
14 to blend into. If they have more specific
15 information, then they would be able to do more
16 surveillance; if they don't, and yet they're
17 coming in and putting in secret cameras or
18 something, that, you know, obviously that would be
19 wrong. But so, the question all becomes the type
20 of threat and the type of surveillance. And we'll
21 disagree as to where the needle lands between
22 those, but those are the questions that it's very
23 difficult to get answers for a lot of reasons.
24 Some of them are, you know, have to remain
25 confidential, and it it's, you know, it's a limit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that we're up against. Council Member Lander.

COUNCIL MEMBER LANDER: Thanks very much, thank you for being here, I just want to follow up on a couple of things that my colleagues asked about. I always enjoy, although I'm no longer surprised by what my colleague to my right and I share a point of view on things. And just know, Council Member Greenfield and I never engage in direct message tweeting, so only out there on the reply.

UDI OFER: And no pictures.

COUNCIL MEMBER LANDER: So, yeah. But I think on this question, I mean, there's two documents that we have, I just think it's worth, I mean, the, you know, we have the demographics unit presentation. And again, I think the fact that, you know, the NYPD carefully denied its existence--the AP wrote a story, said it existed; they said it doesn't exist. And then the next day, this is out, it makes us want to ask more questions, and it makes it hard to rely on faith on the, just a blanket statement, we comply with Handschu, and then similarly I have the other document that I have here, is this Moroccan locations document.

1
2 Which it's fine for the Commissioner to say that's
3 pursuant to an investigation. I'm glad to share
4 it with others. This is a database of Moroccan
5 locations, with, going far beyond what I think you
6 could sustain was about a specific investigation.
7 And so this question of what surveillance, you
8 know, and this gets to the oversight question. If
9 we don't have any ability, if not civilians have
10 any ability, to weigh in on the boundaries, and
11 try to figure out when is it really intelligent,
12 you know, kind of, you know, then how--and then
13 when we ask questions where we don't get answers,
14 or we get carefully worded answers that don't
15 always square, how could we have confidence that
16 the balance between law enforcement and civil
17 liberties is where it should be. So, a couple of
18 specific questions, though, because and one thing
19 I want to point out is while obviously Handschu is
20 an in--a court based consent decree, it's not, you
21 know, a law created by Congress, or a law created
22 by us. So if we don't believe that it gets right
23 that balance, you know, we could consider
24 legislation separate. So I just want to make that
25 clear, right, I mean, the--

1
2 UDI OFER: And that may be one of
3 the asks we make.

4 COUNCIL MEMBER LANDER: Because,
5 so, I gather that your concern about Handschu
6 specifically relates to recordkeeping. Or at
7 least some of them, that you know, at least one,
8 one clear violation of the Handschu Decree would
9 be if dossiers were kept pursuant to some of the
10 kinds of investigations in the AP articles.
11 Right?

12 UDI OFER: There are potentially
13 other violations, too.

14 COUNCIL MEMBER LANDER: So--

15 UDI OFER: I mean, that was the
16 most concrete example that seems more reasonable
17 considering what the, what has been revealed. But
18 in addition, their use of informants, some of the
19 undercover officer infiltrations, could
20 potentially raise Handschu concerns, as well.

21 COUNCIL MEMBER LANDER: And so
22 you'll pursue those in court--

23 UDI OFER: Right.

24 COUNCIL MEMBER LANDER: --I guess
25 one thing I want to ask because it, you know, the,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

whether the Handschu Decree's been violated is a matter for the courts, but--

UDI OFER: Right.

COUNCIL MEMBER LANDER: --to me, for example, the modifications to the Handschu Decree that take away any external oversight whatsoever, at least as I understand it before the modifications, there was some external oversight before one of these undercover operations could be launched, before you sent an undercover to hang out in a mosque, and see what the rhetoric was like, with no specific suspicion, there was a three person panel, and one of them was a non-NYPD person. That was eliminated in the modification that the NYPD sought from the court, right?

UDI OFER: Right.

COUNCIL MEMBER LANDER: So then the court granted it, but do you--

UDI OFER: Right, the problem--

COUNCIL MEMBER LANDER: --we don't have to think that's a good idea.

UDI OFER: --the problem is I actually don't encourage thinking about this issue from the limited universe of the Handschu Decree,

1
2 since times have changed and there are new issues
3 that have arisen, that don't date back to 1971,
4 which is when the NYCLU and others started
5 litigating this. And by the way, we have at least
6 one staff attorney who's still on staff since that
7 1971 decision, or, commencement. Here's, I'd like
8 to draw an analogy, actually, relating to
9 something Council Member Vallone just said, about
10 this issue of let's, you know there's someone from
11 Morocco--there's a threat from Morocco, we should
12 be able to go to Moroccan neighborhoods, which we
13 obviously disagree with. But I'd like to express
14 that disagreement through an analogy. It sounds
15 to me like some may be comfortable with being able
16 to say that the NYPD should be able to hang out in
17 public spaces and monitor daily activities. No,
18 but that's what the NYPD says they should be able
19 to do. That wherever there's public space, they
20 should be able to do like all members of the
21 public and just engage in plainclothes
22 surveillance or undercover surveillance. Imagine
23 if that same position of what they said was they
24 should be able to put up surveillance cameras
25 inside bookstores; surveillance cameras inside

1
2 mosques--

3 COUNCIL MEMBER LANDER: That's a
4 complete--

5 UDI OFER: No, it's not.

6 COUNCIL MEMBER LANDER: It's a bad
7 analogy. There's a pub--

8 UDI OFER: It's not.

9 COUNCIL MEMBER LANDER: --
10 expectation of privacy inside a private store and
11 there's not inside--

12 UDI OFER: No, no, no, no, no,
13 that's not the position--

14 COUNCIL MEMBER LANDER: --on a
15 public street.

16 UDI OFER: --that NYPD--

17 COUNCIL MEMBER LANDER: Yes, I do.

18 UDI OFER: Council Member, with all
19 due respect, no and I--the position that
20 Commissioner Kelly would take is that a books--
21 which is what this whole report's about, is that a
22 bookstore, which is open to all members of the
23 public, is a public space.

24 COUNCIL MEMBER LANDER: And I would
25 expect as a bookstore owner--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UDI OFER: And a mosque, that's open to all members--

COUNCIL MEMBER LANDER: --that they open - - police officers there, I would not expect a private camera.

UDI OFER: No.

COUNCIL MEMBER LANDER: A police camera, in a bookstore.

UDI OFER: What's the difference, I ask?

COUNCIL MEMBER LANDER: Especially if the offer's allowed to--

UDI OFER: No, I'm being genuinely serious, what is the difference?

CHAIRPERSON VALLONE: Difference.

COUNCIL MEMBER LANDER: Especially if the officer's allowed to--

CHAIRPERSON VALLONE: I could care less if there's an undercover officer sitting here, I would not want a--I mean, there actually are cameras here, but let's say we were having dinner. I couldn't care less if there was an undercover officer in the restaurant--

UDI OFER: Watching you.

1
2 CHAIRPERSON VALLONE: I wouldn't,
3 probably not want to be on a private camera I
4 didn't know about.

5 COUNCIL MEMBER LANDER: But I do
6 want, this is I think why recordkeeping makes so
7 much difference because--

8 UDI OFER: No, even if they knew
9 about it.

10 COUNCIL MEMBER LANDER: --if that
11 police officer--

12 UDI OFER: It's an NYPD camera on
13 it, it's a public space. I would actually argue
14 that it's the same thing, but we as a society
15 treat it differently. But from a legal
16 perspective, it's the same, it's the NYPD
17 monitoring your activity, it's just one is through
18 a surveillance camera, and the other one is
19 through a live human being.

20 COUNCIL MEMBER LANDER: This is
21 also why I'd like to say why the question of
22 documentation matters so much, because if that
23 officer is sitting there writing everything down
24 and it's going in a file, then there's a lot less
25 different between that and a camera. It's just

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

one thing different, so--

UDI OFER: Well, but I would even say, even if the surveillance camera did not have any recording abilities, it was just to be, there is a person sitting in 1 Police Plaza, who's looking at the surveillance camera, with no recording abilities, I would still say the public would consider that an outrage. And what I'm suggesting is--

CHAIRPERSON VALLONE: Which is happening right now. Okay? [laughs]

UDI OFER: No, I'm talking about, within a mosque.

CHAIRPERSON VALLONE: I think - -

UDI OFER: I'm talking about, I'm talking about in, in mosques, in bookstores, where there are undercover officers, who are watching mosque services, which reports suggest is happening. And I believe that Commissioner Kelly would not deny is happening, because he would take the position that as long as the mosque service is open the public--

CHAIRPERSON VALLONE: Based on, based on the fact that we have information there's

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

someone coming from--

UDI OFER: No, no, no, no, he would take a--he would say that, but then--

CHAIRPERSON VALLONE: Right.

UDI OFER: --if you asked him the question, and I'm generally being here, 'cause they take the position that anything that's open to the public, the NYPD should--and that's essentially what Handschu also suggests.

CHAIRPERSON VALLONE: Right.

UDI OFER: If it's open to the public. What I suggest is, I think we've become, we're not fully understanding the impact, so I would say draw an analogy of a surveillance camera without recording functions, and I would say that is the same exact factual - -

CHAIRPERSON VALLONE: Yes, but he's not here, so I'm going to, I'm going to say exactly what he said. Number one, yes, I agree he would say that; but number two, when it comes to a specific community, he said he only does it when there's information.

UDI OFER: Mm-hmm, right.

CHAIRPERSON VALLONE: So that's not

1
2 a correct analogy, but so, I'm sure you believe it
3 is, and we can debate all day. Bradley, if you--

4 COUNCIL MEMBER LANDER: Mr.
5 Chairman, I'm just about finished going over this,
6 there's actually quite a few people, some of whom
7 I invited here, so I'm eager to stay and hear
8 their testimony, but just two things I would say.
9 One, I do just want to point out that the
10 demographics unit presentation has a page that
11 identifies ancestries of interest--

12 UDI OFER: That's right.

13 COUNCIL MEMBER LANDER: --you know,
14 which includes Afghanistan, Pakistan, you know,
15 India, you know, and Morocco; does not include
16 Ireland or Italy or--

17 UDI OFER: They stopped doing that
18 in the '80s.

19 COUNCIL MEMBER LANDER: So
20 [laughter] so--

21 MALE VOICE: But we used to be, but
22 we used to be.

23 COUNCIL MEMBER LANDER: So that's
24 of some concern.

25 MALE VOICE: And ask Peter King

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

what he things of that.

COUNCIL MEMBER LANDER: The--all I would, all I would say on the end is I'm going to reiterate Council Member Greenfield's invitation. I think that the body independent of Handschu, has a responsibility to think about what the appropriate oversight and standards mechanisms are, and we could use some help in doing so, so we look forward to getting your thoughts on that.

UDI OFER: Thank you.

COUNCIL MEMBER LANDER: Thank you, Mr. Chairman.

CHAIRPERSON VALLONE: Thank you, Council Member. Thank you both. It's always, always inf--we learn a lot. And--I'm sorry? Oh, we have the next and last panel, and each of you will have three minutes.

UDI OFER: Great, thank you, everyone.

NAHAL ZAMANI: Thank you.

CHAIRPERSON VALLONE: And I'm sure you're get more time when Council Members ask some questions. Cyrus McGoldrick, from Council on American-Islamic Relations; Mike Price from the

1
2 Brennan [phonetic] Center; Linda Sarsour
3 [phonetic], I'm guessing, from the National
4 Network for Arab-American Communities; and Fahd
5 Ahmed, from DRUM. [background noise] Again, I
6 think you're aware that we have to stay on topic,
7 especially at this hour. [pause] Brad Lander's
8 vouching for you all. [pause] Thank you all.
9 Why don't we just start on my left and go that
10 way? Okay. Introduce yourself and like I said,
11 try to stay within three minutes.

12 MICHAEL PRICE: Can you hear me
13 now? My name is Michael Price, I'm an attorney
14 with the Brennan Center for Justice. I'm sorry, I
15 haven't brought written copies of my testimony,
16 this is my first time today. The NYPD is a very
17 large police department, with a very large
18 intelligence apparatus. It is apparent from the
19 AP articles that, that the NYPD has been using its
20 intelligence authority in ways that raise serious
21 concerns about whether its activities are lawful
22 and consistent with our constitutional values.
23 According to the AP, it partnered with the CIA to
24 become one of the nation's most aggressive,
25 domestic intelligence agencies, targeting ethnic

1
2 communities in ways that would run afoul of civil
3 liberties rules if practiced by the federal
4 government. At the very least, City Council
5 oversight is urgently required. The Council
6 should immediately undertake a full public
7 accounting of the NYPD's intelligence activities,
8 and set up a system for ongoing oversight of those
9 activities. Recent news reports have revealed
10 that the intelligence division operates a
11 demographics unit, and participates in a human
12 mapping program, that covertly surveils Muslims
13 and minorities in New York and the tri-state area.
14 Through this program the NYPD has engaged in
15 repeated acts of religious, ethnic and racial
16 profiling, including stationing undercover agents
17 called "rakers" [phonetic] in local businesses,
18 such as cafés bookstores and nightclubs, to spy on
19 ethnic communities from a list of 28 mainly Muslim
20 countries, that along with American black Muslim,
21 were considered ancestries of interest.

22 Dispatching informants known as mosque crawlers to
23 sermon--to monitor sermons without any evidence of
24 wrongdoing and targeting particular mosques
25 because of rhetoric; seeking a list from the Taxi

1
2 and Limousine Commission, of every Pakistani
3 cabdriver in the City; and targeting a Bangladeshi
4 restaurant because it attracted a devout crowd;
5 targeting university based Muslim student
6 associations because the students were politically
7 active; and producing an analytical report on
8 every mosque within a 100 miles of New York City.
9 And just yesterday, the AP reported that the NYPD
10 targeted law abiding, Muslim New Yorkers,
11 including religious leaders, who have helped foil
12 terrorist plots by providing tips and other vital
13 information to the NYPD. Such activities are not
14 conducive to building trust, and they put all New
15 Yorkers at risk by alienating the very communities
16 whose cooperation is so essential to combatting
17 terrorism. Perhaps even more troubling was the
18 news reported back in August that the Intelligence
19 Division has engaged in this sort of surveillance
20 for years, without the full knowledge of the New
21 York City Council or the federal government. With
22 a budget of \$63 million for 2012, and over \$1.6
23 billion in contributions from the federal
24 government since 9/11, the City Council cannot sit
25 idly by. The CIA Inspector General has already

1
2 launched an internal investigation into the
3 agency's role, and the agency's cooperation with
4 the NYPD. Just yesterday, seven State Senators
5 asked the Attorney General to determine whether
6 the NYPD's activities have been lawful and
7 effective, and whether the current rules are
8 sufficient to protect the safety of New Yorkers
9 and their right to speak and pray without
10 government intrusion. We ask that the City
11 Council do the same, and that after [time bell] an
12 initial investigation, that it take up the task of
13 creating a system of oversight for the future;
14 which may include creating an inspector general
15 post for the NYPD, similar to the way the FBI and
16 the CIA both function.

17 FAHD AHMED: Good afternoon. My
18 name is Fahd Ahmed, and I am the Legal Director of
19 DRUM, Desis Rising Up and Moving. DRUM is a
20 twelve year old civil rights organization of 1,200
21 low income South Asians fighting for their rights
22 as immigrants, youth, workers and communities of
23 color. There have been recent confirmations by
24 the Associated Press of the NYPD's collaboration
25 with the ACIA, to conduct surveillance, mapping

1
2 and infiltration of Muslim communities across New
3 York City, as well as outside the City and State.
4 I say confirmation, because this has been the
5 lived experience of our communities for many
6 years. Yet our concerns and voices have been
7 consistently ignored or dismissed by law
8 enforcement agencies, elected officials and the
9 media. At the same time, the revelations about
10 the scale and scope of the problem is alarming.
11 The NYPD has gone around and comprehensively
12 documented all the mosques, schools, including
13 elementary schools, college associations,
14 restaurants, and even a decent number of street
15 vendors. Essentially, every aspect of Muslim life
16 in New York City is being watched and documented.
17 This is the epitome of racial, ethnic and
18 religious profiling, as the NYPD's own documents
19 list and conveniently categorize, category,
20 ancestries of interest. The impact of this on our
21 communities cannot be understated. There is great
22 fear and mistrust within the community, people
23 don't know if the people praying, eating, studying
24 or working next to them are undercover officers or
25 informants; people are afraid to exercise their

1
2 basic rights to worship freely, to engage in
3 discussions and to participate in rallies. Let me
4 briefly give some examples. Cab drivers being
5 stopped for frivolous reasons and being asked,
6 "Are you a Muslim?" "Do you pray?" "What mosque
7 do you pray at?" Is this the mandate of the NYPD?
8 Undercover and informants inflaming and inciting
9 within - - , insightful conversations, within - -
10 communities and political rallies. To give an
11 example, a undercover officer at a political rally
12 last year, was ticketed by the police for being
13 boisterous and not obeying a police disorder. The
14 people being coerced to become informants based on
15 their immigration status, potential prosecutions
16 or reduced prison sentences or for money. If the
17 intent of such programs and tactics is for the
18 sake of safety, I assure you that these tactics
19 have severely undermined the credibility and trust
20 of Muslim communities and law enforcement
21 agencies, which is never good for the safety of
22 this City and our communities. While the NYPD has
23 refused to acknowledge our concerns, there are a
24 growing number of allies, including some members
25 of City Council, who are calling for mechanisms of

1
2 accountability. DRUM has recently launched a
3 community survey of Muslim communities to document
4 such instances and interactions with law
5 enforcement agencies, so that we can provide hard
6 evidence that can be used to prove these claims.
7 In the meantime, we are asking the City Council to
8 hold hearings and to conduct investigations into
9 the actions of the NYPD, as a precursor to
10 implementing necessary mechanisms of
11 accountability and oversight. If we are concerned
12 about safety, there is no substitute for community
13 trust. If we're concerned about safety, there is
14 no substitute for accountability, and for concern
15 about safety there is no substitute for justice.
16 [time bell]

17 CHAIRPERSON VALLONE: Good time--
18 good timing. Linda.

19 LINDA SARSOUR: Thank you for
20 having me here. I think back to the question of
21 what other proof do we have. I would take you
22 back to look up the 2007 radicalization report put
23 out by the NYPD that says that normal things
24 Muslim do, like becoming more religious, praying
25 during work hours, are red flag activity, to be

1
2 paid attention to. So that report exists online.
3 So my name is Linda Sarsour, I'm the Director at
4 the Arab-American Association of New York, and I'm
5 also the Advocacy and Civic Engagement Coordinator
6 for the National Network for Arab-American
7 Communities. With recent mainstream media
8 coverage, including the Associated Press, which
9 confirmed our belief that the NYPD was surveilling
10 our community, the Arab-American and Muslim
11 communities feel like the good faith effort that
12 we have shown to better partner with NYPD was
13 taken advantage of and violated. Bay Ridge, where
14 I live and work, is home to the largest Arab-
15 American community in the State of New York, and
16 the area heavily targeted by NYPD and other
17 federal law enforcement agencies. Our previous
18 Imam, Sheik - - and our mosque, Islamic Society of
19 Bay Ridge, were listed amongst those monitored and
20 surveilled by law enforcement. This is the same
21 mosque that has invited and hosted NYPD officials
22 on dozens of occasions, opened our doors to them,
23 broke bread with them, and extended our hand in
24 partnership and cooperation. It is these same
25 NYPD officials that have been authorizing the

1
2 surveillance and monitoring of our entire
3 community. Not based on evidence or probably
4 cause, but based on ethnicity and religion. Today
5 we're speaking about public safety, public safety
6 will only exist when there is a strong
7 relationship built on mutual trust between
8 communities and local law enforcement. NYPD has
9 broken that trust, and has hindered the public
10 safety of all New Yorkers. Local community
11 members in our area are outraged by the
12 confirmations of the AP investigations,
13 specifically the Moroccan Initiative. I took this
14 part out of my statement, but I want to make this
15 point. I want to know what NYPD official knows
16 the difference between a Moroccan, a Tunisian, a
17 Libyan, or a Palestinian. So, I think that's a
18 good point to bring out. This proved to us that
19 the NYPD has cast a wide dragnet on an entire
20 community and has put an entire community under
21 suspicion. The targeting and profiling of any
22 group based upon ethnicity and national origin not
23 only reflects biased, but it's a completely
24 ineffective means for law enforcement to prevent
25 crime. The Arab and Muslim communities in New

1
2 York City are guilty until proven innocent, which
3 goes against everything our constitution and our
4 country stands for. Many community leaders,
5 including myself, are in a dilemma. Our community
6 looks to us to protect, defend and represent their
7 best interests. Our credibility is on the line,
8 we have chosen to stand with our community and
9 express our concerns with the unlawful, unjust
10 targeting and surveillance of the Muslim-American
11 community, by the NYPD Counterterrorism Unit, and
12 Commissioner Kelly as the leader and director of
13 this operation. NYPD officials, including
14 Commissioner Kelly, who oversaw these initiatives,
15 that clearly violate the civil rights of New
16 Yorkers, must be investigated and held accountable
17 for their actions, and a process must expediently
18 implemented to safeguard that such abuses will
19 never be justified by NYPD policy. I urge that
20 it's mandated that the NYPD fully cooperate with
21 all inquiries in partnering with the CIA,
22 specifically in surveilling fellow Americans,
23 which appears to be a blatant violation of the CIA
24 charter. It is ironic that the Times Square
25 terror plot last year was foiled by a Senegalese

1
2 Muslim Street vendor, who put in the first call to
3 911. And street vendors and cab drivers are on
4 the list of those surveilled [time bell] and
5 monitored. Instead of NYPD surveilling law
6 abiding citizens like this Senegalese street
7 vendor, they should be putting their resources
8 towards real and imminent threats to public
9 safety. Thank you.

10 CYRUS MCGOLDRICK: Hello, ladies
11 and gentlemen, thank you for having me. My name
12 is Cyrus McGoldrick, I'm the Civil Rights Manager
13 at the New York Chapter of CARE, that's the
14 Council on American/Islamic Relations. I want to
15 thank you for having us here today and for giving
16 us the opportunity to raise these questions and
17 concerns. The, you know, as a Muslim born and
18 raised in this country, you know, raised by an
19 Irish father and a Iranian mother, I can
20 appreciate of course when we're looking at the
21 reports of the demographics unit, when we look
22 especially at the PowerPoint presentation that was
23 released by the Associated Press, of course like
24 Councilman Halloran, I can appreciate that Irish
25 people are no longer being surveilled, I was

1
2 disappointed to see that Iranians are. But of
3 course, as an American, when I look at the list of
4 America's enemies, as we imagine them, I could not
5 help but look that, and notice that on the 29
6 ethnicities listed, or the 29 ancestries of
7 interest listed, that all of them were either
8 Muslim majority countries or Arab or South Asian
9 countries. Not to point the fingers at anyone
10 else, but there was no China or North Korea on
11 that list, either, and I think that's worthy of
12 note. Now, the fact that, you know, these
13 communities and that police work was being done,
14 to map people by race, and choose people for
15 surveillance based on religious practice, and this
16 is a theory as mentioned by others, that this is
17 embodied in the radicalization report. This is
18 very important, this is critical. But this report
19 is wrong. It's proven wrong on a lot of levels,
20 and a lot of experts before me have made this case
21 much better, but I would point you again to the
22 research of John Charles Kurzman [phonetic], John
23 Esposito, Robert Pape [phonetic], to show that a
24 correlation between Islam, I should say a real
25 orthodox practice of Islam, not rhetoric, that a

1
2 correlation between Islam and terrorism is not
3 real, that this is a manufactured threat. Now
4 this misguided theory which wastes our money,
5 which wastes our resources, as Commissioner Kelly
6 said, his resources are limited. The fact that
7 this program is continuing, this is disastrous,
8 this is disastrous for us as a City. And I would
9 raise one concern, because I think, one of my
10 copanelists here have raised great concerns, and
11 have raised most of the major points about the
12 demographics unit, I would point our attention to
13 one example. Earlier this year, when reports were
14 coming out about the use of a video, a propaganda
15 film called "The Third Jihad," to train NYPD
16 officers, specifically counterterrorism officers,
17 of course this was dismissed by Commissioner Kelly
18 and Deputy Commissioner Brown, despite the fact
19 that it was confirmed by two independent reports,
20 one by a Muslim police officers and one by a,
21 excuse me, by a non-Muslim police officer. But
22 the--what we missed, I think, even in our advocacy
23 around this issue, was the real concern, was the
24 real issue there of how consultants are chosen,
25 how consultants are used, and when our law

1
2 enforcement and our national security is being
3 outsourced, what oversight is there then? To just
4 say that no NYPD officer is engaging in such an
5 activity, ignores the fact that consultants and
6 people hired from outside the Department, and the
7 10,000 private security professional that he
8 mentioned using, that there's absolutely no
9 oversight over them, either. Now, especially now
10 that, with the FBI has been caught with racist,
11 Islamophobic consultants being used to train, now
12 that the DOJ has been caught, you know, with these
13 same consultants being used to train, and now that
14 even Senator Lieberman, who is definitely no
15 apologist for Islam, has raised concerns and has
16 asked for oversight over these types of
17 consultants at the federal level, I ask first that
18 this Committee and that the entire City Council
19 exercise the same level of oversight over the
20 local police department [time bell] and other law
21 enforcement; and secondly, I would echo the
22 concerns about this demographics unit and ask that
23 you oversight that as well. Thank you.

24 CHAIRPERSON VALLONE: Thank you.

25 Council Member Greenfield.

1
2 COUNCIL MEMBER GREENFIELD: Thank
3 you, Mr. Chairman. If you were here before, you
4 probably heard me ask Mr. Ofer from the NYCLU
5 about specific instances. I imagine that you
6 folks would be in the position that you could tell
7 us about specific instances, and I think it would
8 be helpful for the community here. Can you give
9 us highlights, I mean, we don't want like the 20
10 minute stories, just sort of the highlights of
11 examples of where allegations that are, that the
12 NYCLU and the Associated Press in its reporting
13 and others, have raised from your experience, as
14 what has actually happened.

15 LINDA SARSOUR: I just want to give
16 you one example, 'cause she's in the room here.
17 Osama Daoudi [phonetic], who was the informant in
18 the Herald Square bomb plot, which Saroj Matin
19 [phonetic], which is the son of this woman right
20 here, Osama Daoudi was an Egyptian informant that
21 was placed in Bay Ridge, which is home to the
22 largest Arab-American community, there are no
23 South Asians in that area, maybe a couple of
24 families. Her husband owned a bookstore right
25 next door to the Islamic Society of Bay Ridge. I

1
2 met with Osama Daoudi myself, sometimes aka Ali
3 Daoudi, so his name was either Osama--I met him
4 personally. He also tried to do a business deal
5 with our Imam and he said, "Listen, I'm a
6 religious leader," I was present when that
7 happened, he has visited my organization, the
8 Arab-American Association of New York. He was put
9 in that area 'cause he spoke Arabic, hopefully he
10 was supposed to entrap someone who spoke Arabic
11 and was of Arab origin. But he found a 19 year
12 old Pakistani boy who was not from that area, who
13 entrusted himself in this man. So that's just one
14 example of an informant. I also have shared
15 information and emails of other folks with some
16 attorneys who'll be prosecuting these cases. This
17 is something that we're living every single day in
18 our areas. And our mosques are not, are not set
19 up like churches, we do not know who prays at our
20 mosque, we don't have congregation lists,
21 membership lists. Anyone can walk into a - - you
22 yourself can walk and sit down in a mosque and
23 pray. The fact there are communities mistrusting
24 of people around them, the fact that they don't
25 want to give political opinions, the fact that

1
2 they don't want to engage with other people that
3 are outside of our community, the fact that they
4 don't want to engage with law enforcement or call
5 law enforcement in cases of domestic violence and
6 other criminal activity in the area, is putting
7 entire New York City at risk. And these are
8 stories that we've had panels where many people
9 have shared these stories, and we can, there have
10 been events, as a matter of fact there might be
11 one next week where there are families, when is
12 it?

13 MALE VOICE: October 13th.

14 LINDA SARSOUR: October 13th, there
15 will actually be an entire event of families and
16 people in our community sharing their stories of
17 surveillance in our communities. Anyone else like
18 to share?

19 COUNCIL MEMBER GREENFIELD: Any
20 other experiences that you want to share with the
21 Committee?

22 FAHD AHMED: Yeah, so, reports of
23 cab drivers being asked whether they're Muslim,
24 where they pray, and what - - they pray at. I
25 don't see how that's within the mandate of the

1

2 NYPD. The informant in this case was reported to
3 have--

4

COUNCIL MEMBER GREENFIELD: I'm
5 sorry, these are police officers who are just
6 stopping them? Can you just--

7

FAHD AHMED: Yes.

8

COUNCIL MEMBER GREENFIELD: --
9 elaborate.

10

FAHD AHMED: Regular police
11 officers.

12

COUNCIL MEMBER GREENFIELD: I know
13 for you, you know the details, but we don't, so -
14 -

15

FAHD AHMED: [interposing] Yeah,
16 just regular police officers, and routine traffic
17 stops, or in a lot of cases being reported that
18 frivolous traffic stops, you know, sort of being
19 asked, you know, "What - - do you pray at?" Or
20 some people with outstanding tickets or possibly
21 being stopped on, for a bigger reason, being
22 asked, "Well, I can let this one slide if you
23 agree to help cooperate with me." The informant
24 that Linda just mentioned was known to have
25 visited several - - , there's some people here

1
2 that can testify to that, as well. In Southwest
3 Bronx, and in Staten Island, trying to engage
4 people in insightful conversations. This woman's
5 son has an IQ of 75, this is who the NYPD is
6 catching. The person, the other case that
7 Commissioner Kelly mentioned, the one that's
8 currently being prosecuted, that person has been
9 in and out of mental institutions 20 times, and is
10 diagnosed with bipolar disorder. This is who the
11 NYPD informants are pursuing undercover agents.
12 The other cabdrivers being, a cab driver reporting
13 a robbery to the NYPD, the three months later
14 getting a knock on the door by the FBI, and the
15 FBI saying, "Oh, we had some questions about this
16 robbery," said the case was solved, the guy said,
17 "I don't know what you need to ask." And the FBI
18 then pressuring him to become an informant. And
19 when he refuses, being chased by the FBI across
20 the streets in unmarked cars. I understand the
21 FBI's not within the purview of this, but I have a
22 question about why information from the NYPD is
23 going over to the FBI. In the Zazi [phonetic]
24 case and in the current case that's being
25 prosecuted right now, you know, there have been

1
2 reports of tensions between the NYPD and the FBI,
3 about them sort of competing with each other to
4 figure out who will back the case. From the
5 Muslim community's perspective, it seems like law
6 enforcement agencies are competing with each other
7 to see how can better target our communities.
8 That's what it feels like.

9 COUNCIL MEMBER GREENFIELD: Did you
10 want to speak to this point?

11 CYRUS MCGOLDRICK: Yes, sir. Yeah,
12 we at CARE New York, you know, the primary aspect
13 of our work is responding to cases and resolving
14 cases of religious discrimination. A couple cases
15 just came to mind. Of course there are way more
16 than I could mention in this one hearing, but two
17 that seem salient. One is a case actually that
18 was referred to me by Ms. Sarsour here, which is a
19 very common story. One was a cabdriver who had
20 received a traffic violation, and who was then
21 approached based on that traffic violation, in
22 connection with his immigration status, to be
23 basically coerced into being an informant, was
24 being asked to leave his job and to become a
25 fulltime informant, for the NYPD. And this is a

1
2 very common story. The other case is a little bit
3 more ridiculous. Masjid At Taqwa, a mosque in
4 Brooklyn, in Bedford Stuyvesant Brooklyn, had a
5 very large, a suspiciously large woman in the
6 women's section of the mosque. It was reported
7 that this very large woman was wearing a niqab,
8 which is a face veil, and some of the other women
9 reported that this woman had very suspiciously
10 large hands. Turns out it was a man, who was an
11 informant, who was trying to surveil this mosque.
12 I don't mean to make light of this, you know, I
13 know that it seems funny. I don't mean to make
14 light of this at all, 'cause this is very serious
15 and causes very real trust issues, but these are
16 just a couple of examples of what we're dealing
17 with in the community.

18 COUNCIL MEMBER GREENFIELD: Okay,
19 thank you for your testimony.

20 CHAIRPERSON VALLONE: Council
21 Member Halloran.

22 COUNCIL MEMBER HALLORAN: Thank you
23 for being here, appreciate the concerns for both
24 the lack of freedom and liberty, which is a
25 concern, also with the profiling of anyone based

1
2 on their religious practices. And I don't, I
3 don't doubt that there are instances where the
4 federal government and the local governments have
5 overstepped their ability or their mandates. It
6 happens, it's going to happen. Oversight is the
7 way we best address it. The problem, I think,
8 from the perspective of us on this Committee, is
9 trying to find the right balance between our
10 ability to effect oversight over the Police
11 Department, the confidentiality of ongoing
12 investigations, and the overall tenor of New York
13 as a target for terrorism. I will respectfully
14 disagree that, that there is not evidence that a
15 particular, small portion of the Islamic community
16 engages in a radical version of Islam, in the same
17 way that a small group of radical Christians
18 engaged in the Identity Movement. In the same way
19 that there are people practicing Odinism, a
20 polytheistic form of radical religion, that turns
21 ethnicity and religion into a tool for different
22 purposes, which are not necessarily compatible
23 with a democratic republic. However, we're trying
24 to find out how to best police a philosophy that
25 doesn't necessarily have a border across the

1
2 United States's sea. You know, we're, for many
3 centuries, protected by the Atlantic and Pacific.
4 We live in a different world now, the information
5 age provides us with instant contact all over the
6 world. The Bay Ridge mosque, my understanding is
7 that that Bay Ridge mosque was the Islamic Center
8 of North America, where Ari Halberstam wound up
9 being killed after hearing a fiery, after a fiery
10 piece of testim--piece of proselytization by Rathe
11 Dane Omar [phonetic] caused Rashid Bas [phonetic]
12 to do something stupid. I don't think Isl--people
13 from the community who were Islamic did that, I
14 think an individual who had a history of not
15 looking at things objectively, took his religion
16 in a direction it didn't belong. Nonetheless, it
17 would've been nice if the Police Department was
18 aware that there was, there were individuals who
19 had these aberrant beliefs. Perhaps part of the
20 problem is the fact that every ethnic culture that
21 comes here takes a certain amount of time to
22 become part of this mosaic. In the 1840s, the
23 signs read, "Irish need not apply." And Irishmen
24 and Chinese people went out west to work on the
25 railroads because we couldn't get work here.

1
2 Eventually we became the police here because no
3 one wanted that job. And now, I think we have a
4 police department that's incredibly diverse.
5 Would you agree with me, and this is for the panel
6 as a whole, that there are sometimes instances
7 where because of a lack of communication both
8 ways, we have missed opportunities to protect the
9 greater community, when we could have possibly
10 done that, and fostered dialogue and fostered
11 better trust?

12 LINDA SARSOUR: Just the point of
13 clarification for the record, that story that you
14 brought up has nothing to do with the Islamic
15 Society of Bay Ridge, that is not the name of the
16 mosque that that incident took place, and so I
17 just want to put that out for the record. Listen,
18 you know, we're up here, we're New Yorkers, I
19 mean, we could've all been in the World Trade
20 Center on 9/11. If a train's going to get blown
21 up, we take the trains, too. I mean, this is not
22 about we don't want law enforcement to do their
23 job, we're not anarchists, we don't want, you
24 know, no oversight of anything and you know--

25 COUNCIL MEMBER GREENFIELD:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Certainly not the Wall Street protests right now.

LINDA SARSOUR: No. Actually, I was there, and it is quite fabulous and very inspired. [laughter] No, but what we're asking for and what we're asking for, and I'll give you an example of the NCS [phonetic] program, which was aka special - - registration program, which is a federal program that started by the Department of Homeland Security, to register people of these 25 countries, whatever, you know, all these resources. I went to translate, you know, 130,000 men complied with this program, and zero men were convicted of terrorism. So what we're asking for here is, you know, base it on information and leads, we're all about that. Okay? If you have information, if there's a lead, a credible lead, follow it. But what we're asking for is not to terrorize and target and surveil an entire community. I mean, at the Islamic Society of Bay Ridge, which is a mosque that I go to, I'm there every Friday, and I'm sure there are plenty of FBI agents and informants in that mosque, as well. And if anyone, if the NYPD can come to me and say, "We were there a couple of times and there were

1
2 these hutbas [phonetic] and they were really, you
3 know, rhetoric" and whatever you're saying, and
4 you know, "dangerous words were said," bring that
5 forth and I think that's what our community wants
6 to know, that we are afraid, and our community is
7 afraid. We have students who don't want to talk
8 in class with their, you know, social studies
9 teachers, about 9/11 and Osama bin Laden, because
10 they think that whatever they say is going to be
11 used against them. And this is not the country
12 that we live in. And we are American born
13 citizens, we don't carry passports from other
14 countries. And I think the point here is we do
15 need law enforcement, we want law enforcement, but
16 we need the partnership. So if our community,
17 there are many plot across the country where
18 family members were the ones that called law
19 enforcement and FBI, to report their own children.
20 So, if we get to a point where our community
21 totally disengages with law enforcement, and we
22 say, "You know what? Since you're already
23 surveilling us, and you're, you have informants in
24 our mosque, why should we then help you?" We're
25 going to get to a point where something is going

1
2 to happen and our community's going to say, "Well,
3 aren't you surveilling us? Don't you know
4 everything that we do? Then why do we have to
5 help you?" And that's what we're afraid of.
6 We're, we just need oversight, we want to know who
7 tells the NYPD what to do, and who's watching that
8 process. And it seems to us right now that no
9 one's watching that process.

10 COUNCIL MEMBER HALLORAN: And who
11 watches the watchers is something that gravely
12 concerns me. And I can't tell you how divided I
13 am about this issue. Look, I lost a cousin in the
14 Towers, Lieutenant Vincent Halloran died that day
15 because he was a firefighter doing his job. That
16 doesn't change the fact that I'm concerned about
17 how far we go in watching our citizens. "1984,"
18 George Orwell. There is shades of that all the
19 time. The question is, how do we get the dialogue
20 to go beyond the polarization that's existing
21 right now. And again, I would really hope to
22 emphasize that every ethnic community, and
23 religious community, including the Catholics, when
24 they came here, the Protestants didn't want 'em
25 here. And the Protestants looked at them as, as

1
2 less than human, in the 1800s when they first
3 started migrating. The Irish went through it, the
4 Chinese went through it, the Italians went through
5 it. We will get to a point where a Muslim-
6 American is no different than any other form of
7 American. If we keep talking. If we stop
8 talking, that's a different story. But you wanted
9 to say.

10 CYRUS MCGOLDRICK: Yeah, no, two
11 points to that. One is that, you know, I
12 absolutely agree, every community has gone through
13 this period of time. On the one hand, that
14 doesn't make it right. And on the sec--on the
15 other hand, I think also the quote, and I quote
16 directly from the PowerPoint presentation, "The
17 American black Muslim," which is different from
18 the African, you know, Muslim, "has had plenty of
19 time to settle in here" and I think they, in a lot
20 of respects, they should be given the benefit of
21 the doubt. And I think also, in addition to what
22 Linda said, which is absolutely, absolutely true,
23 I think that even further, we should question the
24 role of the informants, the role that they play in
25 these crimes. There are very serious issues of

1
2 entrapment being raised by some of the cases and
3 the way they played out, especially when you have
4 people with very low intelligence, with either
5 mental or social disabilities, you know, and
6 people being institutionalized. And these are the
7 people that we're picking on. And in a couple, in
8 too many of these cases, it seems like the person
9 who was in the role of law enforcement was playing
10 the role of the radicalizer. And that's a very
11 difficult thing when people are being mobilized
12 from not being ready to commit a crime, to being
13 offered to be paid to be, to commit a crime,
14 that's very problematic and there needs to be much
15 more oversight over those types of cases.

16 FAHD AHMED: The, just building on
17 that, so in the case that's being discussed, Osama
18 Daoudi, he became the religious mentor of the, of
19 the kid. The kid who had no previous Islamic
20 knowledge whatsoever, came from a family that
21 wasn't that religious. Okay? I think, I still
22 want to go back to the phrase that you used,
23 "policing a philosophy," that's a very scary
24 phrase. Okay. What happens if you espouse a very
25 violent and radical philosophy, but you don't act

1

2 on it. Is that something that's worthy of being
3 investigated? I mean, you know, these are some
4 legal questions that you know, people are dealing
5 with, but you know, I think we should be careful
6 in saying that it's not just radical philosophy
7 that's--

8

COUNCIL MEMBER HALLORAN: Look, we
9 don't have thought police yet, but by the same
10 token, you can't yell fire in a crowded theater.

11

FAHD AHMED: Yes.

12

COUNCIL MEMBER HALLORAN: So, I
13 mean, again, these are going to be slippery slopes
14 of discussion all the time.

15

FAHD AHMED: Yeah, but I think one
16 of the things that law enforcement experts have
17 talked about, is the focus on acts, and on crimes.
18 In some of these cases, some of them, the
19 manufacturers went in some of, the genuine ones,
20 there's also issues of people that are actually
21 not espousing any sort of philosophy, and actually
22 sort of, very sort of mainstream, whatever. But
23 they're being, being put into acts. A brief
24 mention of the case you mentioned about Richard
25 Baz [phonetic], he was not actually not even

1
2 active in the - - , he was somebody that was known
3 in the community as a drug dealer, as somebody
4 that was known as a drug addict. When he was
5 arrested, not to criminalize people with substance
6 abuse problems, but when he was picked up and
7 arrested, they found so much crack in him that the
8 police were like, "How is this guy walking
9 around?" And so, you know, I think that's one of
10 the other aspects that we see is individual acts
11 by people from the Muslim community get completely
12 being frame as this is related to their religion,
13 their community, this is who they are. And we
14 need to be careful of that. Lastly, I think, you
15 know, you talked about the need for communication.
16 I think the, I mean, I'll say for me, I've been
17 frustrated from much longer, but I think the
18 report that came out yesterday, made it very clear
19 that even when efforts at communication had been
20 made, those very same people were being targeted
21 and surveilled by the NYPD. And so the Imam
22 that's named in that, in that article yesterday,
23 he was targeted by that same informant. Multiple
24 times. And he made it clear to the community this
25 guy's like trying to do something, stay away from

1
2 him. What does that tell us? This is a guy
3 that's being invited to the Mayor, the Mayor's
4 dinner. This is the guy that the NYPD's engaging
5 with. Who's known in the community for, you know,
6 sort of a progressive understanding of his son.

7 COUNCIL MEMBER HALLORAN: Look, I,
8 again, I appreciate all of that, I mean, and we'll
9 continue the dialogue. The Chairman will
10 certainly look at these issues in terms of
11 oversight, certainly no one has done more
12 oversight of the NYPD in recent history than this
13 Chairman. Just remember that, you know, we're
14 still facing, in Flushing, the place I represent,
15 I mosque there, that was funneling money and we
16 had issues. Two people in Whitestone, my, the
17 community I represent, which is the most suburban,
18 laid back place you could ever possibly imagine,
19 these two people were planning to go and blow up
20 synagogues. So, again, not because necessarily
21 there was a specific location that they were tied
22 to, but they had a world view shaped around a
23 warped view of a particular religious philosophy.

24 FAHD AHMED: I, I'll, the very case
25 that you're talking about, one of the, that was a

1
2 reference I made, that one of the kids has been in
3 and out of mental institutions for 20 years. He
4 does not have any Islamic understanding or
5 knowledge whatsoever.

6 COUNCIL MEMBER HALLORAN: [off mic]
7 One of them, but the other one is.

8 FAHD AHMED: The other one, I don't
9 know the case or--

10 COUNCIL MEMBER HALLORAN: The other
11 one does.

12 FAHD AHMED: Okay. I mean, I don't
13 know the case, specifically, but I do know the
14 other family. And that particular informant was
15 known to have gone into many other political
16 organizations and community organizations, in
17 Brooklyn and in Queens, including being at a
18 protest, including being at a protest and being so
19 boisterous that the police is ticketing him. That
20 raises questions. What, if this informant, I'm
21 sorry, - - , is being so boisterous, and like
22 being, and getting in such kind of activity, what
23 did he do with these kids?

24 LINDA SARSOUR: I just want to,
25 wanted to ask a question. You know, the

1
2 Congressman Gifford's shooter had a manifesto of
3 antigovernment, violence against America,
4 destruction of America, I mean, he had a whole
5 manifesto. And, you know, and he shot a
6 Congresswoman. I mean, this is the ki--so, what
7 we're asking also is that, you know, if you're
8 saying we're targeting Muslim communities, you
9 know, like if we see that this is something that's
10 happening fairly across the board, like
11 Commissioner Kelly said, "Oh, we're doing it to
12 other communities, too." All right, we're cool
13 with that, but that's not the information that's
14 coming out, and that's the concern that we have.

15 FAHD AHMED: And just a last point,
16 I think it's really frustrating when Commissioner
17 Kelly says, "We had our lawyer look at it, it's
18 okay." That does not suffice, that absolutely
19 does not suffice. And I don't think, you know,
20 this Committee, you know, you guys are trying to
21 do oversight in the way, I think we need concrete
22 mechanisms. You know, Michael suggested perhaps
23 an Inspector General, some cities they're trying
24 independent police monitors, some have tried
25 independent prosecutors. There's different

1
2 mechanisms, but they need to be funded, they need
3 to be sustained, and they can't be complaint
4 based. One of the biggest problems that we have,
5 we could've brought community testifiers here who
6 could've told you their stories, but they're too
7 damn afraid to come here, and to speak, because
8 they fear retaliation.

9 CHAIRPERSON VALLONE: Okay, I need
10 to end this panel discussion. We're going to go
11 to Brad in a second, but let me say this. I don't
12 have, I agree with some of what you said, I
13 disagree with most of it. But if you're going to
14 try to, try, in my hearing, to compare one lunatic
15 with a worldwide movement of hundreds of thousands
16 of people who have sworn destruction of the United
17 States, and say they deserve equal surveillance,
18 I'm going to vehemently disagree with that, too.
19 No, I'm not asking for discussion on that - -

20 LINDA SARSOUR: Hundreds of
21 thousands, seriously--

22 CHAIRPERSON VALLONE: Hundreds of
23 thousands, worldwide.

24 LINDA SARSOUR: --Councilman Peter
25 Vallone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRPERSON VALLONE: Absolutely.
Absolutely. Have you, have you--okay, well.
Council Member Lander.

COUNCIL MEMBER LANDER: I was going
to talk about how much progress I thought we had,
we had made, so I'm going to stick with that,
actually, 'cause I think we're close. So, I do
want to thank all of you guys for coming and
sticking around. And I want to thank the Chair
and the other members of the Committee, 'cause I
really do believe that this is - -

CHAIRPERSON VALLONE: [interposing]
You know what, you're right, I'm going to, sorry,
I meant tens of thousands. But we'll, let's--

COUNCIL MEMBER LANDER: All right.

CHAIRPERSON VALLONE: It's not all
that relevant, but there's a lot.

LINDA SARSOUR: [off mic] One
billion - -

CHAIRPERSON VALLONE: There's a
huge worldwide movement.

COUNCIL MEMBER LANDER: I think we
made some important progress on a set of issues.
You know, I mean, I think it's clear that the AP

1
2 stories brought to light something that needs real
3 attention, and that we've begin, we've begun to
4 give it. We didn't, I didn't get all the answers
5 that I wanted from the Commissioner, certainly. I
6 think we will follow up to ask some in writing,
7 there'll be more work to do to get them. But I
8 think, hopefully there's a dialogue here that
9 tries to figure out what kind of oversight
10 framework we can put in place. I guess the thing
11 that I just wanted to add, and this goes to what
12 you've said, but I thought in yesterday's article,
13 the quotes from Imam Shata were sort of the most
14 kind of heartbreaking piece of the story to me,
15 where he says, you know, "This is very sad," he
16 said, after seeing his name in the NYPD file.
17 What's your feeling if you see this about people
18 you trusted? And then at the end, he says he
19 still considers the Mayor his friend, but was hurt
20 by what he saw. You were loving people very much,
21 and then all of the sudden you get shocked, it's a
22 bitter feeling. And I think if the goal is to
23 incorporate the community, to partner with the
24 community, to have people on watch for trouble in
25 their own neighborhoods, they have to feel a level

1
2 of trust and partnership, and it's impossible to
3 feel that level of trust and partnership if you
4 believe that the folks praying next to you in your
5 mosque, or sitting across from you in the
6 restaurant or the bookstore, are NYPD informants.
7 So, it is deeply counterproductive, and we've got
8 to find a way to get the right structure for
9 oversight and for standards in place. So, thank
10 you very much for your testimony. And Mr.
11 Chairman, thank you for the hearing.

12 CHAIRPERSON VALLONE: All right,
13 and we're not going to go into questioning, but
14 Council Member Greenfield wants to make one point.

15 COUNCIL MEMBER GREENFIELD: I, you
16 know, I just want to, I, you know, I want to just
17 reiterate, I think what the Chairman was trying to
18 say, which I think is an important point is, you
19 have a lot of allies on the City Council. I don't
20 want you to think, I don't want you to walk away
21 and think today that, you know, in fact, it's
22 quite the opposite. If you look at the structure
23 of government, you probably have more allies in
24 the City Council than any other part of
25 government, and in fact we're sympathetic to what,

1
2 a lot of what you say, and we agree with a lot of
3 what you say. I think, I think where we disagree,
4 and in some points, honestly, just something to
5 think about from your perspective, 'cause like I
6 said, I was an advocate, and I still term myself
7 as an advocate, as well, is that, you know, the
8 highlighting the disagreement, such as for
9 example, the question I think you said, "What
10 happens when someone's espousing a violent
11 philosophy?" Yeah, I think it someone's espousing
12 a violent philosophy, then we have a problem with
13 that. Many of us would have a problem with that,
14 as opposed to randomly stopping taxi drivers,
15 right, and asking them who you are and where
16 you're from. Or the disagreement that we have,
17 and we can agree to disagree, that the reality is,
18 - - whether it's 100 or 500 or 1,000 or 10,000,
19 there are a tiny, super tiny contingent of
20 extremist Muslims, who are engaging in terrorist
21 activity. To say that there's no correlation
22 whatsoever, when the Police Commissioner testifies
23 that it happens to be that every attempt--and my
24 point is, I just don't think it's helpful from
25 your end. You guys can do whatever you want, I'm

1
2 just giving you honest advice that there's a lot
3 of sympathy, there's a lot of support for a lot of
4 what you're saying. I think some, you have to
5 internally agree on sort of the guidelines and
6 say, you know, "Here's really what we're pushing."
7 'Cause if you're going to try to convince me that,
8 you know, that there's zero correlation between
9 terrorist acts and a small percentage of extremist
10 Muslims, you're not really going to convince us.
11 Or if you're trying to say, "Hey, it should be
12 okay for people to get up and preach some sort of
13 violent philosophy," I don't think you're really
14 going to convince us either. But I think when you
15 focus on the core issues, that you brought to our
16 attention, which is why I asked for specific
17 examples, because I think some of the stuff that
18 you're alleging are serious allegations that need
19 to be looked at, I think that's really where
20 you're going to get the most sympathy, honestly,
21 from the Council Thank you for your testimony
22 today.

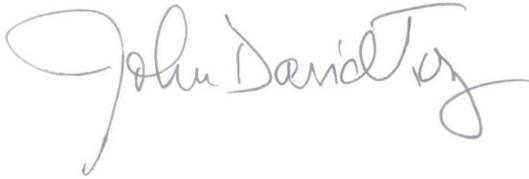
23 CHAIRPERSON VALLONE: Thank you,
24 Council Member Greenfield. And really, we
25 appreciate you sitting here all day, and listening

1
2 to the testimony and giving us more information
3 and we're going to continue to do oversight on
4 this topic. It's a very important one. So, thank
5 you all, and people out there in the audience,
6 also, for coming down today. And especially as
7 Council Members, Council Member Dromm, Jackson,
8 they're still over there, under surveillance,
9 okay. [laughter] For staying, and it rarely
10 happens that we have this many Council Members
11 stay till the very end, so thank you all for
12 staying. And this hearing is adjourned.
13 [gavel, silence until end]

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned to the right of the printed word "Signature".

Date October 27, 2011