

**TESTIMONY OF POLICE COMMISSIONER RAYMOND W. KELLY
NEW YORK CITY COUNCIL COMMITTEE ON PUBLIC SAFETY
“SAFETY IN NYC TEN YEARS AFTER 9/11”
THURSDAY, OCTOBER 6, 2011**

Good afternoon. Thank you for this opportunity to testify. Mr. Chairman, members of the Council, as you know, over the past ten years, the mission of the New York City Police Department has expanded dramatically to address the evolving threat of terrorism. We've relied mainly on existing law and on the safeguarding of constitutional guarantees to build a deterrent that has helped to protect the city from thirteen terrorist plots since September 11th.

There were terrorist attacks in New York City in each of the decades of the 1970s, 1980s, and 1990s, including the first attack on the World Trade Center and the murder of Ari Halberstam on the Brooklyn Bridge. However, there has not been another terrorist attack against New York in the last 10 years since 9/11. It's not as if al Qaeda and its followers aren't trying. To the contrary, they have repeatedly attempted to return to kill more New Yorkers. But so far, they've been deterred at every turn by the efforts of the NYPD and our federal partners. We've also been lucky.

At the same time, our police officers haven't given an inch in the fight against crime which has fallen every year since 2001 and by 35% overall. Because of budget cuts after 9/11 and the recent financial crisis, we've been operating with 6,000 fewer officers than we had in 2001. We simply do not have the resources to mount the defense we require without federal support.

Homeland security grants have been crucial to our ability to keep the city safe. From Federal Fiscal Year 2002 through 2010, we received a total of \$941 million, which we used to pay for a variety of needs, including: the salaries of some of our intelligence analysts and the 104 officers assigned to anti-terrorist transit teams; overtime costs for security posts; cameras and related technology for the Lower and Midtown Manhattan Security Initiative; boats, helicopters, radiological detection equipment; computer systems for intelligence collection and analysis; counterterrorism training programs, personal protective equipment, explosive detection devices, and other items.

All of this helps tremendously, but we still bear the substantial personnel costs of protecting the City. Last year, that need amounted to \$306 million, including overtime and related expenses. We continue to rely on federal funding to support our operations.

As for the most recent grant awards from Federal Fiscal Year 2011, we expect to receive only slightly less than the previous year. While total federal funding for the Urban Areas Security Initiative Grant program was cut by 20% in Federal Fiscal Year 2011, the number of cities eligible to receive those grants was reduced by more than half by Secretary of Homeland Security Janet Napolitano, leaving fewer localities to compete with.

That's good news for New York City, but moving forward, the future is unclear. We're especially concerned about legislation put forth in the House and Senate that would cut federal counterterrorism grant programs anywhere from 35% to 47% in Federal Fiscal Year 2012. This could have a significant effect on everything we've put in place. By now, members of the Committee are familiar with what we've done, and what's at stake. But for the purposes of our discussion today, I'd like to revisit our core initiatives, describe how we see the threat, and tell you what we intend to do to keep the City safe.

September 11th forever changed how the NYPD views its mission and the world around us. As soon as the Bloomberg administration took office, we reorganized our operations to address the threat of terrorism. We could not defer this responsibility to others.

In January 2002, we became the first police department in the country to develop our own Counterterrorism Bureau. We established a division within this bureau, responsible for training and equipping every one of our police officers for counterterrorism duties. We also restructured our Intelligence Division which, prior to September 11th, spent a significant portion of its time protecting visiting dignitaries. We removed the Division from its place within the Detective Bureau so that office now reports directly to the Police Commissioner. We also gave the Division a new, international focus. While it continues to coordinate the protection of diplomats and world leaders, its mission now includes gathering and analyzing global information. We now devote the full-time equivalent of more than 1,000 officers to counterterrorism duties on a daily basis.

To help guide our new functions, we've turned to leaders from outside the Police Department with extensive federal and international experience. They include individuals like Marine Corps Lieutenant General Frank Libutti, who once commanded all Marines in the Pacific theater. Michael Sheehan, a former Special Forces commander and Ambassador-at-Large for Counterterrorism under President Bill Clinton. Richard Falkenrath, one of the architects of the Department of Homeland Security under President George W. Bush. And Richard Daddario, who served as the Department of Justice's attaché in Moscow and as a chief in the Manhattan U.S. Attorney's Office for fourteen years, supervising and prosecuting international terrorism cases. To head our restructured Intelligence Division, we recruited David Cohen, a 35-year veteran of the CIA who led both the operational and analytical branches of the agency.

We've also benefited greatly from having several former FBI executives serving in the ranks of our Intelligence Division. They include the NYPD's Assistant Commissioner of Programs, Sid Caspersen, who held a senior executive post in the FBI's New York field office and was the former director of New Jersey's Office of Homeland Security prior to joining us. The director of our international liaison program, Ed Curran, served previously as an FBI senior executive service officer and Director of Counter-Intelligence at the Department of Energy. And the NYPD's former Director of Surveillance Training, Bill Wysoff, had been the FBI's premier expert in this field before joining the department.

Over the years, the caliber of people we've been able to attract has played a major role in our ability to protect New York.

We've hired civilian intelligence analysts who are experts in military intelligence and foreign affairs. They study terrorist groups, regions of the world we're concerned about, and methods of attack.

Our information gathering is greatly supported by the senior NYPD officers we've assigned as liaisons to police and intelligence agencies in eleven cities around the world: London, Madrid, Paris, Tel Aviv, Abu Dhabi, Amman, Lyons, Montreal, Toronto, Singapore, and Santo Domingo. From these locations, our liaisons can travel to the scenes of terrorist attacks that occur throughout Europe, the Middle East, and Asia. With every major attack or conspiracy, they look at the specific tactics used, the type of weaponry and explosives involved, where the planning was conducted, and the nature of the targets. We want to gather every conceivable detail in order to learn how best to defend New York City against a similar attack.

In some cities, our work is facilitated by having liaisons fluent in the language of the countries where they are serving. The NYPD is fortunate to have a deep pool of bilingual officers. This has also allowed us to build a foreign linguist program with more than 800 registered speakers of 60 different languages including Arabic, Urdu, Pashto, Farsi, Russian, Mandarin, and Spanish. This capacity is a direct result of one of our most important organizational strengths, which is the remarkable diversity in our ranks.

Now more than ever, the makeup of the Police Department reflects the population of New York City. Since 2002, we have made a concerted effort to tap into this resource, by recruiting more officers from minority and immigrant communities. These efforts have been very fruitful. Whereas the uniformed ranks of the NYPD were once composed primarily of white officers, today our recruit classes are typically "majority-minority"- that is, more than 50% African-American, Hispanic, and Asian officers.

In 2006, for the first time, the rank of police officer became majority-minority. Since that time, we've hired officers born in 88 different countries representing dozens of ethnicities, nationalities, and faiths. Many of them have formed fraternal organizations including, in just the last few years, the Muslim Officers Society, as well as the Desi Society, for officers and civilians who trace their heritage to south Asia.

Our diversity has bolstered every aspect of our mission, from counterterrorism, to crime-fighting, to community relations. The Department and the public have also benefited from initiatives like our new Immigrant Outreach Unit, which we created in 2002. We assigned liaisons to the Arab and Muslim, Chinese, Eastern European, Hispanic, and West African communities. They help connect immigrants to needed services.

Three years ago, we launched Police Department-sponsored youth soccer and cricket leagues. The leagues have become extremely popular, especially among teens who have emigrated from the Caribbean, the Middle East and South Asia.

In addition to the community outreach we've done, we've also cast a wide net for collaboration with outside partners, including the federal government, regional law enforcement agencies, and the private sector.

On September 11th, 2001 there were just 17 NYPD detectives serving on New York City's Joint Terrorism Task Force with the FBI. In 2002, we increased that number to more than 120. Since that time, the JTTF has functioned as our chief conduit for receiving intelligence developed overseas about terrorist plots related to New York. We also provide the FBI with information through our Intelligence Division including allegations and leads related to federal crimes of terrorism by individuals, groups and organizations. The information is passed to them in reports and briefings.

We also share information with 117 law enforcement agencies throughout the Northeast, in a program called Operation Sentry. We do this knowing that it is often easier for terrorists to develop a plot outside the target area. For example, the plan to bomb the World Trade Center in 1993 was hatched across the Hudson River, in New Jersey. The suicide bombers that struck the London transit system in 2005 built their bombs in the city of Leeds, 180 miles north of the target. And Faisal Shahzad, who attempted to detonate a car bomb in Times Square last year assembled his explosives in Connecticut. We conduct various types of training with our Sentry partners and hold video-conferences on emerging threats.

Following the London attacks, the NYPD convened the Amtrak Security Coalition, a public-sector partnership made up of law enforcement agencies along Amtrak's Northeast Corridor. The purpose of the coalition is to bolster security and improve cooperation along the rail route, which is one of the most sensitive and heavily-traveled in the nation. We know transit systems nationwide are a vulnerable target. Indeed, among the wealth of data recovered from Bin Laden's compound in Pakistan were handwritten notes proposing to derail a train on the tenth anniversary of 9/11 or another significant date.

In an unprecedented initiative supported by the Department of Homeland Security, we're also posting radiation detection equipment throughout neighboring jurisdictions and at key points of entry into the five boroughs so that the city is, in effect, ringed with an alarm system. This program, called Securing the Cities, includes 150 law enforcement agencies in dozens of nearby cities and towns. The NYPD distributes all of the radiation detectors used by our partners.

When it comes to the private sector, we collaborate with more than 10,000 members of the region's private security industry, sharing information and training through a program called NYPD Shield. Under another initiative, Operation Nexus, our detectives make thousands of visits to the kind of businesses that might be exploited by terrorists; truck rental outfits, fertilizer stores, and chemical supply companies. We ask them to contact us if they see anything unusual, anything that gives them pause.

We also partner with the private sector to secure areas of the City known to be coveted by terrorists. We do this through our Lower and Midtown Manhattan Security Initiatives in which private companies have given us access to the feeds from their surveillance cameras. Combined with our own network of public cameras, we have detailed coverage of street activity in Manhattan south of Canal Street. We also continue to increase our coverage from 30th Street to 60th Street. The cameras operate on a single centralized network. This makes it possible for us to scan recorded footage for specific objects and colors. If we're looking for a person in a red jacket, we can call up all the red jackets filmed in the last 30 days. We can also program the

system to alert us to potentially suspicious scenarios: a bag left unattended; a car driving against the flow of traffic or a person walking through a restricted area. We can view the footage from any camera remotely from our lower Manhattan Coordination Center. We now have approximately 2,000 out of a planned network of 3,000 cameras feeding into the center. Eventually, this system will also provide alerts from our chemical, biological, and radiological sensors.

Across the City, we've distributed more 2,800 radiation pagers to officers from the Patrol, Counterterrorism and Transit Bureaus, as well as the Highway District and Specialized Units. We also have highly sensitive detection equipment on the boats we use to patrol New York Harbor and in police vehicles. Our officers use a truck-based radiation sensor capable of picking up not just the presence of alpha and gamma radiation, but the particular isotope in a passing car.

A recent "60 Minutes" broadcast raised the question of the NYPD's ability to incapacitate small aircraft in extreme circumstances. This generated headlines the next day, which was somewhat surprising, given that the same newspapers had covered this exact story six years ago, in 2005. Our decision to equip police helicopters with 50-caliber rifles stemmed from an early al Qaeda plot to use crop dusters to spray cities with chemical or biological weapons, like anthrax. Manuals on this subject were discovered among the belongings of Zacarias Moussaoui, the so-called 20th 9/11 hijacker, and were taken so seriously that all crop-dusting aircraft were grounded in late September of 2001. We did not want to be left unprepared in an extreme situation in which New York City was attacked in this way.

We're paid to think about the unthinkable. In this scenario, we would envision coordinating closely with the federal government and the military. In our Joint Operations Center we have a direct line to the F.A.A. towers at local airports. We also maintain contacts with scores of small airport operators in the New York metropolitan area. In addition, the same al Qaeda threat has prompted us to work with the insecticide industry, so they don't become unwitting accomplices.

We're also constantly looking to disrupt surveillance. Every day, based on the intelligence, we deploy teams of heavily armed officers to make unannounced visits to iconic locations. We stage multiple surges throughout the day of as many as 100 patrol cars that proceed in formation, lights flashing, to prearranged locations.

We also place particular emphasis on the subway system. Five million New Yorkers use the subways every day. Protecting this system is one of our top priorities and greatest challenges. That's because the entire system is designed to be open. Its very strengths as mass transit leave it vulnerable to attack. After the bombing of the London transit system in 2005, we began screening the bags and backpacks of subway passengers. We also inspect all 14 underwater subway tunnels daily. Thanks to a federal grant last year, we were also able to hire 104 police officers for our Transit Impact Program and re-assign an equal number of veteran officers to our Anti-Terrorism Unit. They conduct mobile screenings, transit order maintenance sweeps, surges, and counter-surveillance. We've heightened uniformed patrols underground, and we conduct regular security sweeps of subway cars.

These are some of the tools we're using to keep pace with the evolving threat of terrorism. The philosophy behind them is simple. We have to develop the best intelligence available, expand our partnerships, and take protective measures to defeat whatever our enemies might be planning next.

Since September 11th, 2001 terrorists have targeted New York City with plots against the New York Stock Exchange, Citigroup headquarters; the Brooklyn Bridge, John F. Kennedy Airport; Times Square, Ground Zero, the subway system; major synagogues; and other sites. More than any other place in the world, New York City remains in the crosshairs of al Qaeda and its affiliated groups. That is the consensus of the global intelligence community.

Last week we learned of the demise of another top al Qaeda leader, Anwar al-Awlaki. This was another milestone achievement in the fight against terrorism. Al-Awlaki transformed al Qaeda in the Arabian Peninsula into a terrorist organization with global reach. He targeted Americans like no other. He was a powerful recruiter of terrorists in the United States. His lieutenant, Samir Khan, was also killed in the same strike. Khan, who once lived in Queens, had extensive contacts in New York City and published the English language *Inspire* magazine, which instructed lone wolves on how to build bombs at home. The most recent issue identified Grand Central Station as a target.

Like the death of Osama bin Laden, the elimination of these al Qaeda leaders are a success with complications. We know they had followers in the United States including New York City and for that reason we remain alert to the possibility that someone might want to avenge their deaths by striking New York again. In addition to monitoring potential threats from abroad, we have to be concerned about those that originate at home. Six of the 13 plots against us since 9/11 involved citizens or residents of the New York City area. In several of these cases, the use of undercover officers and confidential informants was crucial to defeating the conspiracy. Covert operations may be the only effective way to identify homegrown terrorists, who are often living here legally and operating alone or with just one or two accomplices.

We've used these operations to stop a number of dangerous individuals in their tracks. They include Brooklyn resident Matin Siraj, who plotted to bomb the Herald Square Station; New Jersey residents Carlos Almonte and Mohammed Alessa, al Qaeda sympathizers who were determined to receive terrorist training in Somalia; and Queens resident Ahmed Ferhani, who pledged to "blow up a synagogue in Manhattan and take out the whole entire building."

We'll continue to train, recruit and closely supervise undercover officers in order to infiltrate a terrorist cell before it has a chance to reach maturity and kill New Yorkers. In conducting these sensitive operations, we adhere to a set of guidelines issued by a federal judge. I'm referring to the Handschu consent decree and its modifications. The current version of the decree imposes a common sense standard that any investigation must meet. It establishes strong mechanisms to provide careful oversight of all investigative activities up to and including review by a federal court. By operating within the framework of the modified consent decree, we ensure that our investigations comport with the U.S. Constitution. We do not employ undercovers or confidential informants unless there is information indicating the possibility of unlawful activity. We go where the leads take us.

We'll continue to abide by the Handschu guidelines and to lawfully resist public dissemination of investigative information that could undermine our ability to protect the city. Indeed, this right has already been upheld in federal court. Last year, the U.S. Court of Appeals for the Second Circuit vacated an order by a lower court that the NYPD hand over field reports made by undercover officers as they prepared to secure the city during the Republican National Convention in 2004. Doing so would have revealed both the methods we used and the identities of our officers. In applying that doctrine, the court relied upon and clarified earlier precedents involving federal agencies, such as the CIA and the FBI. The court recognized that releasing such information could compromise our ability to protect the city.

In addition to carrying out our own investigations, we have to be prepared in the event we receive an alert of a terrorist presence in the New York area. We want to know how individuals travelling here to do us harm might communicate and conceal themselves. We must be able to quickly pinpoint the likely areas in which a foreign operative might find resources or evade law enforcement. What internet café in which borough would they be likely to use? At which S.R.O. might they find lodging? Establishing this kind of geographically-based knowledge of the City's communities saves precious time in deterring fast-moving plots. It is also in keeping with the Handschu guidelines, which allow us to prepare terrorism assessments for strategic planning purposes.

Let me also say that gathering intelligence is one of the things we do every day as a police department to protect the public. Having a comprehensive understanding of the communities we serve enhances our ability to disrupt drug-dealing, human-trafficking, organized crime, fraud, and other complex criminal activities. Why wouldn't we do the same to combat terrorism? In addition, we must be prepared to assess how religious and ethnic tensions abroad could affect the various communities of New York City.

I also want to comment on another important aspect of this work, and that is our relationship with the Central Intelligence Agency. Earlier I mentioned our expanded federal partnerships. As established by Presidential Executive Order, U.S. intelligence agencies, including the C.I.A., are authorized "to provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or when lives are endangered, to support local law enforcement agencies." Operating under this legal basis, the CIA has advised the Police Department on key aspects of intelligence gathering and analysis that have greatly benefited our counterterrorism mission and protected lives in New York City.

I also want to add that given the Police Department's impact on the daily lives of New Yorkers, everything we do—from the training we provide to our counterterrorism policy—receives legal scrutiny. Our team of experts includes former federal prosecutors, assistant district attorneys who were bureau chiefs, and an N.Y.U. professor of criminal procedure, all of them exceptionally distinguished individuals with decades of experience. They have ensured that our counterterrorism programs accommodate civil liberties to an even greater extent than the law requires.

For example, when we launched our Lower and Midtown Manhattan Security Initiatives we developed a statement of privacy principles to govern what we do. It can be found on our website. Modeled on guidelines published by one of the nation's leading legal think tanks, our

policy sets limits on the retention of data and provides other safeguards to reduce the potential for misuse. In a broad sense, the value we place on privacy rights and other constitutional protections is part of what motivates the work of counterterrorism. It would be counter-productive in the extreme if we violated those freedoms in the course of our work to defend New York. For this reason, the protection of civil liberties is as important to the Police Department as the protection of the City itself.

A decade after 9/11, New York enjoys the distinction of being the safest big city in America. It is also commercially vibrant, culturally diverse, and free. I would argue the fact that we can claim these successes is due, in no small measure, to the 50,000 uniformed and civilian members of the New York City Police Department who have demonstrated initiative and imagination in upholding the law and all of its constitutional guarantees.

Thank you again for this opportunity to testify. I'd be happy to answer any of your questions.



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**TESTIMONY OF UDI OFER
ON BEHALF OF THE NEW YORK CIVIL LIBERTIES UNION**

before

**THE NEW YORK CITY COUNCIL
PUBLIC SAFETY COMMITTEE**

on

NYPD SURVEILLANCE OF MUSLIM NEW YORKERS

October 6, 2011

In a time of national crisis the government will exercise its considerable powers to protect the public safety. But, as is well documented in earlier periods of American history, it is not only the national security that is at risk; at such times, individual civil rights and civil liberties often come under attack as well.

On September 11, 2001, New York City and the nation entered once again into such a time. It is in this context that the NYCLU submits the following testimony about various reports and accounts of NYPD activities that, if true, raise serious concerns about the NYPD using national security as a pretext for needlessly compromising New Yorkers' rights and freedoms.

In a series of articles and broadcasts by the Associated Press, Leonard Levitt, and National Public Radio, former and current NYPD personnel have revealed that the NYPD has conducted surveillance on New York City's Muslim communities, targeting New Yorkers based on their religious beliefs and practices and with no suspicion of wrongdoing. According to the reports, the NYPD has:

- Dispatched undercover officers to Muslim and Arab neighborhoods in New York City in order to monitor daily life, including at mosques, bookstores, restaurants, and Internet cafes;¹
- Deployed “mosque crawlers” to monitor hundreds, if not thousands, of mosque prayer services;²
- Monitored neighborhoods for “angry rhetoric and anti-American comments” and targeted individuals based on their reading habits and Internet search histories;³
- Monitored Muslim student associations at City College, Baruch College, Hunter College, LaGuardia Community College, St. John’s University, Queens College, and Brooklyn College;⁴
- Engaged in pretextual traffic stops in Pakistani neighborhoods for the sole purpose of recruiting informants to assist the NYPD in targeting Muslim and Arab communities;⁵
- Built dossiers on Muslim New Yorkers engaged in no wrongdoing,⁶ and
- Destroyed documents and other evidence to hide undercover operations.⁷

The allegations contained in the media accounts appear to be consistent with a “radicalization” report released by the NYPD in 2007, which conflated religious beliefs and practices with preparations for terrorism, and focused exclusively on people who practice Islam in the United States.⁸

¹ Adam Goldman, *With CIA Help, NYPD moves covertly in Muslim areas*, Associated Press, August 24, 2011; Adam Goldman, *NYPD monitored where Muslims ate, shopped, prayed*, Associated Press, August 31, 2011; Leonard Levitt, *The NYPD: Spies, Spooks and Lies*, NYPD Confidential Blog, September 5, 2011

² Adam Goldman, *With CIA Help, NYPD moves covertly in Muslim areas*, Associated Press, August 24, 2011; *NYPD Intelligence Unit Seen Pushing Rights Limits*, National Public Radio, August 24, 2011.

³ Adam Goldman, *NYPD monitored where Muslims ate, shopped, prayed*, Associated Press, August 31, 2011; Adam Goldman, *With CIA Help, NYPD moves covertly in Muslim areas*, Associated Press, August 24, 2011.

⁴ Leonard Levitt, *The NYPD: Spies, Spooks and Lies*, NYPD Confidential Blog, September 5, 2011

⁵ Adam Goldman, *With CIA Help, NYPD moves covertly in Muslim areas*, Associated Press, August 24, 2011.

⁶ Adam Goldman, Eileen Sullivan And Matt Apuzzo, *NYPD Developed Detailed Muslim Surveillance Program*, Associated Press, September 22, 2011; Adam Goldman, *With CIA Help, NYPD moves covertly in Muslim areas*, Associated Press, August 24, 2011; NYPD Intelligence Division PowerPoint, “The Demographics Unit,” available at <http://www.nyclu.org/files/releases/Exhibit5.pdf>; Memo from Supervisor of Demographics Unit to Commanding Officer C.A.R.U., January 26, 2006, available at <http://www.nyclu.org/files/releases/Exhibit6.pdf>.

⁷ Adam Goldman, *With CIA Help, NYPD moves covertly in Muslim areas*, Associated Press, August 24, 2011.

⁸ Mitchell D. Silber and Arvin Bhatt, “Radicalization in the West: The Homegrown Threat,” New York City Police Department, 2007, available at http://www.nypdshield.org/public/SiteFiles/documents/NYPD_Report-Radicalization_in_the_West.pdf.

The Constitution guarantees all New Yorkers the equal protection of the laws, and civil rights laws further protect us from discrimination based on religion, ethnicity, or national origin. Yet despite these protections, news reports suggest that the NYPD has singled out Muslim New Yorkers for special scrutiny based on their religious beliefs and practices. As a matter of policy as well as constitutional principle, governmental conduct directed at religious, ethnic or racial groups or at individuals because of their religious, ethnic or racial identities is highly suspect and presumptively impermissible. That strong presumption against religious, ethnic or racial discrimination by government can only be justified, if at all, if the government can demonstrate that the practices in question are necessary to achieve a compelling government interest and are narrowly tailored to achieve that compelling interest. While combating terrorism may well provide the NYPD with a compelling interest, engaging in practices that subject entire communities of innocent Muslims to police scrutiny merely because of their religion are wildly overboard and cannot possibly satisfy the requirements of the law.

The attacks of September 11, 2001 were committed by Muslim men, but the common religious practices of those 19 men must not be used as a justification for the NYPD to engage in religious and ethnic profiling on hundreds of thousands of innocent New Yorkers. Our city's greatest strength is its long history of integrating diverse religions and cultures. The legitimate fear of another terrorist attack cannot, and must not, justify the profiling of law-abiding New Yorkers based on religion and ethnicity. Not only have such practices shown to be unjust, but time and again they have shown to be ineffective.⁹ Government programs that lead to the

⁹ Government programs since 9/11 have led to tens of thousands of Muslims to be questioned, thousands to be deported for civil immigration infractions, and hundreds to be subjected to secret and arbitrary detention and abusive interrogation. Yet not a single person was arrested or publicly prosecuted for a terrorism-related crime as a result of any of these programs. Office of the Inspector General, U.S. Dept. of Justice, *The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks* 142 (2003), available at <http://www.justice.gov/oig/special/0306/full.pdf>; American Civil Liberties Union, *Sanctioned Bias: Racial Profiling Since 9/11* (2004),

surveillance of Muslim New Yorkers suspected of no wrongdoing will not make New York safer, but will tear apart the very fabric of our city's democratic values.

Serious charges have been raised about discriminatory NYPD activities, and the City Council must not wait until the next news story before acting. First, the City Council should use its oversight authority to investigate NYPD operations that target Muslim New Yorkers engaged in no wrongdoing. Such oversight should take place in a manner that does not threaten legitimate criminal investigations, yet informs policymakers and the public about how the NYPD deploys its officers and spends taxpayer money. Second, following further inquiry, the City Council should determine whether substantive and procedural limitations are needed to guard against future abuse.

In a speech delivered in 1987 at Hebrew University in Jerusalem, Justice William J. Brennan said, "A jurisprudence that is capable of sustaining the supremacy of civil liberties over exaggerated claims of national security only in times of peace is, of course, useless at the moment that civil liberties are most in danger." Today we are in a period when civil liberties are most in danger. The City Council should work with the NYPD to ensure that our law enforcement officers do not needlessly target our city's most vulnerable communities, and repeat the unfortunate mistakes of the past.

www.aclu.org/FilesPDFs/racial%20profiling%20report.pdf; *see also* "Oversight hearing on the Impact of Antiterrorism Initiatives on Immigrant Communities", New York City Council, February 11, 2004 (testimony of Udi Ofer on behalf of the New York Civil Liberties Union) *available at* <http://www.nyclu.org/content/testimony-overseeing-impact-of-antiterrorism-initiatives-immigrant-communities-nyc>.

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*Testimony of Nahal Zamani,
Advocacy Program Manager of the Center for Constitutional Rights
before the Public Safety Committee of the New York City Council*

Thursday, October 6, 2011

Good afternoon, Councilmembers. My name is Nahal Zamani and I am an Advocacy Program Manager of the Center for Constitutional Rights. The Center for Constitutional Rights (CCR) is a legal, advocacy, and educational organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights.

As my time is brief and you will be hearing a great deal of testimony today, I would like to take the time to focus on issues of safety for New Yorkers whose stories are not always in the spotlight.

I would like to take just a few moments, however, to address the recent "Occupy Wall Street" demonstrations. The NYPD's actions at this demonstration continue to be of concern, including the allegations of unwarranted beatings last night. These police actions, however, are reflective of a larger civil liberties crisis that has been intensifying at an alarming rate over the past decade. Peaceful political protest activity across the country have been met with brutal force by law enforcement, all while domestic surveillance activities by the government have increased dramatically. As dissent has come to be equated with terrorism, activists are given overblown and draconian sentences for non-violent advocacy and protested related activities

The NYPD should hold officers who have engaged in misconduct responsible for their actions, including receiving appropriate discipline when necessary.

Further, CCR is deeply troubled over the findings of an AP investigation from late August which finds the NYPD, along with the CIA, has been spying on New Yorkers, that the collaboration was designed particularly to infiltrate New York's Muslim communities, and that the NYPD was operating outside of New York City. We urge the City Council to look into this matter immediately, as it concerns issues of accountability, transparency and oversight, the illegal and intrusive surveillance of entire communities, religious profiling as well as the threat to protected activities under the U.S. Constitution.

We also want to bring to the Committee's attention, a landmark ruling issued yesterday by U.S. District Judge Nicholas G. Garaufis of Brooklyn in a federal class-action lawsuit filed by CCR, co-counsel Levy Ratner, P.C., and Scott & Scott, LLP, on behalf of the Vulcan Society, the

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fraternal organization of Black firefighters. Judge Garaufis ruled that the FDNY's hiring practices to be broadly discriminatory on the basis of race in violation of both Title VII of the Civil Rights Act of 1964 and the Equal Protection Clause of the U.S. Constitution.

Under the ruling, the FDNY will be required (1) to hire independent consultants to identify best practices for recruiting and hiring a racially diverse workforce and ensuring a non-discriminatory work environment; (2) to train all FDNY candidate investigators regarding city, state, and federal EEO laws and policies; and conduct a top-to-bottom assessment of its entire firefighter hiring process to determine what changes are necessary to make the process fair to all applicants regardless of race. Further, the court will appoint a monitor to oversee the City's implementation of its order. This monitoring will continue for ten years. CCR urges the Public Safety Committee to consider this decision and push the FDNY to take the necessary steps to address its discriminatory hiring practices.

I would like to take the remainder of my time to discuss the policy of stop-and-frisk. Stop-and-frisk, as you know, is the practice by which an NYPD officer initiates a stop of an individual on the street allegedly based on so-called reasonable suspicion of criminal activity. Last month, we marked the 10th anniversary of the terrible events of September 11, 2001. In the same period of time, the use of this practice has increased more than 600%.

CCR has long been active in the movement to address racial profiling, particularly in New York City. CCR filed *Floyd, et al. v. City of New York, et al.*, a federal class action lawsuit against the NYPD and the City of New York that challenges the NYPD's practices of racial profiling and unconstitutional stops-and-frisks. In addition to our litigation, we have engaged in advocacy and organizing efforts and as a result, have a valuable perspective on the safety of New Yorkers, which is once again being evaluated in light of the tenth anniversary of 9/11.

Stop-and-frisks occur at an alarming rate in communities of color, who often feel under siege and harassed by the police. There are three major problems surrounding the stop-and-frisk policy. First, this policy disparately and unjustly affects Black and Latino New Yorkers. Second, the policy deteriorates the relationship between the NYPD and communities they police. Third, the policy has proven itself to be ineffective in its attempt to keep weapons or contraband off the street.

Just one year ago, renowned policing expert Jeffrey Fagan of Columbia University released a report confirming that the NYPD stopped-and-frisked hundreds of thousands of New Yorkers without reasonable suspicion and engaged in a pattern of unconstitutional stops that disproportionately affected Black and Latino New Yorkers. Even after controlling for crime rates and the number of officers on patrol in a given area, the report concluded that the main factor for determining who gets stopped is race. Both the City Council and CCR regularly receive data from the NYPD about its use of stop and frisk, and we are currently analyzing data from the first

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two quarters of 2011. What we do know: in 2010, a record 600,601 people were stopped, 87 percent of whom were Black and Latino residents though they together comprise just over 50 percent of New York City's total population. These numbers clearly reflect an over-use of this practice in Black and Latino communities in New York City.

Moreover, stop and frisk contributes to continued mistrust, doubt and fear of police officers in communities of color that are already scarred by systemic racial profiling and major incidents of police brutality. Stop and frisk has a detrimental ramification for community safety as well. Rather than build relationships and partnerships with communities, this policy actively alienates communities based upon their racial composition. CCR is currently studying the human impact of this policy on the communities, and preliminary discussions reveal disappointment, distrust and fear of police.

Policing policies should work to actively develop ties and positive relationships between the NYPD and local communities. Unfortunately, the policy of stop-and-frisk undermines this valuable relationship.

Lastly, stop-and-frisk has proven to be an ineffective program at reducing crime. While supporters continue to allege that this policy is keeping guns off the streets, over ten years of raw data from the NYPD reveal that stops-and-frisks result in a virtually non-existent weapons and/or contraband yield. For example, in 2010 only 1.26% of all stops resulted in the yield of weapons.

As a member of the Campaign for Fair and Justice Policing, CCR asks the Committee on Public Safety to urge the NYPD to end bias-based policing and to implement policies that promote community safety and respect the rights of all New York City residents.

Particularly, in light of the anniversary of 9/11, we must ensure that actions that purport to protect New Yorkers, are not in fact, detrimental to their safety.

Thank you for your time and consideration.

Linda Sarsour

Arab American Association of New York, Director

National Network for Arab American Communities, Advocacy and Civic Engagement Coordinator

With recent mainstream media coverage including the Associated Press which confirmed our belief that NYPD was surveilling our community, the Arab American and Muslim communities feel like the good faith effort that we have shown to better partner with NYPD was taken advantage of and violated.

Bay Ridge where I live and work is home to the largest Arab American community in the state of New York, an area heavily targeted by NYPD and other federal law enforcement agencies. Our previous Imam, Sheikh Reda Shehata and our mosque Islamic Society of Bay Ridge, were listed amongst those monitored and surveilled by law enforcement. This is the same mosque that has invited and hosted NYPD officials on dozens of occasions, opened our doors to them, broke bread with them and extended our hand in partnership and cooperation. It is these same NYPD officials that have been authorizing the surveillance and monitoring of our entire community, not based on evidence or probable cause but based on ethnicity and religion.

Today we are speaking about public safety. Public safety will only exist when there is a strong, relationship built on mutual trust between communities and local law enforcement. NYPD has broken that trust and has hindered the public safety for all New Yorkers. Local community members in our area are outraged by the confirmations of the AP investigations specifically the "Moroccan Initiative". This proved to us is that the NYPD has cast a wide dragnet on an entire community and has put an entire community under suspicion. The targeting and profiling of any group based upon ethnicity and national origin not only reflects bias but is completely ineffective means for law enforcement to prevent crime. The Arab and Muslim communities in New York are guilty until proven innocent which goes against everything our constitution and our country stands for.

Many community leaders including myself are in a dilemma. Our community looks to us to protect, defend and represent their best interests. Our credibility is on the line and we have chosen to stand with our community and condemn the unlawful, unjust targeting and surveillance of the Muslim American community by the NYPD Counterterrorism Unit and Commissioner Kelly as the leader and director of this operation. NYPD officials including Commissioner Kelly who oversaw these initiatives that clearly violate the civil rights of New Yorkers must be investigated and held accountable for their actions and a process must be expediently implemented to safeguard that such abuses will never be justified by NYPD policy. I also urge that it's mandated that the NYPD fully cooperate with all inquiries on its partnering with the CIA specifically in surveilling of fellow Americans which appears to be a blatant violation of the CIA charter.

It is ironic that the Times Square terrorist plot last year was foiled by a Senegalese Muslim street vendor who put in the first call to 911 and street vendors and cab drivers are on the list of those surveilled and monitored. Instead of NYPD surveilling law abiding citizens like this Senegalese street vendor they should be putting their resources towards real and imminent threats to public safety.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Deputy Commissioner Edward Allocco

Address: 1 Police Plaza NYC

I represent: MYPD Dep. Comm. Management & Budget

Address: 1PP

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Date: 10/6/11

(PLEASE PRINT)

Name: Deputy Commissioner Richard Daddario

Address: 1 Police Plaza NYC

I represent: MYPD

Address: Dep. Comm. Counterterrorism 1 Police Plaza

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Date: 10/6/11

(PLEASE PRINT)

Name: Cyrus McGoldrick

Address: 475 Riverside Drive Suite 244 New York

I represent: Council on American Islamic Relations - NY

Address: _____

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Appearance Card

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Date: _____

Name: Nancy Zamani (PLEASE PRINT)

Address: 200 Broadway

I represent: Center for Constitutional Rights

Address: _____

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Date: 10/6/11

Name: UDI OFER (PLEASE PRINT)

Address: 125 Broad St, 19th Fl, NY, NY 10004

I represent: NYCLU

Address: 175 Broad St.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/6/2011

Name: FAHD AHMED (PLEASE PRINT)

Address: 72-18 Roosevelt Ave. Jackson Heights NY

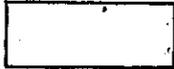
I represent: DRUM - Descs Rising Up & Moving

Address: 72-18 Roosevelt Ave Jackson Heights NY 11372

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THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Mike Price (PLEASE PRINT)

Address: 161 6th Ave, NY, NY 10013

I represent: Brennan Center

Address: as above

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THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/6/2011

Name: Linda Sarsour (PLEASE PRINT)

Address: 7111 5th Avenue, Brklyn

I represent: National Network for Arab American Communities

Address: 7111 5th Avenue, Brklyn

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/6/11

Name: Police Commissioner Raymond W. Kelly (PLEASE PRINT)

Address: 1 Police Plaza NYC

I represent: NYPD

Address: 1 Police Plaza NYC