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NYPD Won't Say No

Police Here Adopt Ethnic Profiling Their Western Counterparts Reject

BY CHISUN LEE

AS UNUSUAL OPPOSITION FROM POLICE IN OTHER CITIES HEIGHTENS CONCERNS ABOUT ETHNIC PROFILING IN A FEDERAL CAMPAIGN TO TRACK DOWN AND QUESTION CERTAIN NONCITIZENS, THE NYPD'S SILENCE AND ITS RECENT PRACTICES INDICATE IT HAS NO SUCH QUALMS. SEVERAL POLICE CHIEFS IN CALIFORNIA AND OREGON HAVE REFUSED TO JOIN THE U.S. JUSTICE DEPARTMENT'S NATIONWIDE EFFORT TO INTERVIEW SOME 5000 U.S.

visa holders from the Middle East. While local police cannot halt activity at other levels of law enforcement, their refusal nevertheless carries weight. As the already sweeping homeland security mission grows and demands greater resources, and as public concern about government abuse intensifies, the resistance of a few police departments—and the NYPD's lack of it—has meaning beyond mere symbolism.

Despite Attorney General John Ashcroft's assurances to the contrary, the interview effort seems ominous to some observers, with several hundred noncitizens having already been detained despite their lack of connection to terrorism. Federal directives to the 94 U.S. attorneys charged with coordinating the interviews instruct questioners to ask about travel around the country, personal contacts, knowledge of the terrorist attacks of September 11, and familiarity with biological or chemical weapons.



CRITICS OF NYPD SAY UNJUST PROFILING IS A PART OF POST-SEPTEMBER 11 SEARCHES AND QUESTIONING.

While participation is supposedly voluntary, federal authorities have not guaranteed there would be no consequences if an individual chose not to volunteer. Ashcroft recently announced that noncitizens providing useful information might receive help staying in the country, but that offer clearly requires exceptional circumstances. The Justice Department has directed the U.S. attorneys, on the other hand, to have investigators contact the INS if they suspect an interviewee is in the country illegally.

"I'm real uncomfortable with what the government's doing," said one West Coast police chief to the *Voice* last week, asking not to be named. "Someone's got to take a stand." The police department of Portland, Oregon, was the first to do just that. Ashcroft's office would not permit officers to omit questions about people's immigration status or politics—which would violate state anti-profiling rules—so the department is not participating, according to spokesman Brian Schmautz.

William Lansdowne, chief of police in San Jose, California, told the *Voice* last week that his refusal to help comes of the "very strong stand" his department has taken against profiling. He quoted a department policy forbidding such practices: "Officers shall not make any contact, stop, detention, search, and/or arrest justified solely upon the person's race, color, nationality, age, sexual orientation, gender, disability, or religion."

New York–based civil liberties advocates last week cheered this rare resistance from within law enforcement's ranks. "It's stunning," said William Goodman, legal director of the Center for Constitutional Rights, which has worked to abolish the NYPD unit that was responsible for the shooting death of Amadou Diallo and has condemned as racist the department's stop-and-frisk procedures. "Those departments who have gone out there and said they won't engage in this kind of offensive practice are to be commended," Goodman said.

The NYPD did not respond to repeated inquiries from the *Voice*, but anecdotal evidence gathered by civil liberties watchers and organizers in Arab and South Asian communities here suggests the department would not oppose the federal interview effort. In fact, the advocates say, local police have been unfairly profiling certain residents since September 11.

"If you're wearing a turban and you're driving across the Brooklyn Bridge, you're liable to be stopped," said Goodman. Those who appear to hail from Middle Eastern countries "have been targeted by the cops for pretty aggressive treatment," he said. Emira Habiby Browne, executive director of the Arab-American Family Support Center in downtown Brooklyn, said community members have reported "harassment, racial slurs, being humiliated," at the hands of local police. And *The New York Times* recently reported that NYPD detectives had in October searched databases for Middle Eastern names showing outstanding arrest warrants for petty crimes and used those warrants to "encourage full cooperation" from the nearly 100 people they questioned.

While Goodman said the NYPD "has been fairly scrupulous about not being an arm of the INS up until September 11," he and other advocates agreed last week that old policies seem to have shifted. The cooperation of NYPD could make a big difference, suggested Subhash Kateel, an advocate for South Asian immigrants with the group Desis Rising Up & Moving. The INS did not pick up immigration violators before, "not because they're nice guys, but because they didn't have the manpower," he said.

In the interview campaign—not officially an INS initiative—local police participation is also key. A November 9 memo from Ashcroft's office to the U.S. attorneys states, "we are finding that there are *many more* people to be interviewed than there are federal agents to conduct the interviews." And it instructs the U.S. attorneys "substantially to complete these interviews within 30 days."

A federal law-enforcement source said last week that interviews here would be carried out by both the FBI and NYPD. But the offices of Mary Jo White and Alan Vinegrad—the city's U.S. attorneys—and the Justice Department would not officially comment on how many individuals are being targeted in New York, what the interview procedures here might be, or even when interviews began or would begin.

In fact, said Justice Department spokeswoman Casey Stavropoulos, all U.S. attorneys' offices have been directed not to release such information. In a sign that police objections have had real impact, she said the U.S. attorney's office in Oregon only revealed details—for instance, that 23 individuals are wanted for questioning in Portland—in the wake of controversy caused by local police scrutiny.

Beyond concerns about profiling, such scrutiny reflects doubt about whether a sweep-up mentality is good police work. "I think there's an issue of trust if we become involved in these interviews," said San Jose police chief Lansdowne. "It's taken us years to build that level of trust. If people had information involving terrorists, the information would come to us because we have that level of trust and rapport. We are very clear to the federal government that we think we can get the information by working with the community," he said.

Indeed, the interview effort is merely frightening away already wary community members, according to Nick Khoury, president of the New York chapter of the American-Arab Anti-Discrimination Committee. "A lot of these people leave their countries because they want to leave a police state. They have no confidence when somebody says, come and meet with the police voluntarily—that scares them," he said. He and other advocates are advising those contacted not to answer questions without an attorney and to learn their rights. His organization has posted a "know your rights" fact sheet, compiled by the National Lawyers Guild, on its web site, www.adc.org.

Lansdowne's community-oriented rationale is what New York civil liberties advocates are hoping will arrive with the next mayoral administration and its police commissioner, Raymond Kelly, who was also police commissioner under David Dinkins. Mayor Giuliani and former police commissioner Howard Safir presided during the infamous police killings of innocent civilians Amadou Diallo and Patrick Dorismond and drew repeated accusations of police misconduct and brutality. Current commissioner Bernard Kerik, according to City Council public safety committee chair Sheldon Leffler, has been unwilling to respond to concerns over his policing tactics. But Kelly—whose office referred *Voice* calls to mayor-elect Michael Bloomberg's press office, which did not respond—has won praise from some critics of the Giuliani years. "Kelly has a strong interest in community policing," civil liberties lawyer Goodman said. "I have hopes that he will improve the situation with racial profiling."

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