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**STATEMENT OF
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OF THE
SURVEILLANCE TECHNOLOGY OVERSIGHT PROJECT (“S.T.O.P.”)**

**TO THE
CIVILIAN COMPLAINT REVIEW BOARD**

**REGARDING
IMPLEMENTATION OF CHARTER CHANGES AND OTHER AMENDMENTS
SUBMITTED
JULY 11, 2022**

The Surveillance Technology Oversight Project (“S.T.O.P.”) is a community-based civil rights group that advocates and litigates against discriminatory surveillance. Our work highlights the impact of surveillance on Muslims, immigrants, the LGBTQ+ community, Indigenous peoples, and communities of color. We write to support regulations implementing charter amendments that enable the Civilian Complaint Review Board (CCRB) to investigate police bias and abuse.

Biased policing is a critical issue in New York City. In January of this year, amendments to the CCRB charter went into effect. Sections 440 (c)(1) and (c)(5) now permit the CCRB to self-initiate investigations into police misconduct; the changes to Section 440 (c)(1) also clarify that the CCRB can investigate “bias-based policing” and “racial profiling.” The CCRB has a legal duty to implement these changes to carry out New Yorkers’ will and better serve its police oversight function.

Implementing amendments that enable the CCRB to self-initiate investigations into police bias will modernize the agency. The City Council partly approved the charter amendments to simplify the police oversight process. According to Chairman Davie, “People are vulnerable. They are victims. And they often don’t know how to file a complaint.”¹ He went on to say the CCRB’s complaint system is outdated and that the CCRB often sees abuse on social media before receiving a report.² Projections indicate that simplifying this initiation process would enable the CCRB to initiate 500 more investigations than it could previously.³

More investigations into police bias will greatly help the city. At S.T.O.P., we often find that police departments sweep bias under the rug by claiming their technology and practices are objective. For example, records show that the New York Police Department (NYPD) engaged in suspicionless surveillance of majority Muslim neighborhoods.⁴ Officials surveilled entire mosques for nothing more than their faith.⁵ NYPD even classified local businesses as “place[s] of concern” because their customers were of Middle Eastern descent.⁶ At the same time, the NYPD ignored the threat of right-wing extremists and white supremacists, who commit the overwhelming majority of terrorist

¹ George Joseph, *Civilian Complaint Review Board Seeks Power to Self-Initiate Investigations*, Gothamist (Nov. 22, 2021), <https://gothamist.com>.

² *Id.*

³ *Id.*

⁴ Matt Apuzzo & Joseph Goldstein, *New York Drops Unit That Spied on Muslims*, N.Y. Times (Apr. 15, 2014), https://www.nytimes.com/2014/04/16/nyregion/police-unit-that-spied-on-muslims-is-disbanded.html?_r=0. *See also* Diala Shamas & Nermeen Arastu, Muslim Am. Civil Liberties Coal., *Creating Law Enf’t Accountability & Responsibility & Asian Am. Legal Def. & Educ. Fund, Mapping Muslims: NYPD Spying and Its Impact on American Muslims* 10 (2013), <https://www.law.cuny.edu/academics/clinics/immigration/clear/Mapping-Muslims.pdf>.

⁵ Apuzzo & Goldstein, *supra* note 4.

⁶ Adam Goldman & Matt Apuzzo, *NYPD: Muslim Spying Led to No Leads, Terror Cases*, Associated Press (Aug. 21, 2012), <https://www.ap.org/ap-in-the-news/2012/nypd-muslim-spying-led-to-no-leads-terror-cases>.

attacks in the United States.⁷ Yet, rather than remedying its history of discrimination, NYPD leaders simply try to deny it.⁸

Anti-Muslim surveillance is just one of the NYPD's many biased practices that violate New Yorkers' civil rights.⁹ The NYPD engages in such invasive and discriminatory practices as aggregating city-wide surveillance cameras into the "Domain Awareness System" that watches neighborhoods, employing biased and ineffective facial recognition programs, and utilizing a so-called "gang database" that targets Black and Latinx kids because of the colors they wear and who they know.¹⁰ These practices amount to a digital "stop-and-frisk."

Expanding police oversight is essential to rectify this abuse. Former President Obama's Task Force on 21st Century Policing found, "Law enforcement agencies should establish a culture of transparency and accountability to build public trust and legitimacy."¹¹ But NYPD resists even basic public oversight.

For instance, NYPD refuses to release information about its surveillance practices. The POST Act requires the NYPD to issue an "impact and use policy" for its surveillance tools.¹² This report must describe the technology, rules for NYPD's use of the technology, and NYPD's data protection practices.¹³ On January 11, 2021, the NYPD published draft impact and use policies for its existing technologies.¹⁴ During the comment period, commenters noted that the drafts lacked substance.¹⁵ NYPD responded by issuing final policies that largely ignored commenters' feedback.¹⁶

NYPD's extreme opposition to transparency makes the CCRB's oversight even more important. In most cases, NYPD does not provide the people who experience biased surveillance with enough information to even know what happened—much less enough information to file a complaint with the CCRB.¹⁷ As a result, there is little chance the CCRB can hold NYPD accountable for bias-based surveillance and technological racial profiling without implementing January's charter changes.

⁷ U.S. Gov't Accountability Office, GAO-17-300, Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts 4 (2017), <https://www.gao.gov/assets/690/683984.pdf>; David Neiwert, *Trump's Second Travel Ban Once Again Misidentifies Source of Domestic Terrorist Threat*, Southern Poverty Law Center (Mar. 13, 2017), <https://www.splcenter.org/hatewatch/2017/03/13/trumps-second-travel-ban-once-again-misidentifies-source-domestic-terrorist-threat>; *Murder and Extremism in the United States in 2016*, Anti-Defamation League (March 3, 2017), <https://www.adl.org/education/resources/reports/murder-and-extremism-in-the-united-states-in-2016>.

⁸ Joe Anuta, *Muslim Leaders Want NYPD Official Censured for Denying Post-9/11 Surveillance*, POLITICO (Mar. 23, 2022), <https://www.politico.com/news/2022/03/23/muslim-leaders-want-nypd-official-censured-00019450>.

⁹ See Eleni Manis & Albert Fox Cahn, *Scan City: A Decade of NYPD Facial Recognition Abuse*, The Surveillance Technology Oversight Project (2021); Eileen Grench, *NYPD Gang Database Targeted By City Council Member*, The City (Sep. 15, 2021), <https://www.thecity.nyc/2021/9/15/22674782/nypd-gang-database-targeted-city-council>.

¹⁰ Manis, *supra* note 8 at 4; Grench *supra* note 8.

¹¹ President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* 12 (2015), https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

¹² N.Y. City Council 1482 § 1 (N.Y. 2017), ch. 1, 14 Admin. Code of N.Y.C. § 14-167(b) (as proposed).

¹³ *Id.* at 14-167(a).

¹⁴ Eleni Manis & Albert Fox Cahn, *Above The Law? 5*, The Surveillance Technology Oversight Project (2021).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See *id.*

New York City needs a strong CCRB to conduct police oversight. Allowing the CCRB to self-initiate investigations into biased policing is a step in the right direction.