



Cleopatra Restaurant
Islamic Book Store
Ramalla Cafe
Meena House Cafe
Arabesque Arab Cafe

Al Firdous
Tresure Islam
House of knowledge
Islam Fashion
Al Qaraween Islamic Books

Ya Leil Ya Eien
Bay Ridge Int'l Cafe
Zahran
6M Hair Stylists
Mazza Plaza
Karam Restaurant

MAPPING MUSLIMS: NYPD Spying and its Impact on American Muslims



About the Authors

The Muslim American Civil Liberties Coalition (MACLC) is a New York-based coalition of citizens, community and faith leaders, organizers, advocates, attorneys, and organizations. MACLC aims to give voice to absent perspectives on issues of national security, counterterrorism, law enforcement, and civil rights, especially as they impact Muslim communities in post-9/11 New York City. MACLC first formed in response to the publication of the New York City Police Department’s policy report entitled *“Radicalization In The West: The Homegrown Threat.”* The group aimed to engage the NYPD in a constructive dialogue to challenge the report’s false assumptions and harmful conclusions. MACLC met on three occasions with Commissioner Raymond Kelly and the authors of the NYPD Report, Mitch Silber and Arvin Bhatt, to register concerns and delineate flaws within the NYPD Report. In response to MACLC’s efforts, the Department only issued a clarification but did not disavow the report’s findings. The 2012 reporting on the NYPD surveillance program has essentially confirmed what MACLC had warned about in 2007 and 2008, and has led MACLC to join community leaders, elected officials, and other civil rights groups in calls for oversight, accountability and transparency. MACLC has also continued to seek to constructively engage with the NYPD. To that end, the Coalition has issued an invitation to Commissioner Kelly to a town-hall meeting to allow him to hear Muslim communities’ concerns with suspicionless surveillance. To date, that invitation has been ignored.

The Creating Law Enforcement Accountability & Responsibility (CLEAR) project is housed at Main Street Legal Services, Inc., the clinical arm of the CUNY School of Law. CLEAR primarily aims to address the legal needs of Muslim, Arab, South Asian, and other communities in the New York City area that are particularly affected by national security and counterterrorism policies and practices. Our work is defined by our relationships with communities and grassroots organizations whose members wish to shape and respond to national security and counterterrorism policies and practices affecting them. CLEAR’s community-oriented approach combines free legal representation with other services directed at satisfying the fuller range of community concerns.

The Asian American Legal Defense and Education Fund (AALDEF), founded in 1974, is a national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all. AALDEF focuses on critical issues affecting Asian Americans, including immigrant rights, civic participation and voting rights, economic justice for workers, language access to services, affirmative action, educational equity, housing and environmental justice, and the elimination of anti-Asian violence, police misconduct, and human trafficking.

Inquiries should be addressed to:

The Creating Law Enforcement Accountability & Responsibility (CLEAR) Project
CUNY School of Law
2 Court Square, Long Island City, NY 11101-4356
t: 718.340.4533 | f: 718.340.4478
cunyclear@law.cuny.edu

MACLC, CLEAR and AALDEF are grateful to the following individuals for their contributions to the preparation of this report:

AUTHORS AND RESEARCHERS

Diala Shamas, Nermeen Arastu

EDITORIAL

Ramzi Kassem, Ken Kimerling, Amna Akbar

ADDITIONAL RESEARCHERS

Gabriela Lopez, Michael Figura, Julia Hernandez, Hirra Amin

REVIEW COMMITTEE

Fahd Ahmed, Faiza Patel, Asim Rehman, Linda Sarsour

DESIGN

Joe Namy

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TABLE OF CONTENTS

PART ONE: Background: Mapping & Monitoring American Muslims	7
PART TWO: Findings	12
Section One: Suppressing Religion	12
Section Two: Stifling Speech & Association	20
Section Three: Sowing Suspicion	25
Section Four: Severing Trust in Law Enforcement	32
Section Five: In Focus - Campus Life	39
PART THREE: Responses to The NYPD Program	46
PART FOUR: Recommendations	50

Executive Summary

Since 2001, the New York City Police Department (NYPD) has established a secret surveillance program that has mapped, monitored and analyzed American Muslim daily life throughout New York City, and even its surrounding states. In 2011, the unveiling of this program by the Associated Press (AP) and other journalists¹ who had obtained leaked internal NYPD documents led to an outcry from public officials, civil rights activists, American Muslim religious leaders, and members of the public. Protesters and advocates held that such racial and religious profiling was not only an example of ineffective policing and wasteful spending of taxpayer dollars, but it also marginalized and criminalized a broad segment of American Muslims. Almost a year later, in August 2012, the Chief of the NYPD Intelligence Division, Lt. Paul Galati admitted during sworn testimony that in the six years of his tenure, the unit tasked with monitoring American Muslim life had not yielded a single criminal lead.²

Proponents of the sprawling surveillance enterprise have argued that, regardless of its inefficacy, mere spying on a community is harmless because it is clandestine and that those who are targeted should have nothing to fear, if they have nothing to hide. Our findings, based on an unprecedented number of candid interviews with American Muslim community members, paint a radically different picture. We have found that surveillance of Muslims' quotidian activities has created a pervasive climate of fear and suspicion, encroaching upon every aspect of individual and community life. Surveillance has chilled constitutionally protected rights—curtailing religious practice, censoring speech and stunting political organizing. Every one of our interviewees noted that they were negatively affected by surveillance in some way - whether it was by reducing their political or religious expression, altering the way they exercised those rights (through clarifications, precautions, or avoiding certain interlocutors), or in experiencing social and familial pressures to reduce their activism. Additionally, surveillance has severed the trust that should exist between the police department and the communities it is charged with protecting.

Section One of the findings highlights the impact of NYPD surveillance on religious life and expression. Interviewees felt that the NYPD's spotlight on American Muslims' practice of their faith, their degree of religiosity and their places of worship disrupted and suppressed their ability to practice freely. Many also indicated that within heterogeneous Muslim communities, this has resulted in the suppression of certain *practices* of Islam more than others. Interviews also highlighted the atmosphere of tension, mistrust and suspicion that permeates Muslim religious places – which the NYPD has infiltrated with informants and undercover agents, deeming them “hot spots.” These law enforcement policies have deeply affected the way Muslim faith is experienced and practiced in New York City.

Section Two documents how NYPD surveillance has chilled American Muslims' freedom of speech. Interviewees noted a striking self-censorship of political speech and activism. Conversations relating to foreign policy, civil rights and activism are all deemed off-limits as interviewees fear such conversations would draw greater NYPD scrutiny. This same fear has deterred mobilization around Muslim civil rights issues, and quelled demands for law enforcement accountability. Parents discourage their children from being active in Muslim student groups, protests, or other activism, believing that these activities would threaten to expose them to government scrutiny. Surveillance has also led to a qualitative shift in the way individuals joke, the types of metaphors they use, and even the sort of coffee house chatter in which they engage.

¹ Long-time police reporter and columnist Leonard Levitt also obtained many of the same documents, and published some of them in columns available on his website, www.nypdconfidential.com.

² *Handschu v. Special Servs. Div.*, No. 71CIV.2203, Galati Dep. 128-129 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf.

Section Three turns to the communal and social consequences of surveillance. As American Muslims learn that members of their own communities are recruited as informants or undercover officers to spy on their communities, an atmosphere of mistrust has settled in. Interviewees unanimously observed that everyone scrutinizes everyone, noting particular hesitation with regards to new faces in the community, or converts to Islam. Many interviewees admitted to shunning individuals who behaved differently, awkwardly, or even those who showed interest in political topics or in exploring Islam. Similarly, some described an aversion to those who appeared overtly religious or political, because they were assumed to be more likely targets of surveillance. Finally, in addition to suspicion within the American Muslim community, the section outlines consequences of NYPD scrutiny on American Muslim communities' relationships with non-Muslims. American Muslims fear that non-Muslim Americans will view them with suspicion because law enforcement has branded them a population "of concern" – work or school relationships have suffered as a result, and Muslims' political marginalization has been compounded.

Section Four explores the distinct harm the NYPD surveillance program has had on the department's relationship with American Muslims. An inability to trust their local police is deeply harmful to American Muslims, many of whom have worked hard since September 11 to develop positive relationships and constructive dialogue with their local precincts as well as the NYPD brass. Interviewees noted deep apprehension of the NYPD's intentions and practices towards them. This has trickled into the day-to-day interactions with beat-police officers, whether it is hesitation about filing stolen phone complaints, asking an officer for directions, or reporting hate crimes. Muslim institutions have similarly felt compelled to distance themselves from the NYPD. Interviewees noted that because the NYPD has blurred distinctions between its community affairs divisions, its precinct-level law enforcement, and intelligence gathering, American Muslim leaders' duties towards their communities require a more cautious approach with the NYPD.

Section Five turns to the impact of NYPD surveillance on speech, religiosity and community dynamics on college campuses. College students are afraid to discuss politics, civil rights issues, or international affairs within their student organizations and in their classrooms. Professors have described this chilling of student life as "devastating" to the student experience. By chilling students' propensity to engage in activism during their formative college years, surveillance is deterring a generation of American Muslims from developing their leadership skills and mobilizing for social causes. The potential long-term effects of this phenomenon on those students' communities has yet to be fully grasped.

This report concludes with some key recommendations, many of which echo those already articulated by many American Muslim and civil rights advocates: The need for meaningful oversight, transparency, and accountability when it comes to the NYPD has never been greater.

Methodology

In response to growing concerns about the ability of American Muslims to enjoy their constitutional freedoms, the Muslim American Civil Liberties Coalition (MACCLC) tasked two of its partner organizations, the Creating Law Enforcement Accountability & Responsibility (CLEAR) project and the Asian American Legal Defense and Education Fund (AALDEF), to explore and document the effects of the NYPD's surveillance practices on the ability of American Muslims to speak without restriction, practice religion, associate freely and simply go about daily life.

To identify and document these impacts reliably, CLEAR and AALDEF interviewed 57 American Muslims in New York City.³ In identifying interviewees as well as verifying our findings, we drew on our respective organizations', as well as MACCLC's member organizations' knowledge and experience working within affected communities. We spoke with Muslim religious figures, youth, business owners, mosque-goers, professionals, and law enforcement officers, including former NYPD Intelligence Division employees. Many of our interviewees' mosques, businesses, student groups, and neighborhoods had been directly mentioned in leaked NYPD Intelligence Division documents. We told all interviewees that our research aims to document the impacts of the NYPD surveillance program on them and their community. All were given the option of being interviewed anonymously. The overwhelming majority of our interviewees agreed to being interviewed on condition of anonymity, some on the further condition that we not disclose even generic information about them, including their class year, college, or country of origin. This request was as common for young students with foreign-born parents as it was for well-established and affluent young professionals, and even civil rights attorneys. To honor these concerns, we used aliases for those interviewees who requested to remain anonymous, and have marked names with an asterisk whenever aliases were used. In addition, we have scrubbed details that might identify a particular mosque or Muslim students' association, to respect the privacy of other members whom we have not necessarily interviewed but whose interests are implicated in the representation of their community or sentiments.

We have grouped accounts according to the major areas of impact – religious life, speech, community life, relationships with law enforcement, and education – to display how NYPD surveillance has permeated every layer of American Muslim life. The following pages present a unique and unprecedented collection of the stories of those directly impacted, in their own words.

³ Two interviewees were from outside New York City, members of mosques that the NYPD had surveilled in Long Island and in New Jersey.

PART ONE. Background: Mapping & Monitoring American Muslims

In the years after 9/11, the NYPD Intelligence Division took advantage of the climate of “public tolerance” for aggressive police practices⁴ and began systematically spying on American Muslim concentrations throughout New York City and its surrounding metropolitan area. A secret unit within the Intelligence Division mapped and spied on the residential, social, and business landscape of American Muslims. The unit, called the Demographics Unit – which has since been renamed the “Zone Assessments Unit” – focused explicitly on twenty-eight listed “ancestries of interest,” including almost every Muslim-majority country in the world, along with “American Black Muslims.”⁵

In August of 2011, the Associated Press revealed the NYPD’s surveillance program in a series of Pulitzer Prize-winning investigative reports. Though the post-September 11 expansion of the NYPD’s intelligence gathering was well known,⁶ the leaked documents first described the nuts and bolts of the programs and the depth of the NYPD’s reach into American Muslim daily life. The reporting also highlighted the NYPD’s unique ties with the Central Intelligence Agency (CIA), as the modern Intelligence Division was built by a former CIA official, was further developed by another CIA official working at the NYPD while on leave from the Agency, and until 2012 even employed a high-level clandestine CIA operative.⁷

Sadly, race and dissent-based surveillance has a long lineage in the NYPD. Police surveillance of dissident and minority groups can be traced as far back as 1904, when the NYPD created an “Italian Squad” to monitor the practices and activities of Italian immigrants.⁸ In 1906 the NYPD had an “anarchist squad” which focused on harassing anarchists and labor activists.⁹ The NYPD’s surveillance of political activists of various kinds – communists, anarchists, labor activists, and civil rights activists – continued through the 1930s and the 1960s, under various names: the Bomb Squad, the New York Radical Bureau, and the Bureau of Special Services (BOSS).¹⁰

“I NEVER MADE A LEAD FROM THE RHETORIC THAT CAME FROM A DEMOGRAPHICS REPORT, AND I’M HERE SINCE 2006.”

Thomas Galati,
Commanding Officer of
the Intelligence Division,
June 2012.

⁴ Adam Goldman & Matt Apuzzo, *With CIA Help, NYPD Moves Covertly in Muslim Areas*, ASSOCIATED PRESS (Aug. 23, 2011), available at <http://www.ap.org/Content/AP-in-the-News/2011/With-CIA-help-NYPD-moves-covertly-in-Muslim-areas>. [hereinafter “AP Aug. 23, 2011 Article”].

⁵ N.Y. POLICE DEP’T., THE DEMOGRAPHICS UNIT (2006), available at <http://wid.ap.org/documents/nypd-demo.pdf>; See also *Handschu v. Special Servs. Div.*, No. 71CIV.2203, Galati Dep. 25-27 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf.

⁶ See, for example, CHRISTOPHER DICKEY, *SECURING THE CITY* (Simon & Schuster 2009). In addition to publicly available information, CLEAR and AALDEF clients, and communities that MACLC works with have long known about the NYPD Intelligence Division’s policies through their own experiences.

⁷ AP Aug. 23, 2011 Article; Adam Goldman & Matt Apuzzo, *CIA to Pull Officer from NYPD After Internal Probe*, Associated Press (Jan. 26, 2012), available at <http://www.ap.org/Content/AP-In-The-News/2012/CIA-to-pull-officer-from-NYPD-after-internal-probe>.

⁸ N.Y. CIVIL LIBERTIES UNION, *POLICE SURVEILLANCE OF POLITICAL ACTIVITY - THE HISTORY AND CURRENT STATE OF THE HANDSCHU DECREE* (2003) available at <http://www.nyclu.org/content/testimony-police-surveillance-of-political-activity-history-and-current-state-of-handschu-de>.

⁹ *Id.* (citing FRANK DONNER, *PROTECTORS OF PRIVILEGE, RED SQUADS AND POLICE REPRESSION IN URBAN AMERICA* (1990)).

¹⁰ *Id.*



COURTESY OF NEW YORK STATE ARCHIVES

A history of NYPD mapping: In 1919, the NYPD and State Police created “ethnic maps” of New York City, identifying neighborhoods in which certain immigrants groups and their offspring predominated, with the aim to investigate socialists, communists or anarchists.

BOSS notoriously focused its investigations on dissident groups and individuals, including the NAACP, the American Civil Liberties Union, the Fifth Avenue Peace Parade Committee, and the Lower East Side Mobilization for Peace Action, compiling detailed profiles of organizations and individuals. BOSS informers and undercover agents were required to submit detailed reports including specific information on “future plans, unlawful activities, trouble makers, leaflets, weapons, speakers, and statements.”¹¹

NYPD surveillance of political groups is ongoing.¹² But after September 11, 2001, the NYPD fixed its attention on American Muslims. While the methods are reminiscent of prior incarnations of NYPD spying, here the police uniquely focused on religion and religious practice. For example, the NYPD took special interest in signs of Muslim religiosity and actively implemented a surveillance program guided by a deeply flawed theory of Muslim “radicalization.” As a result, NYPD agents documented how many times a day Muslim students prayed during a university whitewater rafting trip,¹³ which Egyptian businesses shut their doors for daily prayers,¹⁴ which restaurants played Al-Jazeera, and which Newark businesses sold halal products and alcohol.¹⁵ Not only did the NYPD

¹¹ *Id.*

¹² N.Y. POLICE DEP’T, DEPUTY COMMISSIONER’S BRIEFING (APR. 25, 2008), available at <http://hosted.ap.org/specials/interactives/documents/nypd/dci-briefing-04252008.pdf>.

¹³ N.Y. POLICE DEP’T, WEEKLY MSA REPORT (2006), available at <http://hosted.ap.org/specials/interactives/documents/nypd-msa-report.pdf>.

¹⁴ N.Y. POLICE DEP’T, EGYPTIAN LOCATIONS OF INTEREST REPORT (July 7, 2006), available at <http://hosted.ap.org/specials/interactives/documents/nypd/nypd-egypt.pdf>.

¹⁵ N.Y. POLICE DEP’T, NEWARK, NEW JERSEY DEMOGRAPHICS REPORT (Sept. 25, 2007), available at http://hosted.ap.org/specials/interactives/documents/nypd/nypd_newark.pdf.

SECRET SURVEILLANCE: IS IT EFFECTIVE POLICING?

The NYPD has frequently justified the broad based surveillance of American Muslim communities by claiming its effectiveness in thwarting terrorist plots. In the wake of the Associated Press reports, an NYPD Deputy Commissioner, Paul Browne, credited the NYPD Intelligence Division with thwarting terrorist plots. New York City officials have asserted that surveillance has thwarted 14 terrorist plots.^A

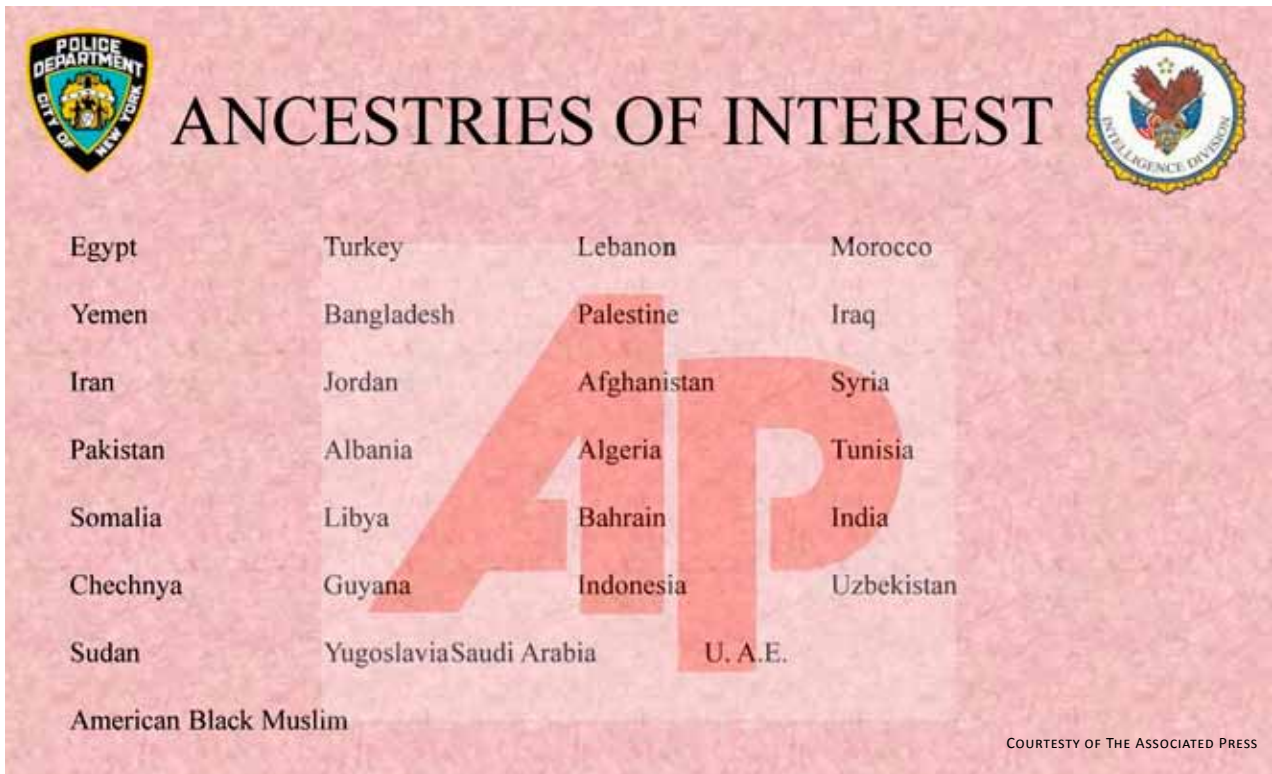
On closer scrutiny, however, such claims of the program's effectiveness seem to lack any factual basis. Investigative reporters have debunked the notion that any plots that the NYPD "helped thwart" were a result of its spying activities. In reality, of the fourteen plots listed on the NYPD website only three were actual potential terrorist plots, and not one was prevented by the NYPD. Further, the other cases either involved government informants who played a dominant and enabling role in the plot, were so lacking in credibility that federal officials declined to bring charges, or were instances where plots were abandoned.^B

Nor has the NYPD shown that its secret surveillance program has any role to play in yielding leads to potential criminal activity. In fact, the Intelligence Division's documents themselves show an emphasis on separating intelligence gathering from criminal investigation. Our interviews with ex-NYPD intelligence or counterterrorism officials confirmed that the Demographics Unit's efforts to spy, map, and document American Muslim life were unrelated to active investigations. Correspondingly, Assistant Chief of the Intelligence Unit, Thomas Galati, testified that the Demographics Unit never led to a single lead or investigation.^C Undercover spying and the mapping of communities did not play any tangible role in thwarting terrorist attacks. Rather, as our findings highlight, surveillance has stifled constitutionally protected activity and destroyed trust between American Muslim communities and the agencies charged with protecting them.

^A Press Release, N.Y. Police Dep't., *New York Times is Wrong: NYPD Lawfully Thwarts Terror & Suppresses Violence* (March 18, 2012), available at http://www.nyc.gov/html/nypd/html/pr/pr_2012_03_18_ny_times_is_wrong.shtml.

^B Justin Elliott, *Fact Check: How the NYPD Overstated Its Counterterrorism Record*, PROPUBLICA.ORG (July 10, 2012).

^C *Handschu v. Special Servs. Div.*, No. 71CIV.2203, Galati Dep. 128-129 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf. In fact, the Demographic Unit's own documents indicate that intelligence gathering is deliberately kept separate from investigations.



single out American Muslims for surveillance, but officers found every facet of American Muslim religiosity and outward practice of Islam – whether Sunni or Shi’a – worthy of exceptional scrutiny. Further, where the NYPD was spying in Arab neighborhoods with sizeable populations of Syrian Jews and Egyptian Christians, the intelligence unit explicitly focused on the Muslim populations.¹⁶

Thus, NYPD sketched a detailed picture of the American Muslim community throughout New York City’s five boroughs and beyond, in New Jersey, Connecticut and Pennsylvania. They sent undercover officers, whom they called “rakers,” into identified neighborhoods to isolate what the NYPD called “hot-spots:” restaurants, cafes, halal meat shops and hookah bars. Capitalizing on their ability to recruit a diverse force with diverse language capabilities, the NYPD was able to send officers with various ethnic and linguistic backgrounds into communities, matching them accordingly.¹⁷ Undercover Pakistani officers were sent into Pakistani communities and Arabic-speaking officers were dispatched into the Egyptian community to “listen to neighborhood gossip” and get an overall “feel for the community.”¹⁸ They were instructed to visit schools and interact with business owners and patrons to “gauge sentiment.”¹⁹ They identified locations where community members socialize (coffee shops, hookah bars) and participated in community cricket matches and student trips.²⁰ Blending into every facet of their assigned neighborhoods, rakers discreetly set-up “listening posts” and observed

¹⁶ N.Y. POLICE DEP’T, SYRIAN LOCATIONS OF CONCERN REPORT (date unknown) available at <http://hosted.ap.org/specials/interactives/documents/nypd/nypd-syria.pdf>.

¹⁷ Handschu v. Special Servs. Div., No. 71CIV.2203, Galati Dep. 112 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf; see also N.Y. POLICE DEP’T, THE DEMOGRAPHICS UNIT (2006), available at <http://wid.ap.org/documents/nypd-demo.pdf>.

¹⁸ N.Y. POLICE DEP’T, SYRIAN LOCATIONS OF CONCERN REPORT (date unknown) available at <http://hosted.ap.org/specials/interactives/documents/nypd/nypd-syria.pdf>.

¹⁹ Handschu v. Special Servs. Div., No. 71CIV.2203, Galati Dep. 68-69 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf.

²⁰ Handschu v. Special Servs. Div., No. 71CIV.2203, Galati Dep. 104-105 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf, see also, Matt Apuzzo & Adam Goldman, *Inside the spy unit that NYPD says doesn’t exist*, ASSOCIATED PRESS (Aug. 31, 2011).

“EMPHASIS IS ON INTELLIGENCE COLLECTION, NOT CRIMINAL INVESTIGATION.”

NYPD Intelligence Division.

Muslim community members and employ a tactic dubbed “create and capture,” where the informant would try to start a conversation about terrorism or another controversial topic, record the response elicited, and share it with the NYPD.

Investigative reporters gave the public documentation proving the existence and sweep of a secret intelligence program that communities had long suspected they were dealing with in their own experiences. Still, individuals, organizations, mosques and businesses throughout New York were shocked to see their names in classified NYPD documents. The geographical scope was expansive: the NYPD monitored Muslim Students Associations from Philadelphia to New Haven; rakers had visited, observed and documented American Muslim businesses from Newark to Queens; and mosque crawlers had spied and reported on sermons and post-Friday prayer conversations in more than 250 mosques.²² The NYPD was monitoring even its closest partners in anti-terrorism work, including imams who frequently appeared at the Mayor’s side.²³

The leaked documents also confirmed one of the communities’ worst fears: an extensive collaboration between the precinct-level police doing beat work and the Intelligence Division, as the Intelligence Division mined precincts’ “local knowledge” of the communities they are meant to serve and to protect.²⁴ For example, the Citywide Debriefing Team, a unit within the Intelligence Division, was tasked with going to precincts or jails to question – or “debrief,” in NYPD terms – arrestees of Muslim or Arab background.²⁵ As CLEAR and AALDEF clients’ experiences confirmed, upon being taken to the precinct – for a traffic violation, or even for filing an identity theft complaint – individuals have been met by officers or detectives from another unit and questioned about their community, and their religious or political beliefs.

everything from idle chatter after community prayers to the type of pizza an Arab-owned pizzeria served.²¹ At the end of the day, the NYPD officers were instructed to record every detail of what they heard, individuals they spoke with, and community happenings in a daily activity report. The NYPD also employed “crawlers,” who were informants tasked with infiltrating mosques and religious events, recording what the imam or congregants say, or photographing lists of attendees. Finally, NYPD handlers instructed informants to engage with

²¹ Handschu v. Special Servs. Div., No. 71CIV.2203, Galati Dep. 101 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf.

²² Adam Goldman & Matt Apuzzo, *Documents Show NY Police Watched Devout Muslims*, ASSOCIATED PRESS (Sept. 6, 2011), available at <http://www.ap.org/Content/AP-In-The-News/2011/Documents-show-NY-police-watched-devout-Muslims>.

²³ Eileen Sullivan, *NYPD Spied on City’s Muslim Anti-Terror Partners*, ASSOCIATED PRESS (Oct. 6, 2011) available at <http://www.ap.org/Content/AP-In-The-News/2011/NYPD-spied-on-citys-Muslim-anti-terror-partners>.

²⁴ N.Y. POLICE DEP’T, INTELLIGENCE STRATEGY REPORT, at 3 (May 15, 2006) (noting that intelligence units should “utilize precinct personnel to gain a better understanding of the Shi’a communities within their command”).

²⁵ Adam Goldman & Matt Apuzzo, *NYPD Eyed US Citizens In Intel Efforts*, ASSOCIATED PRESS (Sept. 22, 2011), available at <http://www.ap.org/Content/AP-In-The-News/2011/NYPD-eyed-US-citizens-in-intel-effort>; Leonard Levitt, *The Spoils of Spying*, NYPD CONFIDENTIAL (Jan. 8, 2012), available at <http://nypdconfidential.com/columns/2012/120109.html>. In addition, several CLEAR clients have noted that a traffic stop, or an arrest, often results in questioning about their religious beliefs, their acquaintances, and even recruitment as informants. Shamiur Rahman, the informant who publicly acknowledged that he had been working for the NYPD Intelligence Division was also initially recruited after being arrested on marijuana possession charges. see Matt Apuzzo & Eileen Sullivan, *Informant: The NYPD paid me to “bait” Muslims*, ASSOCIATED PRESS (Oct. 23, 2012), available at <http://bigstory.ap.org/article/informant-nypd-paid-me-bait-muslims>.

PART TWO: FINDINGS

SECTION ONE: SUPPRESSING RELIGION

It's as if the law says: the more Muslim you are, the more trouble you can be, so decrease your Islam.

– Sari*, 19, Brooklyn College.

The NYPD's emphasis on indicators of religiosity as hallmarks of radicalization, and on religious spaces as generators of radicalization, has put the very practice of religion at the center of the NYPD's counterterrorism policing. The perpetual and palpable scrutiny has deeply disrupted New York Muslims' ability to practice their faith. This becomes apparent in every facet of religious identity – from how one chooses to dress, to what types of religious activities one engages in, to where one prays, how one interacts with other members of his or her faith, and even what *type* of Islam American Muslims feel comfortable practicing.

This section traces the different ways in which Muslim religious life is affected by Muslims' awareness of surveillance and of the suspicion that the NYPD directs towards Muslims and Islam. In the aggregate, it becomes clear that law enforcement policies have deeply affected the way Muslim faith is experienced and practiced in New York City. This raises grave concerns about the erosion of the right to practice one's religion freely and without meddling by the State.

1. The Mosque: From Sanctuary to “Hot Spot”

The whole area around [my mosque] is now “tainted” by the idea that it is a hot spot.

- Tahanie Aboushi, lawyer.

They [the NYPD] don't have that sense of sanctity coming into our places of worship.

- Ali Naquvi, community organizer.

Places of worship are the prime focus of the NYPD Intelligence Division's attention. The Demographics Unit mapped, photographed or infiltrated at least 250 mosques in the New York City and its surrounding areas. The NYPD deemed these places of worship “hot spots,” with any activity in or around the mosques meriting surveillance.

As a result, attendance at mosque – a religious duty for many Muslims – has become tantamount to placing oneself on law enforcement's radar. The often visible presence of NYPD surveillance at many mosques has founded an assumption within the American Muslim community that every mosque in New York City is subject to some form of surveillance.

Everyone in the community knows that our mosque is being surveilled.... A few years back they used to just park this undercover car outside the mosque. They would just watch people walk in and out. - Amira*, 22, Sunday school teacher.

There are always parked, unmarked cars outside of mosques. - Imam Khalil*, 31, Queens.

“[GOVERNMENT MAY NOT] INFLUENCE A PERSON TO ... REMAIN AWAY FROM CHURCH AGAINST HIS WILL”

United States Supreme Court, *Everson v. Board of Education of the Township of Ewing*.

RELIGION AS “RADICALIZING”

In a 2006 policy report entitled *Radicalization in the West: The Homegrown Threat*, the NYPD presented its theory of how individuals become “radicalized.” The report described many of the spaces where Muslims congregate in their daily life as “radicalization incubators” and “venues that provide extremist fodder.” These included mosques, cafes, cab driver hangouts, and student associations.

The report also highlighted “typical signatures” that individuals on a purported trajectory towards violence adopt: wearing traditional Islamic clothing, growing a beard, becoming involved in social activism and community issues, even giving up drinking, cigarettes and gambling. Thus, in addition to social spaces, signs of community mobilization and religious practice were all explicitly designated as potential signs of radicalization and meriting close police surveillance.

The NYPD’s *Radicalization in the West* report cast a shadow of suspicion on a large swath of Muslim life. The Muslim American Civil Liberties (MACLC) first convened to respond to this report, noting its troublesome implications for racial and religious profiling.[^] After several meetings with various NYPD officials, the NYPD appended a “clarification” to the published document, noting that the report is not intended to be “policy prescriptive.”[^] Years later, with the publication of the leaked documents, it has become evident that the NYPD’s flawed radicalization theory was in fact a blueprint for a policy of profiling and suspicionless surveillance.

[^] See MACLC, Community Statement to NYPD Radicalization Report (Nov. 23, 2007), available at <http://maclc1.files.wordpress.com/2008/09/communitystatementonnypdreport.pdf>.

[^] Mitchell D. Silber & Arvin Bhatt, NYPD Intelligence Div., *Radicalization in the West: The Homegrown Threat* (2007).

Religious leaders noted that congregants are acutely aware of the surveillance of their mosques, and may be chilled from attending services.

Not everyone has the same level of *imaan* [faith]. They'll get discouraged. People tell me 'I'll make my *salaah* [prayer] at home.' They mention the [NYPD] camera right outside the mosque as the reason. - Imam Mustapha*, Brooklyn.

One former officer in the NYPD's Intelligence Division said he took it upon himself to explain to his unit the basic tenets of Islam, including the emphasis on prayer in groups and congregation on Fridays, because he realized that the intelligence unit was viewing with undue suspicion large groups of men congregating outside a mosque after Friday prayers. He continued:

[An NYPD unit] would park outside every mosque listening to what's going on. One time they came to my mosque. I told them you're not going to find anything there; they're all doctors, engineers. I don't know exactly what they were looking for..... Some people stopped going to the mosque as a result, and complained to me. It's obvious it was there. - Yousuf*, former Intelligence Division officer.

For many, the risk of subjecting oneself to being featured in a police file is reason enough to cease attending the mosque or praying with other Muslims:

The week of the news [referring to Associated Press investigations], the students wouldn't come to the prayer room. They felt they couldn't meet in their own space. The idea of being surveilled – for a 19 or 20 year old – is a terrifying thing. - Amin*, chaplain for a New York City-area college Muslim student group.

This withdrawal is particularly devastating to the more vulnerable members of the community, particularly those who have themselves been subject to more direct forms of NYPD pressure or harassment. Ahsan Samad, a 26-year-old resident of Brooklyn who was visited by two NYPD Intelligence Division detectives and questioned at length about his online activities, commented:

I used to go to the masjid [mosque] quite a lot. That stopped as soon as they [the NYPD] knocked on the door. - Ahsan Samad, 26, Brooklyn resident.

Similarly, another young man who befriended a fellow mosque goer only to find out that his friend was an NYPD undercover responded by severing his relationship with the mosque altogether for a year. He has since returned to the mosque, but refuses to involve himself in the mosque's activities, or to befriend anyone. He just goes to pray, and then promptly leaves, believing that anything more might put him at risk.²⁶

Imams we spoke with felt that their own ability to fulfill their role as spiritual advisors and guidance were hindered

“NO PERSON CAN BE PUNISHED FOR ENTERTAINING OR PROFESSING RELIGIOUS BELIEFS OR DISBELIEFS, FOR CHURCH ATTENDANCE OR NON-ATTENDANCE”.

United States Supreme Court, *Everson v. Board of Education of the Township of Ewing*.

²⁶ Interview with Adam*, 23.

by surveillance. Some noted that they were unable to guarantee confidential consultations in their surveilled spaces. Others noted that they avoided providing one-on-one consultations because they could never be sure that a question posed by a congregant is a sincere one, or whether it is an attempt by an informant to elicit opinions that he or she will then pass on to their handlers.

The relationship of trust and confidentiality between an imam and his congregation is no less sacred than that of pastors, rabbis or others, and those whom they serve. The actions of the NYPD have compromised this sacred relationship. In this day and time when people look to their spiritual leaders for sincere, faith-based guidance in various matters, violation or compromise of the sacred contract of confidential consultation is particularly reprehensible and damaging. It not only weakens the capacity of some Muslim religious leaders to serve as advisors in sensitive matters, but it also compromises their effectiveness as partners in the struggle against extremism. After all, how can a leader give guidance in matters that he or she is hesitant to discuss in any way, for fear of covert monitoring or entrapment? - Imam Al-Hajj Talib ‘Abdur-Rashid, Majlis Ash-Shura (Islamic Leadership Council) of Metropolitan New York.

One imam at a large mosque described a qualitative and quantitative change in the mosque experience, caused by suspicion and fear of surveillance. He noted a definitive decline in demand for activities and overall involvement of members. Now the mosque – the largest one in its community – does not operate at its full potential: “People come, pray and leave.” The congregants no longer plan extracurricular events, Sunday school trips, or other activities that transform a mosque into a true community center. This change in activity is especially troubling given that the imam described such activities as among the core functions of the religious institution.²⁷

2. Looking and Acting Muslim

I can't grow my beard, I'll get in trouble. I can't dress like this, I can't talk like that... It's stressful.
- Kaled Refat, 24, New Jersey resident.

Almost all our interviewees noted that appearing Muslim, or appearing to be a certain type of Muslim, invites unwanted attention or surveillance from law enforcement. Outward displays of Muslim identity could include the choice to wear the hijab (headscarf), the *niqab* (full covering), grow a beard, or dress in certain kinds of traditional or Islamic clothing. That surveillance should focus on such details results from the NYPD's radicalization theory, which posits that decisions about dress or appearance are no longer just signifiers of personal, religious choices or cultural identities but rather serve as indicators of “dangerousness.”

There's always been a sense of stereotyping about dress. But now the veil thing has become more than just about being different. It has become charged with suspicion. A hijab or a beard isn't just about being different and not fitting in. But now, it's not just that, it's also that people will see me as prone to violence. - Assia*, interfaith community organizer.

Younger interviewees described how parents have voiced concern about their choices of dress, and how Muslim they look. One Brooklyn College student said that his parents did not want him to go to Muslim Student Association (MSA) events or wear his Muslim hat. Another Queens College student who wears the *niqab*, or face veil, noted that her mother asked her to stop wearing all black because she worried her dress

²⁷ Interview with Sheikh Rafiq*, Imam, Bronx.

NYPD'S RADICALIZATION THEORY: MISLABELING SALAFIS

In its policy paper "*Radicalization in the West*," the NYPD explicitly identified certain routine American Muslim behaviors as suspicious and broadly characterized these behaviors as *Salafi*. The NYPD then claimed that anyone who participates in these *Salafi* behaviors may be exhibiting indicators of "radicalization." The contention is deeply problematic because it broadly associates *Salafism* with radicalization and because it mischaracterizes a set of routine behaviors as necessarily *Salafi*.

Salafism – derived from the Arabic word *Salafa*, which means "what precedes" – refers to a particular methodology of Islamic interpretation and practice. Which particular beliefs and practices fall under this rubric remains the subject of much dispute both within and outside of Muslim communities. Despite complex theological debates, the NYPD Radicalization report broadly declares *Salafism* as a marker of radicalization while providing no factual grounding for such an association. Rather, it lists "typical signatures" of individuals who adopt *Salafism* to include:

- Becoming alienated from one's former life; affiliating with like-minded individuals
- Joining or forming a group of like-minded individuals in a quest to strengthen one's dedication to Salafi Islam
- Giving up cigarettes, drinking, gambling and urban hip-hop gangster clothes
- Wearing traditional Islamic clothing, growing a beard
- Becoming involved in social activism and community issues

One Islamic scholar with whom we spoke, who self-identifies as *Salafi* and who has, as a result, been targeted by the NYPD for surveillance, explained:

Salafism refers to a particular methodology of understanding Islam, and has nothing to do with degrees of religiosity. A *salafi*, simply put, is one who believes that the appropriate form of interpreting Islamic texts looks at the original and earliest writings. As a result, technically, it is possible to be *salafi*, and not have a beard, or not even be pious. *Salafism* also does not correlate with any one political movement, and certainly not any ideology of violence.
- Mohammad Elshinawy, lecturer and teacher, Brooklyn.

By associating a wide range of normal American Muslim behaviors with *Salafism* and in turn associating *Salafism* with radicalization, the NYPD stigmatizes many routine American Muslim practices. Those who identify with *Salafi* Islam are also placed under blanket suspicion without any basis.

The NYPD's assumptions about and attention to *Salafism* are not lost on American Muslims, as one interviewee stated:

When I was on the MSA board, we were two niqabis [women who wear the face-veil] and two brothers with big beards. I've heard from some people that they thought we were *Salafi* - but that's just because we looked the part. Technically, we weren't. But that's how we were labeled and I think that's how the NYPD has labeled us, too. - Asma*, 19, CUNY student.

This meant that scholars affiliated with *Salafi* ideology – even if wrongly so – are also stigmatized and silenced. Many students we interviewed noted a policy at their MSAs of vetting speakers for those who may be perceived as *Salafi*, although they could only venture guesses as to what exactly that might be:

We try to position ourselves by thinking whether the NYPD is going to think the speaker is *Salafi*, or whether the person has training from Saudi, that might give us unwanted attention from the NYPD. - Jamal*, 23, CUNY student.

would draw police scrutiny. In contrast, she noted that her mother was not as concerned about her brother because “he doesn’t necessarily ‘look Muslim.’” An imam at a Brooklyn mosque recounted parents’ attempts to shield their children from the possible consequences of increased religious observance: one family at the mosque prevented their daughter from attending religious events, and another parent worried about his son who had recently become more religious, started growing a beard, and prayed at a certain mosque. The parent felt these choices meant his son would “fit the bill” for surveillance.

Law enforcement scrutiny of outward manifestations of “Muslim” characteristics led some interviewees or their friends to change their appearance and practice of religion.

I’ve seen this emerging again: the number of young women who are not wearing hijab, young men shaving their beard, people changing their names. These decisions are made in part based on psychological trauma that these people are experiencing. - Debbie Almontaser, educator and community organizer.

For some people, this [scrutiny of Muslim characteristics] has made them “water down” Islam, which is really sad. - Asma*, 19, City University of New York (CUNY) student.

Beyond clothing, many interviewees avoid becoming involved in particular Muslim social, religious and political movements, or expressing passion about their faith, for fear that such involvement will draw increased police scrutiny. At a City University of New York (CUNY) Muslim Students’ Association listed in the NYPD documents, two young female students who wear the *niqab* (face veil) felt that other students were concerned about associating with “religious people” like themselves. They expressed feeling ostracized because of the way they look.²⁸

One parent and activist interviewed described her anxiety about the choices her teenage son faces:

He’s already feeling estranged from community and community organizations because the larger world is telling him that these are places, beliefs and ideas not to trust. So he’s naturally not going to gravitate towards those spaces. He would have to consciously decide to go to his school MSA. And if he chooses to make that decision, then I don’t know if that’s a safe space to go to. Maybe he shouldn’t seek support for his religious identity through these institutions. - Assia*, interfaith community organizer.

3. Mistrust of Fellow Congregants and Converts.

It’s not like everybody stopped going to mosque – it’s just that everybody looks around wondering who everyone else is.

- Faisal Hashmi, activist, Queens.

The person I took my shahadah [formally converted] in front of ended up being an informant. I felt disappointed and angry when I found out about that.

- Hassan*, 20, board member of a CUNY MSA.

As Section Three discusses in further detail, suspicion of informants and undercover officers is widespread. This section focuses on the consequences of this phenomenon on religious practice.

²⁸ Interviews with Samia*, 20, and Inas*, 21, CUNY students.

The NYPD's broad-based surveillance of an entire religious community has turned religious spaces, intended to provide a haven for new and old congregants to forge bonds and support networks, into the opposite – a space where interactions have become marred by mutual suspicion. Many former regular mosque-goers have decreased mosque attendance, and those who attend do so to just pray and leave, looking over their shoulders for eavesdropping spies the entire time.

One young woman who is responsible for organizing youth activities in her mosque noted how congregants have internalized the need to self-edit religious Sunday school curriculums.

It's very difficult, it's very hard, you don't know what to say, I have to think twice about the sentences I say just in case someone can come up with a different meaning to what I'm saying.
- Amira*, 22, Sunday school teacher.

Individuals expressing an interest in Islam are viewed with suspicion. Interviewees have noted that they would be concerned by or suspicious of people who "talk really passionately about Islam," or even by non-Muslims who come to the mosque expressing interest in learning about Islam.²⁹

One interviewee who is responsible for mosque security at a Brooklyn mosque noted:

We have to be suspicious of people coming in . . . Sometimes, we start asking people "where are you from, what are you doing?" We've even asked "what masjid [mosque] did you attend before?" That's not a good thing for the masjid. So naturally, members are uncomfortable. - Muhammad*, mosque administrator, Brooklyn

Everybody I see in the mosque, if they act a little abnormal, I always wonder whether they're an informant, or just a regular person. This is really sad: sometimes when we get converts, and they are finding all this interest in Islam, I start wondering if they're an informant. - Amira*, 22, Sunday school teacher.

One is now paranoid about someone becoming Muslim and doing the same thing [becoming an informant]. - Inas*, 20, CUNY student.

Suspicion of fellow congregants makes it difficult to pursue meaningful spiritual development and foster a religious community. New congregants, whether recent converts, new arrivals to the community or former inmates, feel the most marginalized:

If a new person shows up at the mosque, everyone's eyes and ears are on the person.
- Mahmood*, 37, Staten Island.

When new faces come in, there's definitely a sense of "who are you?" - Lana*, 29, Brooklyn Resident.

Such a tense atmosphere in mosques puts at risk the very viability of these religious institutions. Mosques' income and activities are almost entirely membership-dependent. A qualitative change of the mosque experience, resulting in difficulty recruiting new members and reduced or chilled participation by existing members undermines the basic function of this important community institution.

²⁹ Interview with Amira*, 22, Sunday school teacher.

FORMER INMATES

According to internal documents, the NYPD is concerned about “radicalization” in prisons, and has targeted those mosques perceived to have strong connections to prisons, ones that receive many phone calls from prisons, or whose imams also serve as prison chaplains. Conversely, these ties also make some community members suspicious: several of our interviewees noted that former inmates, like other recent converts, are viewed as having a higher likelihood of being potential informants.

Some *masaajid* (mosques) have a lot of people in and out of jail, so I tell the imam to be careful. - Muhammad, mosque administrator, Brooklyn.

The result is that former inmates and recent converts find themselves doubly-victimized. One imam who serves as a chaplain in State prisons described the essential role that community and the mosques play in a former inmate’s reintegration.

It connects them with the outside community. They become Muslim in prison, they have no clue what Islam is in a community setting, in a mosque, Islam as a family. It’s a whole different culture. So when they embrace Islam, they need to have that connection. It gives inmates a kind of hope, something to look forward to when they come out, to continue their education, to find a community, to continue their development, to be moral, upright. We’ve had phenomenal success in integrating former inmates. - Amin Abdul Latif, Imam, Brooklyn.

SECTION TWO: STIFLING SPEECH & ASSOCIATION

Free speech isn't a privilege that Muslims have.

- Ahsan Samad, 26, Brooklyn.

The NYPD premises its surveillance of American Muslims not on suspicious activity, but on their speech and expressive activities. Law enforcement officers focus on markers of expression when choosing whom to monitor and what locations to mark as “hot spots.” The NYPD considers a spectrum of political and religious speech to be “of concern.” Such speech includes mainstream Arabic-language news channels, religious texts and discussions of political figures. NYPD’s Assistant Chief Thomas Galati also testified that merely speaking in certain languages, particularly Urdu and Arabic, could trigger surveillance.³⁰ Ironically, the NYPD also found that discussions about anti-Muslim bias by American Muslims to be “of value.”

American Muslim interviewees stress that the ever-present surveillance chills – or completely silences – their speech whether they are engaging in political debate, commenting on current events, encouraging community mobilization or joking around with friends. Political organizing, civic engagement and activism are among the first casualties of police surveillance. Based on our research and interviews, it is clear that the surveillance program has, in fact, quelled political activism, quieted community spaces and strained interpersonal relationships.

This curtailment of free speech not only implicates individual liberties but also reaches civic debate and the development of an informed electorate. Knowledge of surveillance leads not only to self-censorship on many religious and political topics, but also to an inability to discuss even the surveillance itself, thereby deterring a pivotal constitutional right—the discussion of problematic government policies. The Supreme Court has repeatedly held that speech concerning public affairs is the essence of self-government.³¹ Though Americans, Muslim and non-Muslim alike, rally and organize against expansive surveillance, many American Muslim organizations and individuals hesitate to participate in protests, to lobby, and to speak out.

Even if we know we have rights, we know that they don't apply equally to everyone. - Amira*, 22, Sunday school teacher.

1. Self-Censorship of Political Speech & Activism

We're Arabs, we talk about politics all the time...Politics is all we do! Every coffee shop, it's either Al Jazeera or a soccer game on TV. This new idea that we must be suspicious of those who speak about politics -- something's wrong.

- Linda Sarsour, community organizer.

Both keepers of community spaces and those who visit those spaces feel pressured to censor the discussions going on within their walls. Business owners, mosque leaders and community members alike actively censor conversations, event programming, and internet usage in hopes that avoiding certain political content will keep them and their respective religious and social spaces off the NYPD’s radar.

³⁰ Handschu v. Special Servs. Div., No. 71CIV.2203, Galati Dep. 85-86 (June 28, 2012), available at http://www.nyclu.org/files/releases/Handschu_Galati_6.28.12.pdf; Adam Martin, *NYPD Spying Led to Lunches, Not Leads*, THE ATLANTIC WIRE (August 21, 2012), available at <http://www.theatlanticwire.com/national/2012/08/nypd-spying-led-lunches-not-terror-leads/56008/>.

³¹ See, e.g., *Garrison v. Louisiana*, 379 U.S. 64, 74-75 (1964).

THE USE OF THE TERM “JIHAD”

A central concept in Islam, *jihad*, is translated from Arabic as “to strive.” The term is used in Muslim life as an everyday term denoting an effort, endeavor, or struggle to improve one’s morality. It is meant to be frequently discussed, debated, explained and aspired to. Though used to justify political violence by some, the term was also used to describe Gandhi’s non-violent liberation of India and the women’s liberation movement. Because of the automatic association in mainstream parlance of violence and militancy with the word *jihad*, for American Muslims under surveillance it has become an alarm-word that automatically triggers further surveillance. As a result, many interviewees said they avoid the term altogether. When it is used, speakers will make every effort to clarify their intentions.

We don’t use the word *jihad*. Sometimes speakers will steer away from that word, or make extra effort to explain it more, explain exactly what we mean, so that nobody can misinterpret or get the wrong idea, especially in larger gatherings. - Amira,* 22, Sunday school teacher.

I don’t talk about the concept of *jihad*. But anytime someone asks that question, my first reaction is to deflect that question to someone else who can answer without me having to talk about it. Because of the known things that happen when you talk about jihad, it’s one of those words that can trigger automatic surveillance. - Jawad Rasul, 25, CUNY student

Business owners are concerned that charged political discussion could garner increased law enforcement attention, or keep other, more wary customers away. Thus, some business owners have consciously taken steps to avoid political discussion by muting, or completely banning, popular news channels. When approached by CLEAR and AALDEF, many individuals or owners of businesses that were listed in the NYPD reports were unwilling to comment on the surveillance altogether, for fear of unwanted attention.

I don't allow Al-Jazeera on in our hookah bar. Particularly when things flare up in the Middle East. We can't control what people start saying in response to the news, and we never know who else is in the bar listening. - Hamza, owner of business mapped by the Demographics Unit.

Ironically, a leaked Demographics Unit document notes that the owner of a particular restaurant did not allow the screening of the Al Jazeera channel out of fear of attracting law enforcement attention.³²

The stifling of expression is not limited to topics relating to Islamic nations, Arab politics and domestic surveillance policies. Even current events unrelated to Islam or Muslims but generally related to any type of protest or racially charged controversy made some members of the community uncomfortable.

Even regular discussions - like Trayvon Martin, [people] say don't bring that up, let's just talk about Hajj [pilgrimage]. They wonder why this guy wants to talk about politics, it's seen as suspicious. - Sheikh Mustapha*, Imam, Brooklyn.

Surveillance has also deterred mobilization related to law enforcement accountability and reform because people fear that speaking out against surveillance would only lead to greater surveillance:

I don't talk about the NYPD on Facebook. We'll put articles up, but we will never comment on them, put our own words. Maximum we'll say "it's sad that this is happening." But we will never show our anger, that we're really, really angry. Some people aren't afraid, but I am. - Amira*, 22, Sunday school teacher.

As one activist in the Shi'a community described:

Many of the Shi'a organizations who were approached by activists to speak up or speak out were hesitant to do so ... A lot of it seems to be fear, they don't want to be targeted for additional surveillance. - Ali Naquvi, community organizer.

This concern was particularly evident among immigrant parents, who, out of concern for their more outspoken American Muslim children's safety, urged them to stay away from protesting the NYPD's policies, or even from being outspoken on political issues affecting Muslims in America.

I come from a family of activists. My parents, when I first told them the Associated Press story is about to break, my dad told me don't do anything about it. That was the first time my dad ever told me anything like that. This was the first time in my own family where safety trumped what was the right thing to do. - Ali Naquvi, community organizer.

³² N.Y. POLICE DEP'T, EGYPTIAN LOCATIONS OF INTEREST REPORT (July 7, 2006), available at <http://hosted.ap.org/specials/interactives/documents/nypd/nypd-egypt.pdf>.

At [the] Youth Center, a girl said that the idea of being arrested isn't something that's far fetched, that's unbelievable; it's something very real, very possible for her. She thought it was really important to lay low because it would break her mom's heart if she got arrested "Laying low" means not being politically active, literally going on with their everyday lives. A lot of people feel like being at these protests is counterproductive, that it would draw more attention, more of being spied on. - Sireen*, 23, student at Hunter College.

My mother always tells us to be careful about Facebook, and tells us to be careful about rallies, or questions whether it's a good idea for us to go. Sometimes you just want to go out there, you want to join organizations or certain causes, but you stop yourself. When your speech is limited, you can't really do much: you can't write on the internet, you can't talk on the phone because they're tapped, you can't speak in public. When your speech is constrained you get lazy and you just go with the flow and try to survive and live a normal life, and not do much in society. - Amira*, 22, Sunday school teacher.

An American Muslim organizer we spoke with commented on the nature of organizing in a climate of fear:

Almost every rally and public forum I've attended in the last year begins with some type of disclaimer or call-out of informants and undercover agents who might be in attendance and recording the conversation. Most speakers don't even know if such a disclaimer protects them in any way, but I feel it to be a necessary announcement so that the audience participants are conscious of the environment in which we are organizing. - Cyrus McGoldrick, community organizer.

Thus, NYPD surveillance of Muslim neighborhoods, activities, speech and religious practice has not only chilled and altered Muslims' political and religious expression, but has also stifled opposition to the surveillance itself, creating a space void of dissent, agitation and much needed calls for accountability.

2. A Qualitative Shift: Clarifications, Mistranslations and Humor

Alongside self-censorship interviewees feel the need to repeatedly emphasize their peaceful position or clarify their use of terminology when going about their day-to-day lives or discussing current events. When interviewees mention foreign policy or controversial individuals, they explain their position in detail. When they do discuss news of surveillance, they opt for cursory references shrouded in humor. The primacy of security concerns means that organizations and individuals spend their energies finding careful wording and caveats, rather than on the primary topic of conversation. At an organizational, religious, and communal level, this results in missed opportunities for richer conversations, for organizing, for developing institutions and agendas, and for participation in the public exchange of ideas.

The reality of surveillance is now always on our minds, when we organize, when we speak, when we meet, when we plan. Meetings for political organizing I leave until we can meet in person, and even when we do have in-person meetings, we are all very conscious of what we say and how, taking time to clarify or make a joke out of phrasing that could be interpreted as somehow contentious. - Cyrus McGoldrick, community organizer.

I think twice before every time I put something on Facebook. I have to make sure it doesn't give the wrong idea to law enforcement. I would *never* say 'jihad' on Facebook, or 'Osama Bin Laden.' If I want to say something about the uprisings overseas, I try to be as detailed and precise as I can be, I won't talk about any of the violence going on there, will never say I don't like this person or that person. - Amira*, 22, Sunday school teacher.

Those we interviewed also expressed concern with how terms and expressions they use in their native languages might be literally translated and misinterpreted by law enforcement. A prominent Queens business owner explained how a common Arabic phrase to denote excitement could be mistranslated into English to convey that the one is so excited that he will "explode." The business owner explained that such phrases, commonly used to denote emotion, are seldom used anymore.³³

Similarly in Arabic, the term *sarookh* is used to humorously describe someone who is extremely good-looking. The literal translation is "missile". One interviewee, a young college student, commented on the use of this phrase: "you have to watch out how you joke around now."³⁴

Walking on eggshells in their own safe spaces, individuals are also scared to directly address political comments that make them uncomfortable. Many interviewees noted that a common way to avoid such confrontations was by resorting to humor.

The silencing is done through a joke. For example, if someone is talking about politics or surveillance, people joke "oh I'm going to go home now!" - Amira*, 23, Sunday school teacher.

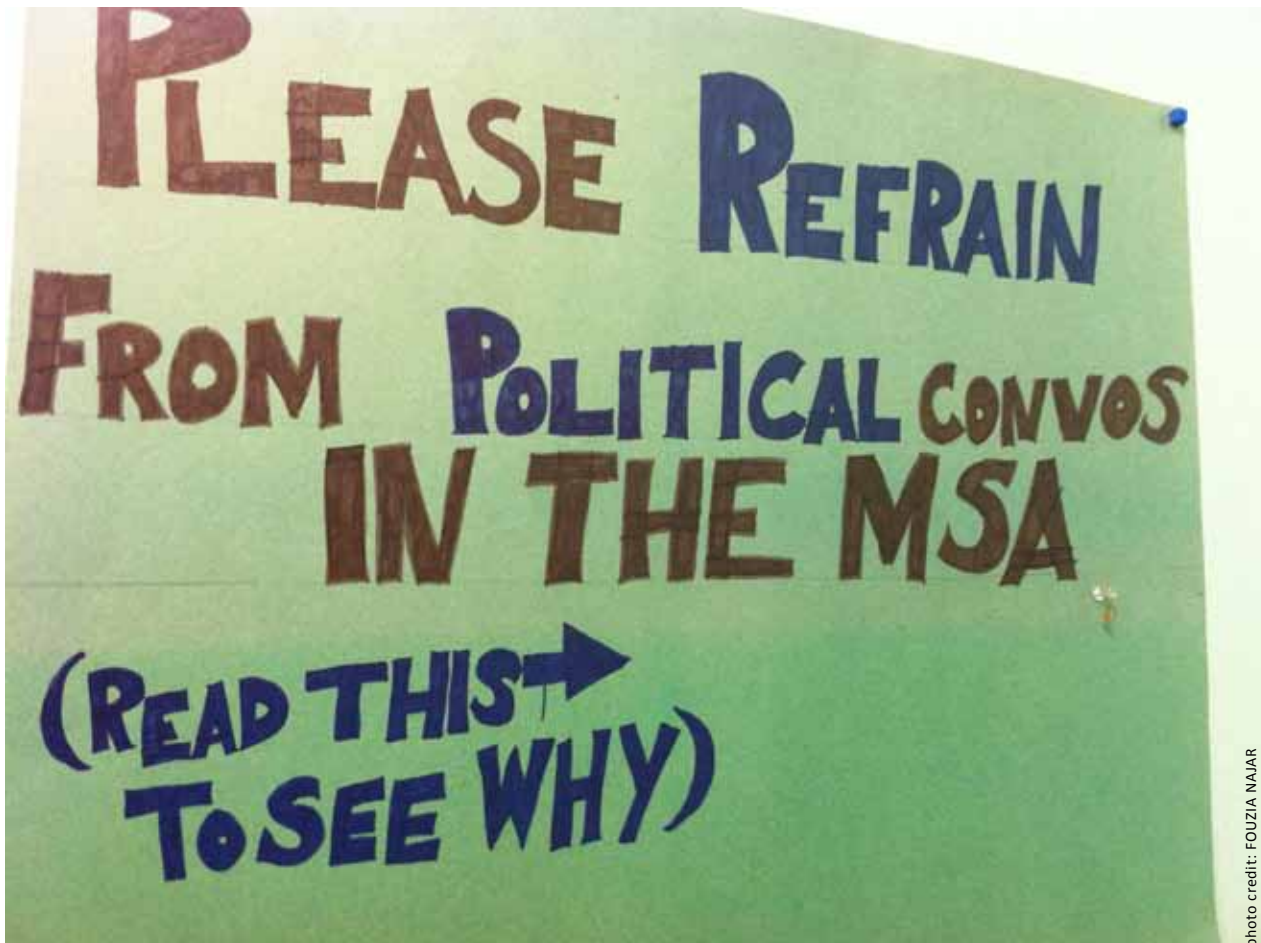
Everyday humor, allegory and metaphors are not only key parts of linguistic heritage but also function to relay emotion, inspire political mobilization and pass down stories within communities. By putting speech under the magnifying glass, surveillance impairs not only political speech in the American Muslim community but also the transmission of language and culture.

3. Student Speech on Campus

The stifling and self-censorship of both routine and political speech have especially dire consequences for college students as political activism, student organizing and academic pursuits are being derailed during the most formative years of a young person's life. Students have found themselves unable to organize effectively or even to respond to news of surveillance. As Section Five will describe in more detail, surveillance presents intimidating challenges for the development of young leaders and citizens, limiting communities' social, political and economic potential for generations to come.

³³ Interview with Hamza, owner of a business mapped by the Demographics Unit.

³⁴ Interview with Ayman*, 20, Brooklyn College.



A sign in the Muslim Students Association (MSA) room at Hunter College, New York City encapsulates the climate that reigns within student groups following news of sprawling NYPD surveillance. "Read this" pointed to a print-out of a press article by reporter Len Levitt, among the first to unveil the NYPD's surveillance program.

SECTION THREE: SOWING SUSPICION

1. "Everybody's an informant"

I don't want any new friends. If I don't know you and your family, or know that you have a family that I can check you back to, I don't want to know you.

- Faisal Hashmi, activist, Queens.

You look at your closest friends and ask: are they informants?

- Amira*, 20, Sunday school teacher.

One of the most corrosive effects that interviewees noted is the suspicion that has become entrenched in American Muslim communities. This stems in part from the realization that other Muslims – or individuals posing as Muslims – are taking notes, listening in on conversations, and acting as agents provocateurs. This notion has proven particularly devastating to any sense of community, trust and openness.

I was very naive at one point. I converted to Islam. At first I thought all Muslims were great people and you could trust them all. And then someone said hey, you should know about all these things...(referring to informants) - Hassan*, 20, board member of a CUNY MSA.

According to court documents and other publicly available information, informants or undercovers have exhibited certain tendencies – for example, seeming particularly interested in befriending certain individuals, discussing violent or politically controversial subjects, often in non-sequiturs, or seeming overly generous without having a clear source of income. But, of course, there is no sure-fire way of identifying an informant or an undercover.

As a result, our research showed that American Muslims are often suspicious of other Muslims. Many interviewees felt that routine events were now a cause for suspicion. As one businessman whose business was listed in the leaked intelligence units documents stated:

Every other store on this street could be an informant. You start wondering about each one: how did this person get his liquor license so quickly? Or how come the cops aren't saying anything about this guy who is well known to be selling alcohol under the table, or to minors. Or I know that this person was in jail for some months, and suddenly I see them back in the store, even though you think they had some charges that could stick. - Hamza*, owner of a business mapped by the Demographics Unit.

Nearly all interviewees thought they knew someone who was an informant or an undercover officer. The reasons provided were diverse and contradictory, reflecting the widespread internal suspicion that surveillance has triggered within the American Muslim community. Someone viewed as overly religious was suspect, while another who frequented the mosque without seeming particularly religious was equally suspect. Individuals who regularly attended MSA events were deemed suspicious, as were those who only came once in a while.

Two interviewees recalled incidents where they falsely accused someone of being an informant, leading to potentially devastating reputational consequences for the accused. One of the students who was on a whitewater rafting trip that was attended by an undercover officer thought he could tell who that undercover was through a process of elimination. When invited to do so during a press interview on national television, he ventured a guess. He was wrong. In his interview, he still expressed remorse: "I have to give him a call and apologize."³⁵

A second interviewee recalled with regret how he was suspicious about a new member of the mosque whom he noticed suddenly became very involved and active in his mosque's administration. He discussed his concerns with others at the mosque. Later on, he found out that the man had recently lost his job and had time on his hands. He described his feelings of guilt when he noticed that his warnings had led others to be wary of this man.³⁶

All interviewees had concerns about inter-communal mistrust and bemoaned the wariness that has become pervasive. Many believed that suspicion of their Muslim peers went against their nature, their religious beliefs, or their desire to be active and supportive members of their community.

³⁵ Interview with Jawad Rasul, 25, CUNY student.

³⁶ Interview with Mahmood*, 37, Staten Island.

**PREYING ON THE MOST VULNERABLE:
THE NYPD'S AGGRESSIVE RECRUITMENT OF INFORMANTS.**

A college student recalled a visit he received from two NYPD detectives, shortly after he and his family had emigrated from Malaysia. The detectives pressured him to work for them as an informant – they wanted him to surf the internet and monitor certain websites. He remembers them asking him what he thought were odd questions: “What do you think of the Shi’a? Do you think they are real Muslims? What would you do if a white American girl came to you and asked for intercourse?” After he repeatedly refused to meet with them, they eventually left him alone – until several months later, when he enrolled at a CUNY school:

This time, they offered me 400 or 500 dollars a month, they said ‘all your work would require would be sitting in front of your computer and look at what people are doing.’ ... Within four meetings I moved from being a suspect to someone they wanted to pay. - Jamal*, 23, CUNY student.

Another woman recounted how one day when she was sixteen, she got a call from the principal’s office at her public school. The principal told her that the NYPD had asked her to come in for questioning. She first thought that it was about a young boy she had complained about for following her. Once there, she quickly realized that they were more interested in her online activities and her friends. A few weeks later, the same NYPD officers came to her home while her parents were away, searched through her belongings and her computer, and ultimately offered her work as an informant. At the time, she was young, broke, and living with her parents:

[The detective] said the department can provide you with a place, a job if that’s what you’re looking for, an apartment, we can give you your freedom. - Grace*, 23, Queens resident.

These incidents – not infrequent in certain communities – have led many to realize that others, possibly their own peers, may not be as able to resist the pressures of working as informants:

Everyone is being asked to spy, and I know it myself they must have been threatened or bribed to spy. Nobody would just do it voluntarily. And they probably get people in trouble. I know this because they tried to bribe me. - Grace*, 23, Queens resident.

The worst thing you can do is start to doubt other people and their intentions. I don't even think about that aspect. We don't want to distrust each other or cause animosity. - Ayman*, 20, Brooklyn College.

This NYPD thing was put out to make everyone scrutinize everybody. It's created a real suspicious atmosphere, wondering if everyone is what they say they are. - Yousuf Abdul Lateef, Long Island Resident.

Such widescale disruption of community life and the social fabric are evocative of divisive tactics used by the authorities in other contexts, sometimes purposefully. One such context – the control of populations under military rule – is similarly marked by the deployment of agent provocateurs, informants, “demographic” research and surveillance apparatuses. In fact, NYPD officials have commented that the program was modeled in part on Israeli military tactics employed in the Occupied Palestinian Territories.³⁷ Such parallels highlight that the NYPD treats entire American Muslim communities as foreign and suspect, despite the acknowledged absence of any concrete indications of criminal conduct.

2. Self-Stigmatization: Ex-communicating Those Likely to Be Recruited as Informants.

“If they're likely to be scrutinized, don't hang out with them.” - Asma, 19, CUNY student.*

The widespread practice of so-called “voluntary interviews” by law enforcement is well-known in American Muslim communities. In these interrogations, agents will approach individuals based on their associations, protected speech, appearance, or sometimes simply their country of origin. CLEAR has represented clients who have been visited by NYPD officers and interrogated about their online activities, about their countries or villages of origin, their acquaintances or their community activities. NYPD approaches people for this purpose at their homes, workplaces, or in public places. While it is difficult to quantify the frequency of this practice due to an absence of reported statistics, nearly every individual we interviewed described being approached personally by law enforcement or knows someone who has.³⁸ Despite their frequency, such “visits” by law enforcement carry significant stigma. Many interviewees noted that they were uncomfortable associating with community members whom they thought were likely to be approached.

Ironically, those who have been approached by the NYPD become objects of suspicion among their own peers. Interviewees who had been contacted for questioning by the FBI or by the NYPD were worried that others in their community might find out, resulting in their being viewed by their peers and neighbors with either fear or mistrust. One young man whom NYPD detectives visited at home, questioning him in front of his neighbors, describes his subsequent social marginalization:

Nobody will trust you with things that they did trust you with before. . . . Trust is gone. My own neighbor – he doesn't say it, obviously no one says it. But I feel like it's on their faces. They know something's not right because they were there when the NYPD visited us. I assume he figured out it was just a fishing expedition, but I generally feel that they don't want to deal with us. - Ahsan Samad, 26, Brooklyn.

³⁷ AP Aug. 23, 2011 Article.

³⁸ The FBI engages in very similar practices of widescale questioning of Muslim individuals. Often, individuals who are approached cannot differentiate the various local or federal agencies that are approaching them. For background on such federal policies, see Shirin Sinnar, Questioning Law Enforcement: The First Amendment and Counterterrorism Interviews, 7 BROOKLYN L. REV. 41 (2011).

PARTICULAR VULNERABILITIES OF IMMIGRANT COMMUNITIES

Immigrant and lower income communities have been particularly targeted, and affected, by NYPD spying. Though interviewees across the socio-economic spectrum expressed the chilling effects of surveillance, new immigrants are especially vulnerable. Whether they are undocumented or green card holders, new immigrants felt strongly that constitutional protections of speech and association were not applicable to them. They also associated law enforcement attention with immigration enforcement and worried that if they caught the attention of the NYPD they might be susceptible to deportation or delays in the processing of their immigration relief.

[My mother tells me] if anyone comes knocking on the door asking for you, she says the first thing she'll do is that she'll send me to Yemen because she doesn't want me to go to prison. She tells me to just go to school, finish my education, don't worry about these [political] things, these have been happening forever. She wants me to stay away from trouble. - Sireen*, 23, student at Hunter College

Campuses in the public City University of New York system, with higher proportions of working-class and immigrant students, were more likely to be targets for infiltration by NYPD informants than private schools and Ivy League colleges, which appear to have been targeted mostly with cyber-monitoring. Of our interviewees, as well as our clients, those who are recruited to work as informants or who have been questioned about their political beliefs are all first generation immigrants whose immigration statuses - or those of their family members - were frequently used by their interrogators as an additional form of pressure.

Similarly, because individuals who are prominent in the American Muslim community, or who are perceived to be leaders, are often primary candidates for such interviews, there is also an assumption that community leaders are compromised.

I don't trust a lot of our leadership within Islamic organizations in New York City. I think many of them have already been contacted by NYPD or the FBI. - Fareeda*, 21, Brooklyn College student

3. Stigmatized: Mainstream perceptions of American Muslims.

They say "don't you go to Queens College? Isn't that where all the terrorists are?" They saw it on the news that they were spying on us.

- Sameera*, 19, CUNY student.

American Muslims are concerned that the surveillance programs have stigmatized them in the eyes of non-Muslims. They fear that their colleagues, neighbors, classmates or customers will view them with suspicion because law enforcement has branded them a population "of concern" that is prone to dangerous behavior. Such public, state-propagated notions can lead to alienation of American Muslims from their political allies, their colleagues, or on campus, and contribute to an overall public discourse that is hostile towards Muslims.

- **Enabling hate crimes.** Recent years have seen a high number of hate crimes against Muslims in New York City,³⁹ mirroring a national trend.⁴⁰ Some racial justice organizations have connected this to the fact that discriminatory law enforcement policies, like the NYPD surveillance program, perpetuate notions of Muslim “dangerousness.” The perception is reinforced when public officials voice unconditional support for the program.⁴¹ In this way, the NYPD and public officials contribute to the creation of a permissive environment where not only bias but also hostile acts against Muslims are deemed acceptable. That environment might also signal to some – even if inaccurately – that hate crimes against this population would not be aggressively investigated or prosecuted.⁴²

When our own government, our own police, our own institutions, and our own media continue to engage in racial profiling or painting our communities as suspect, we cannot expect the results to be any different than these tragic cases of racial violence. - Shahina Parveen, Leader, Desis Rising Up and Moving (DRUM).

- **Impeding interfaith collaborations.** Mosques and Muslim community organizations have invested significant resources in reaching out to other faith-based communities, particularly after the September 11, 2001 attacks, in order to forge alliances. Several interviewees raised concerns about their institutions’ strained relationships with their former interfaith networks

[The revelation that the NYPD had sent an undercover informant into our mosque] resulted in our alienation from other communities. Not only because we now know that we had an informant, but also because everybody else knew, including non-Muslims. The NYPD went to the press and said that they’ve been surveilling a mosque in our community. This mosque they were surveilling had positioned itself as the interfaith mosque, opened its door to folks. Next thing we knew our allies dropped off. There was supposed to be a meeting with an interfaith group and they said they’d rather not have it at our mosque. - Linda Sarsour, community organizer.

- **Stigma in the workplace.** Several young, educated professionals we spoke with expressed concern that the public discourse about radicalization within Muslim communities, further propagated by the NYPD’s surveillance program, would affect their colleagues’ impressions of them. They were concerned that their colleagues, without more background and engagement in the issues, might either be suspicious of Muslims, or become wary of associating them for fear of “controversy.” One interviewee noted that she hides her religious identity in the workplace,⁴³ while another wondered whether she should “water down” her “Muslimsness” on

³⁹ Some recent examples that have been reported in the press include: David Ariosto, *Woman Accused of Murder as a Hate Crime in NYC Subway Push Death*. CNN (Dec. 30, 2012); Rocco Parascondola, *Queens man, 70, Beaten by Pair After Being Asked if He Was Hindu or Muslim*, NY DAILY NEWS (Nov. 30, 2012); Vera Chinese, *Muslim Hate Crime Victim Who Was Stabbed Six Times in The Back Says he Harbors no Ill Will Against Attacker*, NY DAILY NEWS (Nov. 19, 2012); N.R. Kleinfeld, *Rider Asks if Cabbie Is Muslim, Then Stabs Him*, N.Y. TIMES (Aug. 25, 2010).

⁴⁰ Mark Potok, *FBI Reports Dramatic Spike in Anti-Muslim Hate Violence*, HUFFINGTON POST (Nov. 14, 2011), available at http://www.huffingtonpost.com/mark-potok/fbi-reports-dramatic-spik_b_1092996.html.

⁴¹ Rebecca Henley, *Jax Hgts rallies for subway hate crime victim* (Jan 12, 2012) available at http://www.timesledger.com/stories/2013/2/racialviolence_at_2013_01_10_q.html.

⁴² The NYPD has in fact issued strong statements of condemnation of such acts, and apprehended several of the offenders.

⁴³ Samar*, 32, Corporate Lawyer.

STIGMA

The United States Supreme Court has noted that government policies that discriminate against a group can result in harmful social and political consequences to that group. This is called “stigma.” In *Brown v. Board of Education*,^A the Supreme Court invalidated racial segregation in public schools. The Court noted that state-sanctioned discrimination has a more harmful impact than private discrimination. By singling out Muslims as potentially dangerous, as meriting close law enforcement attention, and by not applying the same standards as for other New Yorkers, the NYPD communicates, and perpetuates, negative stereotypes about all American Muslims. As a result, American Muslims are less able to participate fully in society, as equals.

Many of the experiences relayed by our interviewees show evidence of the stigmatization of American Muslims. Whether it involves an individual’s or institution’s damaged relationships with law enforcement and other public entities, or a hesitation to engage in public conversations about current events, be it in a classroom setting or engaging in civic advocacy, the fear of being publicly associated with religious Muslims and the self-censorship that results all point to reduced opportunities for social and political participation that are essential in a democratic society.

^A 347 U.S. 483 (1954).

her resume.⁴⁴ Two other interviewees, both young attorneys working at corporate law firms, felt that they could not engage in pro bono work on issues relating to Muslim civil rights and Muslim immigrants generally because the firm does not want to get entangled (even indirectly) in these controversial issues.

- **Stigma on campus.** Muslim students expressed concerns about being ostracized by their peers, Muslim and non-Muslim alike. One of the major components of the mission of any Muslim Student Association is to engage non-Muslims on their campus, and to increase the Muslim community’s visibility.⁴⁵ Students worried that wide press coverage announcing that the NYPD had infiltrated Muslim student groups with the hope of finding radicals or criminals would damage their outreach efforts.⁴⁶ Several interviewees noted feeling that many on campus did not want to associate with the MSA, or its active members.⁴⁷ A professor at Baruch College described how some Muslim students told her in a class discussion that joining the MSA could lead to being considered “extremist” and to law enforcement scrutiny.⁴⁸

⁴⁴ Interview with Samia*, 21, CUNY student.

⁴⁵ Interviews with Niveen*, 22, CUNY alumna; Inas*, 20, CUNY student; Jamal*, 23, CUNY student and Jawad Rasul, 25, CUNY student.

⁴⁶ Interview with Jamal*, 23, CUNY student.

⁴⁷ Interviews with Inas*, 20, CUNY student and Samia*, 21, CUNY student.

⁴⁸ Interview with Carla Bellamy, Professor, Baruch College.

SECTION FOUR: SEVERING TRUST IN LAW ENFORCEMENT

I don't trust them at all, nor do I believe they are protecting us. They are stripping us of our rights and violating our privacy. I don't know how non-Muslims feel safe either because if they do it to us, they can do it to anybody.

- Inas*, 20, CUNY student.

If police really wanted to do something for protection, there are so many obvious opportunities: drugs are all over this neighborhood, the fights, other crimes. But instead, they're writing down whether I'm screening Al-Jazeera in my restaurant! That's a waste of resources.

- Hamza, owner of a business mapped by the Demographics Unit.

One theme that emerged across interviews is an entrenched, deep mistrust of the NYPD. Individuals did not view the NYPD as a protective force, or as a resource for those in need of assistance – rather, the police are increasingly regarded as threatening and untrustworthy. As a result, Muslim organizations, mosques and community leaders have reevaluated their relationships with the NYPD.

1. An anti-Muslim culture at the NYPD

A lot of the [NYPD] documents deliberately attack Islam, the ideology of Islam. I used to never want to believe that you're being targeted because you're Muslim. I was one of those people that was fine with talking to law enforcement because I knew I wasn't doing anything wrong. But now it's not about what you're doing wrong, it's about what their goal is. If they're being trained and taught to be suspicious of Islam, then that's scary. And that's changed my approach to them.

- Tahanie Aboushi, lawyer.

Another recurring theme was apprehension about NYPD's anti-Muslim culture – both within the Intelligence Division and outside of it. Even before the Associated Press reports shed light on surveillance, documents and statements made by the NYPD reflected a deep misunderstanding of Islam, a conflation of Islam with terrorism, and an alarming level of indifference by NYPD leadership to overt anti-Muslim actions and statements within the Department's ranks.

A notorious example of the anti-Muslim culture at the NYPD that left many of our interviewees – and New Yorkers in general – ill at ease was the widely-publicized screening of a virulently anti-Muslim film, “The Third Jihad,” on continuous loop during the NYPD's cadet training program from October to December 2010. The film presents a montage of images of terrorist attacks, beheadings and dead bodies, while a narrator suggests that American Muslims aim to “infiltrate and dominate” America,⁴⁹ and that they are engaging in a “cultural Jihad” aimed at infiltrating and undermining American society.⁵⁰ The screenings at police trainings were made public through NYPD documents obtained by the Brennan Center for Justice, sparking a public outcry.⁵¹ Adding to the community's frustrations was the fact that Police Commissioner Ray Kelly and NYPD Spokesman Paul Brown had participated in the film's production and that the NYPD never did a review of its police cadet training protocols.

⁴⁹ Michael Powell, *In Police Training, a Dark Film on U.S. Muslims*. N.Y. TIMES (Jan. 23, 2012).

⁵⁰ From the film's website, http://www.thethirdjihad.com/about_new.php (last visited Jan. 3, 2012).

⁵¹ Michael Powell, *In Police Training, a Dark Film on U.S. Muslims*. N.Y. TIMES (Jan. 23, 2012).

Criticism of the NYPD Intelligence Division's work has also come from within its own ranks. A lawsuit filed in 2006 by a former American Muslim officer described in great detail a culture of systematic discrimination, with hundreds of anti-Muslim and anti-Arab email briefings sent to the unit over the course of two years.⁵² The majority of the emails were sent by Counter-Terrorism and Intelligence advisor to the NYPD Bruce Tefft, but the complaint also made it clear that supervisors and ranking officers within the intelligence unit either turned a blind eye or worse, participated. For instance, Muslim officers were made to leave the room when certain briefings occurred.⁵³ Among the e-mails that were circulated to the unit was a commentary to a news headline that "[o]ne in four hold anti-Muslim views." The email noted: "Then 1 in 4 is informed."⁵⁴ Or "Burning the hate-filled Koran should be viewed as a public service at the least."⁵⁵ The officer had repeatedly complained to four different supervisors, but his complaints were all ignored.

One interviewee, a former intelligence unit officer of Arab origin who also left the division, reflected that in his time within the unit – over five years – he frequently felt the need to go beyond the scope of his duty in order to explain the basic tenets of Islam when he felt that his colleagues were attributing bad intentions to benign Muslim religious behavior. For example,

I would see emails from people in the NYPD, saying "I saw ten people get together at 10 PM outside the mosque." So I told them about our culture, that [congregation] is normal Muslim behavior. - Yousuf*, former Intelligence Division officer

The same former Intelligence Division employee went on pilgrimage to Mecca. When he returned, he felt ostracized, that he was no longer trusted, which ultimately led him to request re-assignment.⁵⁷

In practice, ignorance or misperceptions about Muslim traditions, beliefs, and people can turn a regular law enforcement interaction into a potential counter-terrorism investigation. In CLEAR and AALDEF's experience with clients, Muslim individuals who filed a complaint about identity theft were shocked to find themselves being questioned by counter-terrorism units. "Muslim-looking" individuals filming tourist locations in New York have also been stopped, searched, and detained. The former Intelligence Division officer we interviewed reported similar problems:

People were arrested for having . . . something with words about God, or a folded Koran in his pocket, or for having [paper with] Bismillah or Allah in their pockets, for protection during travel! They would arrest him, and then call the Intelligence Division to investigate. Sometimes I went and signed off on their release. - Yousuf*, former Intelligence Division officer.

2. Mistrust of Law Enforcement

Muslims aren't respected by the police. - Inas*, 20, CUNY student.

Many interviewees viewed all of their interactions with the NYPD to be driven by discriminatory intent. As has been widely documented in other communities of color, mistrust of police discourages community members from reporting hate crimes, domestic abuse, and other crimes or from seeking

⁵² Complaint, *John Doe v. Tefft*, No. 06CV13738 (S.D.N.Y., Filed Dec. 5, 2006).

⁵³ *Id.* at 17.

⁵⁴ *Id.* at 10.

⁵⁵ *Id.* at 12.

⁵⁶ Interview with Yousuf*, a former Intelligence Division officer.

assistance in emergency situations. People are much more likely to want to maintain contacts with police when they think they will be treated in a fair, respectful and impartial manner.⁵⁷ A large number of interviewees noted that they do not believe that NYPD officers would protect them if they had concerns about their safety.

[I]f there was a hate crime, and someone came to my house, and you have an officer who has been trained with all of these videos, what is he going to do? Or think about me? Can you trust you're in good hands? - Tahanie Aboushi, lawyer.

I don't think I'd want to ask [a police officer] for directions? - Fareeda*, 21, Brooklyn College student.

When I heard they showed that video to all the cops, now if there is an altercation or a fight I wouldn't feel comfortable going up to cops.... - Sameera*, 19, CUNY student.

If I'm being robbed, then, yes, I would expect them to come. But if I feel like someone is discriminating against me in the street, I wouldn't expect them to do anything to help me. I would say that a lot of the cops in the streets have this idea of all Muslims as potential terrorists. And you also know that they feel that way about Blacks and Latinos. Knowing your rights isn't so important. I know that the NYPD doesn't follow the rules so it's not like I can throw my rights at the NYPD. I can't expect them to cower when I say I don't consent to this. - Lana*, 29, Brooklyn Resident.

The covert and sprawling nature of the NYPD's program has made it difficult for many American Muslims to distinguish between counterterrorism surveillance practices and other types of police work. When asked whether someone has ever had any concerns about surveillance, interviewees often responded by narrating seemingly unrelated interactions with law enforcement, including traffic stops,⁵⁸ or a campus police service offering to help track your phone in case it gets stolen.⁵⁹ Similarly, presence of police on street corners,

I walk around wondering what the NYPD is doing on this corner, or that corner when I see an officer. I find myself thinking it's "too coincidental" when I'm going somewhere and the NYPD happens to be there. - Fareeda*, 21, Brooklyn College student.

I feel really conflicted: I know the NYPD does some great things. They do provide security when we need it. At one point I had this icky feeling. I always respected cops. And then when I heard about the reports of surveillance, I thought "wait, are all these cops in on this?" I didn't understand the internal structure of it, I now know there's a unit for each thing and that I have to separate them out. But that's a lot to ask. - Sireen*, 23, student at Hunter College.

NYPD were on campus with tables registering student phones. One officer says, "would you like us to register your phone so that we can track ... uhhh *find* your phone in case it gets lost." I didn't give him my phone. - Soheeb Amin, 22, former President of a CUNY MSA.

A couple of weeks ago, I witnessed a phone snatching a few blocks from my house. I called the police to report the incident, and stayed with the shaken young lady until the cops came to help

⁵⁷ Tom R. Tyler, Stephen Schulhofer, Aziz Z. Huq, *Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans*, 44 LAW & SOC'Y REV. 365, 366 (2010).

⁵⁸ Interviews with Mahmood*, 37, Staten Island and Fatima*, 19, CUNY student.

⁵⁹ Interview with Soheeb Amin, 22, former President of a CUNY MSA.

THE FBI AND THE NYPD: SAME, BUT DIFFERENT.

While the FBI has distanced itself from the NYPD surveillance program in several public statements, the FBI's own counterterrorism policies have in fact relied on many of the same assumptions. Before the NYPD, the FBI published [RK: published?] its own "radicalization theory." The FBI engages in a national program of questioning Muslims, undertakes its own mapping efforts, and employs its own informants. In other words, Muslim communities in New York City are doubly-victimized, as the NYPD adds an aggressive layer to the parallel national federal policies targeting and mapping Muslim communities. Yet, interviewees noted that the realization that local law enforcement – the ones associated in the New Yorker's mind with traffic stops, emergency assistance and old fashioned crime-fighting – are involved in surveillance has served an additional blow to American Muslims' sense of security.

Now that it's the NYPD it's a lot closer to home. It's more local. You don't know how to differentiate between the two... Usually, police officers, you ask them for directions, they're around on campus. Now, how am I supposed to differentiate between the NYPD and the FBI? People don't understand how different it is that a local law enforcement agency is doing this. - Fareeda*, 21, Brooklyn College student.

her out. The NYPD later called my cell phone to follow up on details; the officer asked for my name, assuring me that it was strictly for confirmation purposes. I declined to give it to him, for fear of what they might do with my obviously Arabic, Muslim name. - Omar*, 28, Manhattan.

Interviewees described as discriminatory police activities that may be unrelated to the strictly "counterterrorism" or surveillance context and which may have a lawful, non-discriminatory impetus. For example, one Arab, Muslim owner of an Astoria, Queens business that was featured in the Demographic Unit's documents thought that the NYPD was deliberately abusive and discriminatory in its ticketing practices on his street, where traffic was predominantly Arab and Muslim. He also believed that the enforcement of the citywide ban on hookahs was directed at Muslim businesses and fueled by bias.⁶⁰

3. Severed Relationships with Muslim Institutions and leadership

Your job is to protect us. If we are now afraid of you, the community will pull together and cut themselves off from law enforcement.

- Tahanie Aboushi, lawyer.

All of the community leaders that we spoke with described a feeling of betrayal and deep apprehension. Many of them had worked tirelessly to strengthen relationships with police after September 11.

It has set back an entire community with the recent confirmations of the AP. [It has] put into question everything we were working towards, which was a seat at the table. - Sabreen*, 30, community activist.

⁶⁰ Hamza, owner of a business mapped by the Demographics Unit.

The NYPD has invested significant resources in building bridges with the Muslim and Arab communities of New York City, with community outreach being integral to what Police Commissioner Ray Kelly calls the “Three C’s of policing: Crime fighting, Counterterrorism, and Community Relations.” As part of these programs of outreach to the Muslim community, the NYPD has promoted a soccer league and a cricket league aimed at connecting with Muslim youth. It also boasts a Muslim Liaison Program, and a separate Clergy Program. While meaningful outreach efforts are needed, the NYPD’s approach appears to be counterproductive. Indeed, various NYPD officials have openly said that efforts to engage American Muslim communities are fueled by a desire to “de-radicalize” those communities. As former NYPD Assistant Commissioner Larry Sanchez unabashedly put it: “The New York Police Department believes part of its mission is to protect New York City citizens from turning into terrorists.”⁶¹

Another major concern is the NYPD’s use of its community outreach branch as another intelligence-gathering tool. The leaked NYPD Demographics Unit documents note that among the unit’s duties is to “Participate in social activities, i.e. cricket matches.” In other Demographics Unit documents, the unit is instructed to “utilize precinct personnel to gain a better understanding of the Shi’a communities within their command.”⁶² Similarly, Community Affairs Deputy Inspector Amin Kosseim, a prominent Arab-American NYPD officer, has publicly stated that among the benefits of community policing are “to solve a crime, to make an arrest, or to get intelligence on a protest.”⁶³

NYPD officials have themselves acknowledged the damage that aggressive intelligence gathering can do to community outreach efforts. Richard Falkenrath, the former director of the NYPD’s counterterrorism division, explained:

[T]he counterterrorism deputy commissioner and the intelligence deputy commissioner are not responsible for community outreach. In part, we don’t want to stigmatize the interaction with these communities, and if the counterterrorism or intelligence deputy commissioner goes to a community meeting or a mosque, it sort of sends the message that the reason we’re here is we think there’s a threat. And that’s not the message we want to send, because the vast majority of the people from these communities -- the vast, vast majority -- are no threat at all and simply want to live in peace and enjoy everything the city has to offer, which is a lot. But our community affairs bureau does have this responsibility, and we’re blessed in the NYPD with incredible ethnic and linguistic diversity..⁶⁴

Mosques and community organizations depend on maintaining good relationships with their local precincts to facilitate their members’ access to police services, to call them for protection, and to work together to reduce crime in the community. The consequences of these broken ties are serious: organizations cannot offer a safe space for their community members and are unable to advocate for improved law enforcement practices within their community.

⁶¹ Lawrence S. Sanchez, Assistant Commissioner, New York City Police Department, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Oct. 30, 2007.

⁶² N.Y. POLICE DEP’T, INTELLIGENCE STRATEGY REPORT, at 4 (May 15, 2006), available at <https://www.documentcloud.org/documents/288719-nypd-iranian-intel.html?key=9a9ba0d2ea8a33e7dce6>.

⁶³ Interview with Amin Kosseim, Bridging the gap between the police and the community at N.Y.P.D., available at <http://www.chds.us/?player&id=2545>.

⁶⁴ Richard Falkenrath speech at the Washington Institute For Near East Policy: Defending the City: The NYPD’s Counterterrorism Operations (June 23, 2009), available at <http://www.washingtoninstitute.org/html/pdf/falkenrath20090623.pdf>.

Many mosques value the relationships they have with precincts and top brass. When mosques receive hate mail or encounter other law enforcement problems, they call up the local sergeant. When news of the surveillance broke, some mosques were caught between a rock and a hard place because they were unpleasantly surprised by the news but didn't want to offer public condemnation and threaten those relationships. - Asim Rehman, Muslim Bar Association of New York.

Muslim leaders and organizations have invested significant energies in engaging with the NYPD in order to combat their community's alienation from law enforcement. Those efforts have been hampered, if not completely negated as these leaders feel forced to pull back in order to safeguard their community's wellbeing.

Community relationships have been significantly harmed. Gradually. It didn't start with the NYPD radicalization report. It started one year when we went to a pre-Ramadan breakfast... That year, they show us a presentation. [They flashed a] red screen and then black letters: 'Faces of Terrorism.' ... By the 7th picture, a lot of us walked out. ... That was 2006. ... Many of our leaders boycotted the breakfast for years after that. Then, [the revelation that the NYPD had been screening the "Third Jihad"] a year ago was what really did the relationship in. - Linda Sarsour, community organizer.

In a post-9/11 world with the backlash and targeting, we feel that we need to do work to build bridges, and provide in-depth, relationship building opportunities. You don't want them to surveil mosques, but you want them to visit it, you want them to know what happens in it, you want them to know what a religious space is like, and how it's like for religious communities who experience that... For many years we've been trying to get something with the NYPD to train their officers. We've had a difficult time to break through that wall. [My organization's work is] to build bridges between religious communities and city government agencies – that's our methodology. Of course, reports [about the NYPD's surveillance] make our work even harder, because the community feels like they can't trust city agencies for whatever reason. - Assia*, interfaith community organizer.

Today, communities are engaging in a fraught conversation over how to respond to the NYPD's ongoing surveillance practices. Muslim leadership have found themselves in a quandary: inviting law enforcement into the community and continuing relationship-building despite well-publicized surveillance not only risks enabling surveillance, but also sends a disempowering message to their membership. On the other hand, the community benefits from open channels of communication with law enforcement. Linda Sarsour, a community organizer and director of the Arab American Association of New York, outlines the difficult considerations her organization faced:

I don't mind having a regular NYPD car in front of our mosque, but only if it is protecting our mosque. Not gathering intelligence. But I'm sorry, I'm not going to have you do workshops in our community anymore. I'm not going to have Commissioner Kelly come for Ramadan and do iftar. We can't bring the NYPD leadership to our space. It will confuse the community. We always tell people to call law enforcement in case of an emergency but we will not encourage our youth to play soccer in NYPD League anymore. - Linda Sarsour, community organizer.

Similarly, an activist and a mother describes the difficulty of inculcating a positive attitude towards law enforcement or even city agencies in her teenage son, while also ensuring that he is not naively trusting:

It's hard for him to process: what does it mean that a police department treats my community like this, how do I view or interact with an agency like that. It's a challenge for young people, and I imagine it's true for African American youth or Latino youth in the same way as it is for Muslims. Am I supposed to see a police department as an enemy or do I continue to work with them? Why should I trust them? It's particularly difficult for young men. - Assia*, interfaith community organizer.

Many mosque leaders described finding themselves in a thorny predicament. While several of them were assured that their local precincts had no knowledge of or role in the surveillance programs,⁶⁵ the press reports and NYPD documents suggest otherwise. Police precinct personnel are mined for their local knowledge of communities; arrests or routine traffic stops of Muslims may trigger an Intelligence Division "debriefing,"⁶⁶ and Demographics Unit officers were even instructed to participate in community outreach sporting events.⁶⁷

One day someone from community relations at the precinct came [to our mosque's youth group] and he asked us "what do you guys think about the NYPD." I, the big mouth, told the officer "we don't feel comfortable with you guys." He asked why? I said because you're spying. That's when he explained that their precinct isn't in cahoots with the spying, and they're the little guys and they don't have any control over the department. People are upset. Really angry about the NYPD. Even leaders that had a good relationship with the NYPD. Even one of our biggest leaders has been changed by this. That's saying a lot. - Grace*, 23, Queens resident.

[Our community organization] has a strong relationship with the local precinct, since the center opened in 2001. I'm disappointed because NYPD generally does the right thing. For the mayor to endorse this is the wrong thing, to send people into mosques. It's not like we're a drug team. These are 501(c)(3) mosques and centers trying to do good. To use that as a place to target is unacceptable. - Akbar*, mosque outreach coordinator

Our masjid [mosque] cleaned this neighborhood from the drugs. The police knows that. Since the [AP] reports came out, I'll get calls from the community affairs guys, but we don't want anything to do with them, We would interact with the Community Affairs before, all the time. But I don't call those community affairs guys anymore. - Sheikh Mustapha*, Imam, Brooklyn

Severing relationships with a police department, unlike with other agencies, means that a community is potentially compromising police protection and drawing even more suspicion. Ali Naquvi, an activist in the Shi'a Muslim community, approached many of the institutions listed in the NYPD documents as targets of surveillance and encouraged their leaders to speak out – but found many of them were hesitant to do so.

Part of the reasons stated were that they didn't want to ruin their relationship with law enforcement, they needed it for things ... But a lot of it also seems to be fear, they don't want to be targeted for more surveillance. - Ali Naquvi, community organizer

⁶⁵ Interviews with Akbar, mosque outreach coordinator; Grace*, 23, Queens resident, and Linda Sarsour, Community Organizer.

⁶⁶ See footnote 21, *supra*.

⁶⁷ N.Y. POLICE DEP'T, THE DEMOGRAPHICS UNIT (2006), available at <http://wid.ap.org/documents/nypd-demo.pdf>.

SECTION FIVE: IN FOCUS - CAMPUS LIFE

If they were[n't] already monitoring me, now that I'm in the MSA at Queens College, I'm definitely monitored.

- Sameera*, 19, CUNY student.

Muslim Student Associations (MSA) on campuses across New York City exhibit many of the same trends as other nodes of Muslim community life such as mosques or community centers, but also provide a unique lens on the impact that surveillance has on younger people within the targeted communities. The documents obtained by the Associated Press revealed that through online and in-person monitoring of Muslims students, the NYPD had for years crept into academic spaces. Students who already face surveillance in their neighborhoods, in their home setting, and in their mosques, are also vulnerable to spying on campus. The repercussions of surveillance on student life are significant: students we have spoken with showed that awareness of surveillance affected the sorts of events that they host, the discussions they have, the spaces they occupy, their academic development, civic engagement, and even leadership choices.

MSAs have been an integral part of many American Muslim students' college life.

The Stony Brook MSA for me was a diverse community of friends with whom I broke fast during Ramadan, debated hot topics about politics and Islam, and camped out in the library during finals period. I still keep in touch with most of my MSA friends to this day, and I'm really grateful to have had the experience. - Rubina Madni, Stony Brook Class of 2005.

SECRET

Muslim Student Associations of Concern



Yet, the NYPD Intelligence Division identified 31 MSAs in New York. It focused on at least seven that it listed as “of concern:” Baruch College, Hunter College, La Guardia Community College, City College, Brooklyn College, St. John’s University, Queens College – all but one of which were public universities that are part of the City University of New York system.

Among the reasons listed for targeting these particular MSAs were their choice of speakers, organizing “militant paintball trips,” or simply that students were “politically active” or trying to revive an MSA that had gone dormant.⁶⁸ Cyber-monitoring of students on their Yahoo groups, e-mail listservs, and blogs was done “as a daily routine.”⁶⁹ It also went significantly beyond New York City’s borders, reaching as far afield as MSAs at the University of Pennsylvania, Rutgers, Yale and Syracuse.⁷¹ The officer noted which speakers the students were inviting and, in many instances, recorded the speakers’ backgrounds, countries of origins, political beliefs, and even the names of students who posted events online.

The Intelligence Division also sent undercover police officers into MSAs,⁷¹ even dispatching one undercover to attend a whitewater rafting trip with students, where he noted that the students prayed at least four times a day. Over a year after the public outcry resulting from the AP’s uncovering of the surveillance program, the NYPD continued to send informants into MSAs. One such informant, Shamiur Rahman, a 19 year old who was initially recruited by the NYPD Intelligence Division after he was caught on a marijuana possession charge, “outed” himself on Facebook, to the surprise of students on whom he was spying.⁷²

I met him (the informant) through the MSA’s Facebook connections. He had told me he wanted to become a better person and to strengthen his faith. So I took him in, introduced him to all of my friends, got him involved in our extracurricular activities. I would wake him up for prayer every morning. He even slept over at my house, and I let him in even though he smelled of marijuana but I tried to look past it because I knew he was new to Islam. When I was texted the news (that he was an informant), the shock caused me to drop my phone. It took me 24 hours to get myself together and to respond, everyone on Facebook was waiting to hear what I would say, because I’m the one who introduced him to them. - Asad Dandia, 19, CUNY student.

For college students, typically aged between 17 and 22, the prospect of dealing with surveillance by a police department, infiltration of events and extracurricular activities by informants, and the potentially devastating academic, professional, and personal repercussions can be overwhelming. This section discusses some of the ways in which Muslim students’ lives have been affected on campuses and how Muslim students’ college experience – and education – is significantly different from their non-Muslim peers’ as a result of NYPD surveillance. We found that the NYPD’s surveillance of students chilled First Amendment activity in what is perhaps the single most important formative and expressive space for any American youth: the college campus.

⁶⁸ N.Y. POLICE DEP’T, STRATEGIC POSTURE 2006, on file with authors.

⁶⁹ N.Y. POLICE DEP’T, WEEKLY MSA REPORT (2006), available at <http://hosted.ap.org/specials/interactives/documents/nypd-msa-report.pdf>.

⁷⁰ *Id.*

⁷¹ Chris Hawley, *NYPD Monitored Muslim students all over Northeast*, ASSOCIATED PRESS (Feb. 18, 2012).

⁷² Matt Apuzzo & Eileen Sullivan, *Informant: The NYPD Paid Me To “Bait” Muslims*, ASSOCIATED PRESS (Oct 23, 2012).

1. Responding to the News

Muslim students' growing silence impoverishes our intellectual community; we are less able to learn from one another when we do not share our candid thoughts and ideas. A number of Muslim students are unwilling even to show their anger over the NYPD's discriminatory spying or to protest it, because they fear being seen as somehow disloyal, too angry, or otherwise suspect.
- Elizabeth Dann, law student at New York University.⁷³

With the first round of press reports unveiling the NYPD's infiltration of seven MSAs in the City University of New York (CUNY) system, MSA leaders were hesitant to speak out.⁷⁴ Tensions were high on the various campuses, as young college students deliberated how to respond to the national headlines publicizing that law enforcement, and the various public officials supporting the NYPD, consider them to be potentially dangerous. Students, and MSA leaders in particular, described a tension they felt between ensuring their memberships' safety and the organization's continued relevance.

On the one hand you don't want people to be afraid, while on the other hand you don't want them to be too naïve. - Soheeb Amin, 22, former President of a CUNY MSA.

Many MSAs limited their response to inviting local attorneys and organizations such as CLEAR to facilitate "Know Your Rights" workshops. Yet even holding these events was sometimes viewed as controversial.⁷⁵ On one campus, for example, the group did not record these events despite its normal policy of doing so – a measure that was deemed necessary to protect the students.⁷⁶ Several students noted a general hesitance to address surveillance on their campus. Interviewees also noted that, as a matter of policy, many MSA boards refrained from hosting "political" conversations and events. As the photograph in Section One displays, some student groups instituted a ban on political discussion in the MSA's spaces. They reasoned that where their group was already under surveillance, such conversations would be recorded and misconstrued, and, if their group was not under surveillance, political conversations by a Muslim group would trigger surveillance or have the group identified as "extremist." Student groups were cognizant of the unwarranted attention controversial discussions may attract from peers.⁷⁷

The [NYPD's] MSA documents say we are becoming more political, we want to avoid that. - Jamal*, 23, CUNY student.

At the Muslim Student Organization it's a given that you don't touch a sensitive topic. - Jawad Rasul, 25, CUNY student.

We don't bring up politics aside from humanitarian causes like natural disasters, and then we just remind others to pray for others. - Samia*, 21, CUNY student.

⁷³ Elizabeth Dann, *Singling Us Out: NYPD's Spying on Muslim Americans Creates Fear and Distrust*, AMERICAN CIVIL LIBERTIES UNION (Apr. 19, 2012), available at <http://www.aclu.org/blog/racial-justice-national-security-religion-belief/singling-us-out-nypds-spying-muslim-americans>.

⁷⁴ Interview with Soheeb Amin, former president of a CUNY MSA.

⁷⁵ Interviews with Soheeb Amin, 22, former president of a CUNY MSA, Jamal*, 23, CUNY student and Fareeda*, 21, Brooklyn College student.

⁷⁶ Interview with Jamal*, 23, CUNY student.

⁷⁷ Interviews with Niveen*, 22, CUNY alumna; Sireen*, 23, student at Hunter College and Sameera*, 19, CUNY student.

The chilling effect of surveillance on speech is particularly stark for students from immigrant or low-income families, whose youth and social status make them wary of speaking out. CUNY campuses - which the NYPD actually infiltrated, unlike private schools – tend to attract students from lower income and immigrant backgrounds, who are often the first in their families to go to college. As one long-time CUNY faculty member reflected:

CUNY students are so grateful to be in CUNY in the first place. They don't want to rock the boat. The last thing they want to do is anything that would endanger their chances of getting an education. - Glenn Petersen, Professor, Baruch College.

2. Poisoned College Experiences

Like places of worship elsewhere in the community, MSA offices and prayer rooms are intended to be safe spaces for Muslim students to come together, support each other, and talk freely about issues affecting their community. This need is especially important on CUNY campuses with large student bodies spread out over urban campuses. Infiltration of MSAs by undercover police officers and informants is a blow to the groups' core function. On some campuses, interviewees noted drops in attendance at MSA events in the immediate aftermath of the Associated Press reports.⁷⁸

[The upperclassmen] told us we encourage you to have free speech and political conversations, just not inside the MSA room. Because we don't want an informant to be here to catch one of your lines or crazy rants and you would get in trouble. I don't want to go to the MSA room because I'm worried that someone will report what I'm saying... The MSA felt more awkward for everyone. No one was talking about it but we knew there was a problem, we were just scared to say something. - Fatima*, 19, CUNY student.

At Brooklyn College, the college paper reported that following the Associated Press stories about on-campus surveillance, the annual "Islam Awareness Week" events were significantly less well-attended than the previous year, and that speakers requested not to be identified by name or have their photographs taken. The article also noted that students were hesitant to actively participate in the event.⁷⁹

Though the feelings of suspicion towards others are corrosive to any community, students' youth and the fragility of their nascent social ties make it particularly destructive in the college setting. College is a place where students typically forge life-long friendships, and explore social, religious and political identities and groups. Students we spoke with were ever-cognizant that an undercover officer or informant may be amongst them. Several students noted that either a sudden surge or a sudden drop in someone's MSA activity would make them suspicious of that person.⁸⁰

It made me feel hostile to other MSA members. I didn't know who to trust anymore. - Fatima*, 19, CUNY student.

⁷⁸ Interview with Amin*, Chaplain for a New York City Muslim Students' Association.

⁷⁹ *Islam Awareness Week Quieter This Year: NYPD Investigation casts shadow on ISO's annual event*, THE BROOKLYN COLLEGE KINGSMAN (Mar. 26, 2012) available at <http://thekingsmanpaper.com/2012/03/islam-awareness-week-quieter-this-year/>

⁸⁰ Interviews with Inas*, 20, CUNY student and Samia*, 21, CUNY student.

THE NYPD GOES TO HIGH SCHOOL, TOO.

Students far younger than college-age are also being warned about surveillance by their parents or teachers. Indeed, the Intelligence Division has listed Islamic Schools as “of interest,” thus taking interest in the playground banter of children under 16. A teacher at a Sunday school described her response:

I will sometimes say to the students in the Arabic school -- don't say “Osama Bin Laden.” I tell them you're not supposed to say that. Saying it is like a crime. The kids are kids. We know they're playing around. But we know that those who are spying on us will take that into account. We tell them they have to be careful, even though they think it's funny. Sometimes they get into trouble, they're going out to college they have to be more careful. - Amira*, 22, Sunday school teacher.

CLEAR has been asked to facilitate Know-Your-Rights workshops to children as young as 11. Educators who have spoken to high-school age students have found that they, too, were worried about being spied on:

I spoke to high school juniors and seniors and [the issue of surveillance] came up. I asked them what they've been paying attention to politically. One of the kids said “NYPD spying.” Another asked me do I think they're spying on us in school? I didn't want to freak the kids out but the NYPD (via NYPD School Safety Agents) has access to surveillance cameras installed by the DOE within the last several years inside middle and high school buildings. Live footage can be viewed from DOE Borough Centers. - Debbie Almontaser, educator and community organizer.

Our students are convinced that there must be spies or undercover agents We have a huge student body, it's impossible to know everyone. They also note that many students have financial concerns, and are thus likely to be pressured to become informants. - Jamal*, 23, CUNY student.

Because of this atmosphere, students observed that their MSA is not able to fulfill its role as a support group, or a safe space to discuss the very issues that are silencing them. One interviewee was a young man who had the NYPD come to his home to question him about his political opinions and who had, as a result, withdrawn from all public events. He described the atmosphere when he finally mustered the courage to attend an MSA event after a long absence. He noticed that “people were looking at [him] funny because they hadn't seen [him] before” and may have thought he was an informant.⁸¹

Opportunities for wider networking and organizing were also declined. When trusting one's own membership was difficult enough, linking with other students from other campuses was viewed as a non-starter.

Even to bring all the MSAs in one room, we're not going to trust them. From one MSA to another, you'll need to establish trust. Where do you start doing that? A CUNY-wide Know-Your-Rights event would be great, but because of the lack of trust anything more than that would be

⁸¹ Interview with Ahsan Samad, 23, Brooklyn.

difficult. We would be wondering who is writing what down, what meaning would be imposed on the words, who would come and knock on their doors next. - Samia*, 21, CUNY student.

I don't want to be sitting at a roundtable, I'll just be wondering whether someone will be secretly taking notes and sending it God knows where. They would write "that girl thinks this." – then whose door are they going to knock on? - Inas*, 20, CUNY student.

3. Chilled Academic Expression

I think Muslim students are getting an inferior education because of this, and that's not fair.
- Jeanne Theoharis, Professor, Brooklyn College.

Police monitoring of Muslims' political opinions has devastating effects on classroom dynamics and stunts students' personal and academic growth. Open discussion, intellectual exchanges and even political and theoretical experimentation, role-playing and posturing are crucial aspects of an educational environment. Several of the students we interviewed described self-censoring classroom comments not only because of a fear of law enforcement scrutiny, but also because of concern that other classmates or professors would misinterpret their views, given the ambient discourse on young, overtly political Muslims.

I personally ask [Council on American-Islamic Relations Civil Rights Manager] Cyrus about papers I write, and whether I say this or that. Even if I know that I shouldn't be worried about it, it's hard to not worry about it. Anything that has to do with criticizing the Iraq war, Hamas, I've been thinking about writing about the [National Defense Authorization Act] - I wonder whether I should even do it. Cyrus said write about it, but then if the teachers were ever asked, they'll have to produce that document. And you don't know what's going to be cut and pasted from that. - Fareeda*, 21, Brooklyn College student.

Professor Theoharis, at Brooklyn College, recounts some of the concerns she hears about from students:

I've certainly had lots of students coming to me about tough issues like speaking in class or in public. They have concerns about what their professors and other students think about them.
- Jeanne Theoharis, Professor, Brooklyn College.

Professor Bellamy, at Hunter College, noted the tense atmosphere whenever certain topics are raised in class:

Israel/Palestine and Muslim youth culture are the two topics where you feel the air goes out of the room. Students get anxious. The conversation is uncomfortable, the atmosphere changes in the room. - Carla Bellamy, Professor, Baruch College.

Jawad Rasul, one of the students on a whitewater rafting trip that was infiltrated by an NYPD undercover, reflected on his and his peers' experience:

Colleges are a place where these discussions are supposed to happen so people can learn from each other. We're losing out. - Jawad Rasul, 25, CUNY student.

The stifling of class discussion is an overall loss, not just for Muslim students, but also to their peers and teachers, who are no longer exposed to a diverse set of views. As Jeanne Theoharis, a professor who works closely with many Muslim students, explained:

College is a place where you try ideas out. It's the first time you get to choose your classes, think for yourself. Part of that process has to be about trying out ideas, and kind of seeing how ideas work. If you don't have a comfortable place *in class* and with other students to say or try ideas out, say what might be considered "radical" things, to draw parallels comfortably, and to get inside of ideas, you've lost one of the most important aspects of colleges. That's devastating. Both in terms of Muslim students being able to think through things, but also devastating because the range of discussion in class is diminished. I also think it's going to tend towards the extremes, if you don't have a space to work this out. Most people end up not being very political. But I also think that it's also the landscape where extreme ideas grow, because there's not enough space to think about things together, to have a sounding board. If you don't take your political idea with you to school, they don't get refined and thoughtful enough. I think 18 year olds are very gutsy, but they're not always mature. So I would rather have them taking their political ideas to school and try to articulate them and refine them so we can think about them all together. - Jeanne Theoharis, Professor, Brooklyn College.

With a general understanding that dealing with "politics" is controversial, Muslim students find themselves steering away from those majors, classes, or extracurricular activities. Two students, both active members of their MSAs, reported switching their majors from political science to more conventional majors after becoming concerned about law enforcement scrutiny of "political" young Muslim males.⁸²

In largely immigrant communities where social and familial pressures are to direct oneself towards professional degrees – business administration, accounting, engineering or medical schools – a secondary concentration or extracurricular activities have always been a way for students to explore their passions or their interests in other directions. Professor Theoharis observed a retreat from those majors at least at Brooklyn College.

You get this climate, and the parents feel even more emboldened to say "just be an engineer, just go to med school. Why do you have to do all this other stuff?" - Jeanne Theoharis, Professor, Brooklyn College.

While the longer-term impacts of NYPD surveillance are yet to be fully understood, the prominence of surveillance for Muslim students on campuses raises serious concerns, as a generation of American Muslim youth adjust how they go about their studies, partake in extracurricular activities, choose their professions, and develop their social roles and relationships. The isolationism that comes with being a member of a "spied on" community means that Muslim students are getting a fundamentally different, and less rewarding college experience compared to their non-Muslim peers.

⁸² Interviews with Sari,* 19, Brooklyn College, Ayman,* 20, Brooklyn College, Ismail,* 22, Brooklyn College, and Tarek,* 19, Brooklyn College.

PART THREE: Responses to the NYPD Program

1. Community Response

We are unapologetically Muslim and uncompromisingly American.

- Imam Al-Hajj Talib Abdur-Rashid, speech at a rally at Foley Square.

Community organizations, civil liberties groups and policymakers collectively criticized the NYPD's surveillance program. While many individuals were hesitant to attend rallies or to publicly criticize the NYPD, community leaders and organizers nevertheless capitalized on the public attention brought by the Associated Press reports to mount pressure on the NYPD to cease its practices. Communities organized rallies, press conferences, boycotts and other media campaigns to demand a stop to NYPD suspicionless surveillance practices, and for greater accountability. Notably, organizations and coalitions focused on American Muslim civil liberties and policing linked their efforts up with broader police accountability movements, drawing connections between police profiling in the American Muslim community and the broader issues of policing in communities of color.

American Muslim groups joined organizers in the anti-Stop-and-Frisk movement including Communities United for Police Reform (CPR), a broad-based coalition of community members, lawyers, activists and researchers aiming to change a range of the NYPD's discriminatory practices.⁸³ Together with their allies and endorsing organizations, CPR has introduced a legislative package that takes a multifaceted approach to NYPD accountability. This package includes, among other things, a proposal to establish an NYPD Inspector General, and other measures that protect New Yorkers against discriminatory profiling by the NYPD.

The coming together of communities and organizations affected by both Stop-and-Frisk and by surveillance not only builds bridges between Black, Latino, Muslim, and other communities, it also recognizes that these policies affect our communities and society as a whole. Directly affected community members protesting, testifying in City Council, or lobbying together for police oversight and accountability solidifies those relationships for the long term. - Fahd Ahmed, organizer with Desis Rising Up and Moving (DRUM).

Other responses included a boycott by Muslim leadership of the Mayor's annual interfaith breakfast, protesting Mayor Bloomberg's support of the NYPD's policies. AALDEF and the New York Civil Liberties Union (NYCLU) launched campaigns encouraging individuals to request their records from the NYPD under New York's Freedom of Information Law (FOIL). Advocacy organizations have also filed broader FOIL requests, requesting that the NYPD release records related to the depth and breadth of their surveillance practices and tactics.⁸⁴ Finally, nearly every Muslim Students Association in New York city hosted "Know Your Rights" workshops, and mosques and other community centers invited attorneys to speak to their congregants about surveillance practices and how they might protect themselves.

The NYPD has continued to defend the program. Initially, the NYPD insisted that it lawfully follows leads in terrorist-related investigations, and claimed that it was falsely accused of wholesale spying on

⁸³ See the Communities United for Police Reform (CPR) website, <http://changethenypd.org>.

⁸⁴ Press Release, Brennan Center, Muslim Advocates, Asian American Legal Defense and Education Fund Request NYPD Intelligence Records (Sept. 21, 2011) *available at* http://www.brennancenter.org/content/resource/brennan_center_muslim_advocates_aaldef_request_nypd_intelligence_records/.



photo by HANZA GIRON

communities.⁸⁵ Police Commissioner Ray Kelly denied that the NYPD was singling out any particular group. Mayor Bloomberg supported this claim, stating that the NYPD does not “stop to think about the religion.”⁸⁶ As the Associated Press continued to publish leaked police documents proving otherwise, NYPD leadership changed its approach and defended the program by claiming credit for foiling “14 attempted plots in the past ten years.”⁸⁷ This claim, too, has been largely debunked.⁸⁸

2. Constitutional Challenges

Many, including religious figures, legal professionals, academics and community organizers, have questioned the constitutionality of the NYPD surveillance program. Muslim Advocates, a national Muslim civil liberties group, filed a civil rights lawsuit in a New Jersey federal court on behalf of a range of Muslim individual and organizational plaintiffs seeking an injunction prohibiting the NYPD from targeting them for unconstitutional surveillance, expungement of all records made pursuant to past unlawful spying, and a judicial declaration that the NYPD’s practices are unconstitutional. The lawsuit, *Hassan et al. v. City of New York*, is pending before the court at the time of writing.⁸⁹

⁸⁵ Kate Taylor, *14 Muslim Leaders Plan Boycott of Breakfast With Mayor*, N.Y. TIMES (Dec. 28, 2011), available at <http://www.nytimes.com/2011/12/29/nyregion/14-muslim-leaders-plan-boycott-of-bloomberg-interfaith-breakfast.html>.

⁸⁶ Jill Colvin & Ben Fractenberg, *Mayor Bloomberg Defends NYPD’s Controversial Counter-Terrorism Efforts*, DNAINFO.COM (Aug. 25, 2011), available at <http://www.dnainfo.com/new-york/20110825/manhattan/mayor-bloomberg-defends-nypds-controversial-counterterrorism-efforts>.

⁸⁷ Hunter Walker, *Ray Kelly Defends NYPD On Stop & Frisk and Muslim Surveillance at Heated Council Hearing*, POLITICKER.COM (March 15, 2012) available at <http://politicker.com/2012/03/ray-kelly-defends-nypd/>.

⁸⁸ See above, texbox p 45.

⁸⁹ Complaint, *Hassan v. City of New York*, No. 12CV03401 (D.N.J. filed June 6, 2012), available at http://www.muslimadvocates.org/documents/10_FIRST_AMENDED_COMPLAINT.pdf.

Some of the main issues raised by legal critics, including the plaintiffs in the *Hassan* case, have centered around fundamental constitutional rights:

The First Amendment of the United States Constitution

prohibits the government from impeding the free exercise of religion, abridging the freedom of speech and interfering with the right to assemble. Our research has shown that the NYPD’s surveillance directly impacts First Amendment rights: American Muslims are fearful of discussing politics and current events, deterred from going to their mosques, and chilled from associating with political, civic and spiritual groups for fear of increased law enforcement attention and surveillance. The First Amendment exists to protect precisely these forms of belief and expression. Even though the NYPD does not directly prohibit American Muslims from practicing their religion or expressing political and civic opinions, NYPD policies, which characterize such expression as suspect, ultimately stifle and deter expression. Such a “chilling effect” can be a violation of the First Amendment.

The Fourteenth Amendment’s Equal Protection Clause

prohibits the government from discriminating against any group or individual on the basis of race, national origin, or religion. A government, law or policy that discriminates among religions – for instance, by singling out Muslims for particular law enforcement attention – should be closely scrutinized by courts.⁹⁰ As the *Hassan* lawsuit alleges, the NYPD program is not “neutral” with regards to religion, and intentionally singles out individuals based on their religion. This likely constitutes a deprivation of rights under the Equal Protection Clause.

3. A Handschu Challenge

The 1960s and 1970s were a time of social activism and political upheaval, with the civil rights and anti-war movements protesting U.S. policies at home and overseas. The NYPD responded to these movements with pervasive surveillance tactics, including the use of informants, infiltration, interrogation, and electronic surveillance—all to investigate and subdue political activity. In the case of *Handschu v. Special Services Division*, a group of political activists responded by suing the NYPD, claiming the violation of their constitutional rights. After fourteen years of litigation, the parties entered into a negotiated settlement resulting in a consent decree. This consent decree – binding on the NYPD –

...THE CONSTITUTION WAS DESIGNED TO KEEP THE GOVERNMENT OFF THE BACKS OF THE PEOPLE. THE BILL OF RIGHTS WAS ADDED TO KEEP THE PRECINCTS OF BELIEF AND EXPRESSION, OF THE PRESS, OF THE POLITICAL AND SOCIAL ACTIVITIES FREE FROM SURVEILLANCE. THE BILL OF RIGHTS WAS DESIGNED TO KEEP AGENTS OF GOVERNMENT AND OFFICIAL EAVESDROPPERS AWAY FROM ASSEMBLIES OF PEOPLE...THERE CAN BE NO INFLUENCE MORE PARALYZING OF THAT OBJECTIVE THAN ARMY SURVEILLANCE...

Justice Douglas, *Laird v. Tatum*, 408 U.S. 1 (1972)

⁹⁰ *Corporation of the President Bishop of the Church of Jesus Christ of Latter Day Saints v. Amos*, 483 U.S. 327, 339 (1987).

became known as the “Handschu Guidelines,” a set of rules governing the NYPD’s investigation of political activity. These Guidelines required that such investigations only be based on information of *criminal* activity. They also required a process for approving such investigations by an oversight body that also reviewed the NYPD’s compliance with the new rules.

The *Handschu* Guidelines remained in place until 2002. A year after the September 11 attacks, the NYPD went back to court, arguing that changed circumstances required greater latitude in its ability to monitor *lawful* political activities, which it argued preceded violent attacks.⁹¹

The Court granted the modification. The new, modified guidelines diminished the role of the *Handschu* oversight body, eliminating the pre-screening of each investigation. The change also allowed police to visit public places “for the purpose of detecting or preventing terrorist activities.”⁹² Importantly, though, even under the modified Guidelines, the NYPD cannot *maintain* records that do not pertain to potential unlawful activity.

In response to the documents released by the AP, the group of lawyers who had filed the initial *Handschu* lawsuit went back to court. They argued that the newly released evidence strongly suggested that the NYPD was violating its obligations under *Handschu*, and asked the court to order the NYPD to open its surveillance files to allow the court to make that determination. As a result of this motion, the lawyers were able to depose commanding officer of the NYPD Intelligence Division Thomas Galati. In that testimony, Chief Galati acknowledged that, to his knowledge, intelligence collection by the Demographic Unit had not led to a single criminal investigation in the six years he was at his post. At the time of writing, the *Handschu* lawyers have argued that based upon documents and information they have obtained, the NYPD is in fact in violation of the Guidelines, and they have filed a motion requesting that the court appoint an independent monitor to review the NYPD’s counterterrorism efforts.⁹³

⁹¹ *Handschu v. Special Servs. Div.*, No. 71CIV.2203, Decl. David Cohen (Dec. 30, 2002).

⁹² *Handschu v. Special Servs. Div.* 288 F. Supp. 2d 411, 420 (S.D.N.Y. 2003).

⁹³ Joseph Goldstein, *Lawyers Say NYPD Surveillance of Muslims Flouts Accord*, N.Y. TIMES (Feb. 04, 2013).

PART FOUR: Recommendations

Our interviews have shown that NYPD surveillance has impacted every facet of American Muslim life. The American Muslim students we interviewed are hesitant to discuss politics, religion and community mobilization. They wonder if informants sit in their classrooms and visit their student organizations. Many of our interviewees—professionals with U.S. citizenship and new immigrants alike—described how they tread carefully in their sacred spaces, suspicious of informants. Community organizations and mosques report declining participation. Finally, many of our interviewees expressed mistrust of and alienation from law enforcement as they learned that the same law enforcement officers with whom they had built relationships were tasked with investigating and monitoring their communities. Such grave findings necessitate urgent action by policymakers and grassroots activists alike. The list below encompasses legislative, advocacy and community empowerment recommendations that aim to dismantle the surveillance program, enable a more trusting relationship with the NYPD, and mitigate the program’s harmful impacts.

For Policymakers:

1. To the New York City Police Department

- End the blanket surveillance of the Muslim population of New York City and its environs, dismantle the Demographics Unit and its successors, and limit the Intelligence Division’s activities to following leads only when there is a concrete indication of criminal activity.
- Expunge records generated by past surveillance of political and religious activities.
- Engage affected communities, through a meaningful and transparent process, on how best to reform the NYPD’s counterterrorism work and to address surveillance’s harmful effects.
- Draft, implement and enforce a program, in consultation with local community organizations, to re-train police officers.
- Investigate violations of the Handschu guidelines, and any other Police Department guidelines, committed since 2002.

2. To the City Council

- Conduct hearings on the activities of the NYPD’s intelligence division.
- Pass currently pending legislation to bring oversight and accountability to the NYPD:
 - Intro 800, prohibiting bias-based profiling by law enforcement officers.
 - Intro 801, requiring officers to identify themselves to the public and explain their reasons for stopping individuals.
 - Intro 799, requiring law enforcement officers to provide notice and obtain proof of consent to search individuals.
 - Intro 881, establishing an office of the inspector general for the NYPD.

3. To New York State Legislature

- Pass legislation prohibiting the use of State funds by the NYPD for racial profiling.
- Pass (S6407A/Parker), establishing independent inspector general for the NYPD.
- Pass (S7309A/Parker), prohibiting biased-based profiling by state and local law enforcement.
- Pass (S6643/Adams) establishing a legislative intelligence committee to provide oversight, review, approval, and audits of appropriations and expenditures of counterterrorism agencies.
- Pass (S7361/Parker), establishing an office of data protection and privacy for New York State fusion centers and other intelligence data centers.

- Ensure that New York State funds are used in compliance with state and federal anti-discrimination laws.
4. To New York State Comptroller Thomas DiNapoli
 - Conduct audit to determine whether the NYPD Intelligence Division used monies improperly or unlawfully for domestic and foreign operations.
 5. To New York State Attorney General Eric Schneiderman
 - Thoroughly investigate whether the NYPD Intelligence Division violated state law, and make findings public.
 6. To U.S. Attorney General Eric Holder and the U.S. Department of Justice
 - Investigate the NYPD surveillance and religious profiling of Muslims pursuant to 42 USC § 14141, and make findings public.
 7. To Secretary Janet Napolitano and the U.S. Department of Homeland Security
 - Investigate the use of DHS grants provided to the NYPD.
 8. To the Central Intelligence Agency (CIA)
 - Make public the CIA inspector general's report of its investigation into the legality of the Agency's collaboration with the NYPD.

For Communities:

1. Hold community-wide discussions about surveillance in order to generate initiatives and mobilize constituents to respond to NYPD policies and to contain their negative impacts.
2. Continue to organize Know-Your-Rights workshops and other rights-awareness campaigns at your local mosques, Muslim Students' Associations, or other community centers.⁹⁵
3. To mosques, imams, and community leaders:
 - a. Announce to your congregations or membership that informants are not tolerated in your communities, and make the mosque or organization's leadership available to address members' concerns about informants and surveillance.
 - b. Call on the NYPD to undertake meaningful engagement with representative members of New York's American Muslim communities, so that they may convey their experiences with and concerns about NYPD intelligence gathering directly to the policy-makers.⁹⁴
4. Write to your representatives:
 - a. Urge your City Councilmember to pass the Community Safety Act.
 - b. Urge your State Senator and Assemblymember to call for transparency and accountability.
 - c. Urge your U.S. Senator and Member of Congress to call for Department of Justice investigations into the NYPD surveillance program.

⁹⁴ MACLC and other community organizations have issued formal invitations to NYPD Commissioner Ray Kelly to attend townhall meetings where he can speak directly with Muslim New Yorkers. Commissioner Kelly has refused these invitations, and has instead opted to meet with a few, hand-selected individuals in non-transparent settings that do not offer any meaningful opportunity for community input.



photo by HAMZA GIRON

**IT'S AS IF THE LAW SAYS: THE MORE MUSLIM YOU
ARE, THE MORE TROUBLE YOU CAN BE, SO DECREASE
YOUR ISLAM.**

– Sari*, 19, Brooklyn College.

Since 2001, the New York City Police Department (NYPD) has established a secret surveillance program that has mapped, monitored and analyzed American Muslim daily life throughout New York City and surrounding cities and states. Through extensive, in-depth interviews around the New York metropolitan area we found that surveillance of Muslims' quotidian activities has created a pervasive climate of fear and suspicion that encroaches upon every aspect of individual and community life. Additionally, we have found that surveillance severs the essential relationship of trust that should exist between law enforcement agencies and the communities they are charged with protecting.

Our interviews indicate that many American Muslims associate new faces at their mosque with potential undercover informants and avoid appearing overtly "Muslim"; that they avoid attending mosques that the NYPD is likely to monitor; and that they choose their classes by considering which subject matters would not arouse law enforcement attention. Many of our interviewees are scared to talk about politics, religion and world events. Social spaces are quieter as ethnic television programming is banned and political debate, discussion and even humor are suppressed. Students wonder if informants sit in their classrooms and visit their student organizations or whether they, in turn, will be targeted for recruitment as informants or questioned about their beliefs at every interaction with the NYPD. As American Muslims click through their smart phones and chat with friends, they do so knowing they are being watched, heard and recorded.

Proponents of the sprawling surveillance enterprise have argued that, regardless of its inefficacy, mere spying on a community is harmless. Our findings, based on an unprecedented number of candid interviews with American Muslim community members, paint a radically different picture.

FOR MORE INFORMATION, PLEASE CONTACT:

The Creating Law Enforcement Accountability & Responsibility (CLEAR) Project
CUNY School of Law
2 Court Square, Long Island City, NY 11101-4356
t: 718.340.4533 | f: 718.340.4478

The Asian American Legal Defense and Education Fund
99 Hudson Street, 12th FL, New York, NY 10013-2815
t: 212.966.5932 | f: 212.966.4303