

Congress of the United States
Washington, DC 20515

December 20, 2011

The Honorable Lamar S. Smith
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith and Ranking Member Conyers:

We write to request that you hold an oversight hearing on the conduct of domestic counter-intelligence activities by federal, state and local law enforcement agencies. Recent Associated Press reports have alleged that since 2002, the New York City Police Department (NYPD), with the cooperation of the Central Intelligence Agency (CIA), has engaged in efforts to collect information on the Muslim community in New York City and other jurisdictions without the establishment of reasonable suspicion and outside the scope of joint operating agreements. We find these reports very troubling, and are concerned about the legal issues raised by these allegations.

While we believe that all appropriate steps should be taken to protect public safety by federal, state and local law enforcement agencies, these enforcement efforts must be guided by firm adherence to the laws and regulations designed to protect civil and constitutional rights. The press reports cited below have detailed a number of allegations that raise issues with respect to whether the NYPD, in particular, has exercised authority beyond the scope of the law and in violation of the Constitution. The federal government has a unique role in oversight of these allegations in that federal funds, at least in part, may have been used in the execution of the initiatives in question and that cooperation may have been obtained from federal agencies.

Reports indicate that since 2002, the NYPD may have engaged in a pattern or practice of conduct that has singled out Muslims for police contact – stops and investigations – based upon their race, ethnicity or national origin. The Associated Press has reported that officers were instructed to pull over individuals using pretextual stops such as broken tail lights and running stop signs. The officers were then allegedly told to look for suspicious behavior.¹ These reports also suggest that ethnic communities, including Pakistani and Moroccan neighborhoods, were targeted for information gathering efforts and that the NYPD created an "ancestries of interest" list to guide their initiative.² Reports further allege this initiative took the NYPD across state lines, without the knowledge or cooperation of the states entered,

¹ Associated Press, "With CIA help, NYPD built secret effort to monitor mosques, daily life of Muslim neighborhoods." Washington Post, August 24, 2011.

² Matt Apuzzo and Adam Goldman, "Inside The Demographics Unit, The CIA Spy Team The NYPD Says Doesn't Exist" The Huffington Post, September 1, 2011. http://www.huffingtonpost.com/2011/08/31/inside-the-demographics-u_n_943139.html (11/28/11).

and that the intelligence gathered was often passed to the CIA through informal conversations and unofficial channels.³

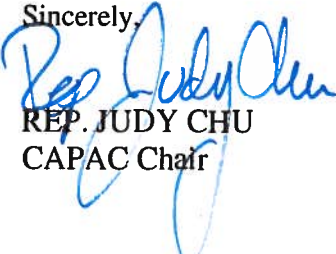
If true, these allegations raise issues under both federal statutes and constitutional claims. Specifically, these practices could violate the federal Police Misconduct Statute, 42 U.S.C. Section 14141, which makes it unlawful for state or local law enforcement agencies to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or other U.S. laws. Additionally, as even federal agencies do not have general policing powers, we have questions concerning the legal authority that gave the NYPD the ability to undertake activities in jurisdictions outside of New York.

We also have serious concerns about the role of the Central Intelligence Agency in these operations. It has been reported that the first civilian intelligence chief for the NYPD, a retired thirty-five year veteran of the CIA, created a secret unit aimed at Muslim neighborhoods to collect information and to look for hot spots in the community.⁴ He apparently hired a longtime operative at the CIA, who also maintained an office at the Agency. The fact that he is alleged to have maintained an office at both the NYPD and the CIA while engaging in local operations is extremely troubling. The National Security Act of 1947 states that the Director of the CIA "shall collect intelligence through human sources and by other appropriate means, except that the Director of the Central Intelligence Agency shall have no police...or law enforcement powers or internal security functions."⁵ If these allegations are true, we believe that the NYPD and the CIA should clarify their actions on the record and explain their legal authority.


Ultimately, we believe that the exercise of Congressional oversight authority around these allegations is critical to maintaining public safety, while protecting important constitutional rights and civil liberties. The Department of Homeland Security ("DHS") has provided New York City with approximately \$2.5 billion to aid their counterterrorism efforts during the past 10 years, and a significant portion of that went to the NYPD. According to media reports, there has been little meaningful oversight of the use of funds that the NYPD has received from DHS for its counterterrorism efforts.⁶ The allegations that the NYPD's counterterrorism initiative has been collecting information on U.S. citizens without probable cause and is electronically storing information with little or no oversight should be the subject of immediate inquiry by the Committee.⁷ If, as alleged, the NYPD is engaging in such activities, they should take corrective measures to safeguard its federal support and comply with legal mandates.

We urge the Judiciary Committee to hold an oversight hearing on these very serious allegations and thank you for considering this request.

Sincerely,



REP. JUDY CHU
CAPAC Chair



REP. BOBBY SCOTT
CAPAC Civil Rights
Taskforce Chair



REP. MIKE HONDA
CAPAC Chair
Emeritus

³ Associated Press, "With CIA help, NYPD built secret effort to monitor mosques, daily life of Muslim neighborhoods." Washington Post, August 24, 2011.

⁴ Id.

⁵ U.S. Code Title 50, Chapter 15, Subchapter 1, § 403-4(d) 1.

⁶ Dan Verton, "Is It Time For The Feds To Rein In the NYPD?" AOL Government.
<http://gov.aol.com/2011/10/13/is-it-time-for-the-feds-to-rein-in-the-nypd/> (10/13/11).

⁷ Id.

Zee Laffer

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