

NEW YORK COALITION AGAINST ISLAMOPHOBIA
46-01 20TH AVENUE
ASTORIA, NY 11105
NYCAgainstIslamphobia@gmail.com

July 27, 2017

Mayor of the City of New York
The Honorable Bill de Blasio
City Hall
New York, NY 10007

Dear Mayor de Blasio:

We, undersigned members of the New York Coalition Against Islamophobia (NYCAI), write to you in support of two community leaders: Talib Abdur-Rashid and Samir Hashmi and their request for records under the Freedom of Information Law (“FOIL”). As you know, their FOIL litigation against the NYPD is currently on appeal before the New York State Court of Appeals. **We urge you to take action to grant their request without waiting for a court decision, which you have the full power to do.**

NYCAI is committed to opposing bigotry and discrimination against Islam and its faithful and to defending justice and the civil rights of all.

On June 21, Omar Mohammedi, attorney for Imam Abdur-Rashid and Mr. Hashmi, wrote to you, calling for you to immediately retract recent comments by NYPD Deputy Commissioner for Legal Matters Lawrence Byrne, as reported in the Daily News of June 8, 2017, including the comment that “[t]ransparency does not include criminals being told when they’re under investigation or terrorists being told how we act to prevent their terrorist attacks.”

Mr. Mohammedi stated that: “[T] his statement has no legal or factual basis and strongly insinuates that our clients are terrorists and/or criminals. Such public statements are defamation *per se* and may even violate New York’s Terrorism Preparedness Act and respective criminal laws. . . .” Mr. Mohammedi also called on you to “make clear to the leadership of the NYPD that attitudes such as those expressed by Deputy Commissioner Byrne are unacceptable” and asked you to “follow through on your promises to support FOIL’s policy of open government.”

We believe that the NYPD and your administration’s claim that the NYPD can “refuse to confirm or deny” the existence of records sought under FOIL without any judicial oversight is a devastating attack on FOIL. It is being opposed by 32 media groups and civil liberties organizations that have filed or signed on to “Friend of the Court” briefs supporting Imam Abdur-Rashid and Mr. Hashmi’s legal position.

As you know, FOIL is a vital oversight tool for every aspect of government, empowering the public to request government documents, and casting sunlight into the darkest corners

of our bureaucracy. FOIL is used by journalists, civil rights advocates, and everyday New Yorkers to empower citizen watchdogs.

As New York City Public Advocate, you vocally criticized the NYPD's failure to meet its FOIL obligations, noting that their failure has impeded critical oversight of city policy.¹ Since becoming Mayor, little has changed apart from your willingness to condemn the NYPD's abuses. In 2014, when your administration disbanded the NYPD's discriminatory "Demographics Unit," you stated "[O]ur administration has promised the people of New York a police force that keeps our city safe, but that is also respectful and fair."² Sadly, your administration has failed to keep that promise.

Currently, the NYPD is responding to FOIL litigation by using novel legal tactics that are utterly inconsistent with even the most basic guarantees of transparency and fairness: "Glomar responses." This strategy is antithetical to FOIL's purpose and completely contrary to FOIL's "broad duty of disclosure."³ Using this Cold War-era tactic, designed for use by the CIA, the NYPD will respond to lawful requests for information by saying "we can neither confirm nor deny the information exists." Such a response may be appropriate for the CIA, but it is utterly improper for a municipal police force and completely contrary to New York State law.

As a public advocate and candidate, you committed to reform the NYPD's long pattern of surveillance abuses, but during your administration, the NYPD has managed to evade every attempt to impose additional oversight or enact even the most basic reforms. We ask you to follow through on your promises of open government. As Mayor, you are ultimately responsible for the positions of the NYPD and the legal arguments put forth by the NYPD and the New York City Law Department, and we will treat your silence on the Glomar responses as a tacit endorsement of the tactic. **With a single phone call, you can order the NYPD to comply with its FOIL obligations and cease its obstructionist tactics. We urge you to make that call.**

Sincerely,

9/11 Families for Peaceful Tomorrows
African Communities Together
Al Awda—New York
Association of Muslim American Lawyers
Clergy Campaign for Social and Economic Justice
Council on American Islamic Relations—New York
Dalit American Coalition
DRUM—South Asian Organizing Center (formerly Desis Rising Up and Moving)
Equality Labs
Greater New York Labor-Religion Coalition

¹ See <http://archive.advocate.nyc.gov/foil/report>.

² See Mayor Bill de Blasio's statement regarding Disbandment of Demographics Unit, Apr. 15, 2014, available at <http://www1.nyc.gov/office-of-the-mayor/news/155-14/statement-the-mayor-nypd-demographics-unit>.

³ See *Matter of New York Civ. Liberties Union v. City of Schenectady*, 2 NY3d 657, 661 (2004).

Hope Not Hate USA
Indian American Muslim Coalition
Interfaith Center of New York
Islamic Circle of North America—New York
Jewish Voice for Peace—New York City
Jewish Voice for Peace--Northern New Jersey
Jews for Racial and Economic Justice (JFREJ)
Jews Say No!
The Majlis Ash-Shura (Islamic Leadership Council) of New York
Muslim American Society--NewYork
Muslim Community Network
Muslim Peace Coalition
New York Immigration Coalition
New York Theological Seminary Micah Institute
Sadhana: Coalition of Progressive Hindus
Turning Point for Women and Families (TP)
Westchester Coalition Against Islamophobia
Women in Islam, Inc.

Cc:

New York City Public Advocate, Letitia James, oa-james@pubadvocate.nyc.gov,
khan@pubadvocate.nyc.gov
New York City Comptroller, Scott Stringer, action@comptroller.nyc.gov,
alatif@comptroller.nyc.gov
Speaker of the New York City Council, Melissa Mark-Viverito,
mviverito@council.nyc.gov, FAlI@council.nyc.gov
Commissioner, Community Affairs Unit, Marco Carrion, mcarrion@cityhall.nyc.gov
Senior Advisor to The Community Affairs Unit, Sarah Sayeed,
ssayeed@cityhall.nyc.gov
New York City Corporation Counsel Zachary Carter, zcarter@law.nyc.gov,
TGiovanni@law.nyc.gov
Office of the Inspector General of the NYPD, arehman@oignypd.nyc.gov,
hnaaved@oignypd.nyc.gov
NYPD Deputy Commissioner for Legal Matters, Lawrence Byrne, Lawrence.byrne@nypd.org
Omar Mohammedi, Esq, omohammedi@otmlaw.com