

New York City's Explosion in Police Repression and Surveillance Is a Threat to Us All

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One day in August, I walked into the Daniel Patrick Moynihan United States Courthouse in lower Manhattan. Nearly three years before I had been locked up, about two blocks away, in "the Tombs" -- the infamous jail then named the Bernard B. Kerik Complex for the now-disgraced New York City Police Commissioner. You see, I am one of the demonstrators who was illegally arrested by the New York City Police Department (NYPD) during the protests against the 2004 Republican National Convention (RNC). My *crime* had been -- in an effort to call attention to the human toll of America's wars -- to ride the subway, dressed in black with the pallor of death about me (thanks to cornstarch and cold cream), and an expression to match, sporting a placard around my neck that read: WAR DEAD.

I was with a small group and our plan was to travel from Union Square to Harlem, change trains, and ride all the way back down to Astor Place. But when my small group exited the train at the 125th Street station in Harlem, we were arrested by a swarm of police, marched to a waiting paddy wagon and driven to a filthy detention center. There, we were locked away for hours in a series of razor-wire-topped pens, before being bussed to the Tombs.

Now, I was back to resolve the matter of my illegal arrest. As I walked through the metal detector of the Federal building, a security official searched my bag. He didn't like what he found. "You could be shot for carrying that in here," he told me. "You could be shot."

For the moment, however, the identification of that dangerous object I attempted to slip into the federal facility will have to wait. Let me instead back up to July 2004, when, with the RNC fast-approaching, I authored an article on the militarization of Manhattan -- "the transformation of the island into a 'homeland-security state'" -- and followed it up that September with a street-level recap of the convention protests, including news of the deployment of an experimental sound weapon, the Long Range Acoustic Device, by the NYPD, and the department's use of an on-loan Fuji blimp as a "spy-in-the-sky." Back then, I suggested that the RNC gave New York's "finest," a perfect opportunity to "refine, perfect, and implement new tactics (someday, perhaps, to be known as the 'New York model') for use penning in or squelching dissent. It offered them the chance to write up a playbook on how citizens' legal rights and civil liberties may be abridged, constrained, and violated at their discretion."

Little did I know how much worse it could get.

No Escape

Since then, the city's security forces have eagerly embraced an Escape From New York-aesthetic -- an urge to turn Manhattan into a walled-in fortress island under high-tech government surveillance, guarded by heavily armed security forces, with helicopters perpetually overhead. Beginning in Harlem in 2006, near the site of two

new luxury condos, the NYPD set up a moveable "two-story booth tower, called Sky Watch," that gave an "officer sitting inside a better vantage point from which to monitor the area." The Panopticon-like structure -- originally used by hunters to shoot quarry from overhead and now also utilized by the Department of Homeland Security along the Mexican border -- was outfitted with black-tinted windows, a spotlight, sensors, and four to five cameras. Now, five Sky Watch towers are in service, rotating in and out of various neighborhoods.

With their 20-25 neighborhood-scanning cameras, the towers are only a tiny fraction of the Big Apple surveillance story. Back in 1998, the New York Civil Liberties Union (NYCLU) found that there were "2,397 cameras used by a wide variety of private businesses and government agencies throughout Manhattan" -- and that was just one borough. About a year after the RNC, the group reported that a survey of just a quarter of that borough yielded a count of more than 4,000 surveillance cameras of every kind. At about the same time, military-corporate giant Lockheed Martin was awarded a \$212 million contract to build a "counter-terrorist surveillance and security system for New York's subways and commuter railroads as well as bridges and tunnels" that would increase the camera total by more than 1,000. A year later, as seems to regularly be the case with contracts involving the military-corporate complex, that contract had already ballooned to \$280 million, although the system was not to be operational until at least 2008.

In 2006, according to a Metropolitan Transit Authority (MTA) spokesman, the MTA already had a "3,000-camera-strong surveillance system," while the NYPD was operating "an additional 3,000 cameras" around the city. That same year, Bill Brown, a member of the Surveillance Camera Players -- a group that leads surveillance-camera tours and maps their use around the city, estimated, according to a Newsweek article, that the total number of surveillance cameras in New York exceeded 15,000 -- "a figure city officials say they have no way to verify because they lack a system of registry." Recently, Brown told me that 15,000 was an estimate for the number of cameras in Manhattan, alone. For the city as a whole, he suspects the count has now reached about 40,000.

This July, NYPD officials announced plans to up the ante. By the end of 2007, according to the New York Times, they pledged to install "more than 100 cameras" to monitor "cars moving through Lower Manhattan, the beginning phase of a London-style surveillance system that would be the first in the United States." This "Ring of Steel" scheme, which has already received \$10 million in funding from the Department of Homeland Security (in addition to \$15 million in city funds), aims to exponentially decrease privacy because, if "fully financed, it will include. ... 3,000 public and private security cameras below Canal Street, as well as a center staffed by the police and private security officers" to monitor all those electronic eyes.

Spies in the Sky

At the time of the RNC, the NYPD was already mounted on police horses, bicycles, and scooters, as well as an untold number of marked and unmarked cars, vans, trucks, and armored vehicles, not to mention various types of water-craft. In 2007, the two-wheeled Segway joined its list of land vehicles.

Overhead, the NYPD aviation unit, utilizing seven helicopters, proudly claims to be "in operation 24/7, 365," according to Deputy Inspector Joseph Gallucci, its commanding officer. Not only are all the choppers outfitted with "state of the art cameras and heat-sensing devices," as well as "the latest mapping, tracking and surveillance technology," but one is a "\$10 million 'stealth bird,' which has no police markings -- [so] that those on the ground have no idea they are being watched."

Asked about concerns over intrusive spying by members of the aviation unit -- characterized by Gallucci as "a bunch of big boys who like big expensive toys" -- Police Commissioner Raymond W. Kelly scoffed. "We're not able to, even if we wanted, to look into private spaces," he told the *New York Times*. "We're looking at public areas." However, in 2005, it was revealed that, on the eve of the RNC protests, members of the aviation unit took a break and used their night-vision cameras to record "an intimate moment" shared by a "couple on the terrace of a Second Avenue penthouse."

Despite this incident, which only came to light because the same tape included images that had to be turned over to a defendant in an unrelated trial, Kelly has called for more aerial surveillance. The commissioner apparently also got used to having the Fuji blimp at his disposal, though he noted that "it's not easy to send blimps into the airspace over New York." He then "challenged the aerospace industry to find a solution" that would, no doubt, bring the city closer to life under total surveillance.

Police Misconduct: The RNC

As a result of its long history of brutality, corruption, spying, silencing dissent, and engaging in illegal activities, the NYPD is a particularly secretive organization. As such, the full story of the department's misconduct during the Republican National Convention has yet to be told; but, even in an era of heightened security and defensiveness, what has emerged hasn't been pretty.

By April 2005, *New York Times* journalist Jim Dwyer was already reporting that, "of the 1,670 [RNC arrest] cases that have run their full course, 91 percent ended with the charges dismissed or with a verdict of not guilty after trial. Many were dropped without any finding of wrongdoing, but also without any serious inquiry into the circumstances of the arrests, with the Manhattan district attorney's office agreeing that the cases should be 'adjourned in contemplation of dismissal.'" In one case that went to trial, it was found that video footage of an arrest had been doctored to bolster the NYPD's claims. (All charges were dropped against that defendant. In 400 other RNC cases, by the spring of 2005, video recordings had either demonstrated that defendants had not committed crimes or that charges could not be proved against them.)

Since shifting to "zero-tolerance" law enforcement policies under Mayor (now Republican presidential candidate) Rudolph Giuliani, the city has been employing a system of policing where arrests are used to punish people who have been convicted of no crime whatsoever, including, as at the RNC or the city's monthly Critical Mass bike rides, those who engage in any form of protest. Prior to the Giuliani era, about half of all those "arrested for low-level offenses would get a desk-appearance ticket ordering them to go to court." Now the proportion is 10%. (NYPD documents show that the decision to arrest protesters, not issue summonses, was part of the planning process prior to the RNC.)

Speaking at the 2007 meeting of the American Sociological Association, Michael P. Jacobson, Giuliani's probation and correction commissioner, outlined how the city's policy of punishing the presumed innocent works:

"Essentially, everyone who's arrested in New York City, in the parlance of city criminal justice lingo, goes through 'the system'. ... if you've never gone through the system, even 24 hours -- that's a shocking period of punishment. It's debasing, it's difficult. You're probably in a fairly gross police lockup. You probably have no toilet paper. You're

given a baloney sandwich, and the baloney is green."

In 2005, the *Times'* Dwyer revealed that at public gatherings since the time of the RNC, police officers had not only "conducted covert surveillance ... of people protesting the Iraq war, bicycle riders taking part in mass rallies and even mourners at a street vigil for a cyclist killed in an accident," but had acted as *agent provocateurs*. At the RNC, there were multiple incidents in which undercover agents influenced events or riled up crowds. In one case, a "sham arrest" of "a man secretly working with the police led to a bruising confrontation between officers in riot gear and bystanders."

In 2006, the Civilian Complaint Review Board (CCRB), reported "that hundreds of Convention protesters may have been unnecessarily and unlawfully arrested because NYPD officials failed to give adequate orders to disperse and failed to afford protesters a reasonable opportunity to disperse."

Police Commissioner Kelly had no hesitation about rejecting the organization's report. Still, these were strong words, considering the weakness of the source. The overall impotence of the CCRB suggests a great deal about the NYPD's culture of unaccountability. According to an ACLU report, the board "investigates fewer than half of all complaints that it reviews, and it produces a finding on the merits in only three of ten complaints disposed of in any given year." This inaction is no small thing, given the surge of complaints against NYPD officers in recent years. In 2001, before Mayor Bloomberg and Police Commissioner Kelly came to power, the CCRB received 4,251 complaints. By 2006, the number of complaints had jumped by 80% to 7,669. Even more telling are the type of allegations found to be on the rise (and largely ignored). According to the ACLU, from 2005 to 2006, complaints over the use of excessive force jumped 26.8% -- "nearly double the increase in complaints filed."

It was in this context that the planning for the RNC demonstrations took place. In 2006, in five internal police reports made public as part of a lawsuit, "New York City police commanders candidly discuss[ed] how they had successfully used 'proactive arrests,' covert surveillance and psychological tactics at political demonstrations in 2002, and recommend[ed] that those approaches be employed at future gatherings." A draft report from the department's Disorder Control Unit had a not-so-startling recommendation, given what did happen at the RNC: "Utilize undercover officers to distribute misinformation within the crowds."

According to Dwyer, for at least a year prior to those demonstrations, "teams of undercover New York City police officers traveled to cities across the country, Canada and Europe" to conduct covert surveillance of activists. "In hundreds of reports, stamped 'N.Y.P.D. Secret,' [the NYPD's] Intelligence Division chronicled the views and plans of people who had no apparent intention of breaking the law, [including] street theater companies, church groups and antiwar organizations, as well as environmentalists and people opposed to the death penalty, globalization and other government policies." Three elected city councilmen -- Charles Barron, Bill Perkins and Larry B. Seabrook -- were even cited in the reports for endorsing a protest event held on January 15, 2004 in honor of Dr. Martin Luther King Jr.'s birthday.

In August, the *New York Times* editorial page decried the city's continuing attempts to keep documents outlining the police department's spying and other covert activities secret:

"The city of New York is waging a losing and ill-conceived battle for overzealous secrecy surrounding nearly 2,000 arrests during the 2004

Republican National Convention.... Police Commissioner Ray Kelly seemed to cast an awfully wide and indiscriminate net in seeking out potential troublemakers. For more than a year before the convention, members of a police spy unit headed by a former official of the Central Intelligence Agency infiltrated a wide range of groups... many of the targets ... posed no danger or credible threat."

The *Times* concluded that -- coupled with Mayor Michael Bloomberg's efforts to disrupt and criminalize protest during the convention week -- "police action helped to all but eliminate dissent from New York City during the Republican delegates' visit. If that was the goal, then mission accomplished. And civil rights denied."

Police Commissioner Kelly had a radically different take on his department's conduct. Earlier this year, he claimed that "the Republican National Convention was perhaps the finest hour in the history of the New York City Department."

Police Misconduct: 2007

"Finest" might seem a funny term for the NYPD's actions, but these days everyone's a relativist. In the years since the RNC protests, the NYPD has been mired in scandal after scandal -- from killing unarmed black men and "violations of civil rights" at the National Puerto Rican Day Parade to issuing "sweeping generalizations" that lead to "labeling almost every American Muslim as a potential terrorist." And, believe it or not, the racial and political scandals were but a modest part of the mix. Add to them, killings, sexual assaults, kidnapping, armed robbery, burglary, corruption, theft, drug-related offenses, conspiracy -- and that's just a start when it comes to crimes members of the force have been charged with. It's a rap sheet fit for Public Enemy #1, and we're only talking about the story of the NYPD in the not-yet-completed year of 2007.

For example, earlier this year a 13-year NYPD veteran was "arrested on charges of hindering prosecution, tampering with evidence, obstructing governmental administration and unlawful possession of marijuana," in connection with the shooting of another officer. In an unrelated case, two other NYPD officers were arrested and "charged with attempted kidnapping, armed robbery, armed burglary and other offenses."

In a third case, the New York Post reported that a "veteran NYPD captain has been stripped of his badge and gun as part of a federal corruption probe that already has led to the indictment of an Internal Affairs sergeant who allegedly tipped other cops that they were being investigated." And that isn't the only NYPD cover-up allegation to surface of late. With cops interfering in investigations of fellow cops and offering advice on how to deflect such probes, it's a wonder any type of wrongdoing surfaces. Yet, the level of misconduct in the department appears to be sweeping enough to be irrepressible.

For instance, sex crime scandals have embroiled numerous officers -- including one "accused of sexually molesting his young stepdaughter," who pled guilty to "a misdemeanor charge of child endangerment," and another "at a Queens hospital charged with possessing and sharing child pornography." In a third case, a member of the NYPD's School Safety Division was "charged with the attempted rape and sexual abuse of a 14-year-old girl." In a fourth case, a "police officer pleaded guilty.... to a grotesque romance with an infatuated 13-year-old girl." Meanwhile, an NYPD officer, who molested women while on duty and in uniform, was convicted of sexual abuse and official misconduct.

Cop-on-cop sexual misconduct of an extreme nature has also surfaced.... but why go

on? You get the idea. And, if you don't, there are lurid cases galore to check out, like the investigation into "whether [an] NYPD officer who fatally shot his teen lover before killing himself murdered the boyfriend of a past lover," or the officer who was "charged with intentional murder in the shooting death of his 22-year-old girlfriend." And don't even get me started on the officer "facing charges of conspiracy to distribute narcotics and conspiracy to commit robberies of drugs and drug proceeds from narcotics traffickers."

All of this, and much more, has emerged *in spite of* the classic blue-wall-of-silence. It makes you wonder: In the surveillance state to come, are we going to be herded and observed by New York's finest lawbreakers?

It's important to note that all of these cases have begun despite a striking NYPD culture of non-accountability. Back in August, the *New York Times* noted that the "Police Department has increasingly failed to prosecute New York City police officers on charges of misconduct when those cases have been substantiated by the independent board that investigates allegations of police abuse, officials of the board say." Between March 1, 2007 and June 30, 2007 alone, the NYPD "declined to seek internal departmental trials against 31 officers, most of whom were facing charges of stopping people in the street without probable cause or reasonable suspicion, according to the city's Civilian Complaint Review Board." An ACLU report, "Mission Failure: Civilian Review of Policing in New York City, 1994-2006," released this month, delved into the issue in even greater detail. The organization found that, between 2000 and 2005, "the NYPD disposed of substantiated complaints against 2,462 police officers: 725 received no discipline. When discipline was imposed, it was little more than a slap on the wrist."

Much has come to light recently about the way the U.S. military has been lowering its recruitment standards in order to meet the demands of ongoing, increasingly unpopular wars in Iraq and Afghanistan, including an increase in "moral waivers" allowing more recruits with criminal records to enter the services. Well, it turns out that, on such policies, the NYPD has been a pioneering institution.

In 2002, the BBC reported that "New York's powerful police union.... accused the police department of allowing 'sub-standard' recruits onto the force." Then, just months after the RNC protests, the *New York Daily News* exposed the department's practice of "hiring applicants with arrest records and shoving others through without full background checks" including those who had been "charged with laundering drug money, assault, grand larceny and weapons possession." According to Sgt. Anthony Petroglia, who, until he retired in 2002, had worked for almost a decade in the department's applicant-processing division, the NYPD was "hiring people to be cops who have no respect for the law." Another retiree from the same division was blunter: "It's all judgment calls -- bad ones.... but the bosses say, 'Send 'em through. We'll catch the problem ones later.'"

The future looks bright, if you are an advocate of sending the force even further down this path. The new choice to mold the department of tomorrow, according to the Village Voice, the "NYPD's new deputy commissioner of training, Wilbur 'Bill' Chapman, should have no trouble teaching 'New York's Finest' about the pitfalls of sexual harassment, cronyism, and punitive transfers [because h]e's been accused of all that during his checkered career."

In the eerie afterglow of 9/11, haunted by the specter of terrorism, in an atmosphere where repressive zero-tolerance policies already rule, given the unparalleled power of Commissioner Kelly -- called "the most powerful police commissioner in the city's history" by NYPD expert Leonard Levitt -- and with a police department largely unaccountable to anyone (as the only city agency without any effective

outside oversight), the *Escape from New York* model may indeed represent Manhattan's future.

Nick Turse v. The City of New York

So what, you might still be wondering, was it that led the security official at the federal courthouse to raise the specter of my imminent demise? A weapon? An unidentified powder? No, a digital audio recorder. "Some people here don't want to be recorded," he explained in response to my quizzical look.

So I checked the recording device and, accompanied by my lawyer, the indomitable Mary D. Dorman, made my way to Courtroom 18D, a stately room in the upper reaches of the building that houses the oldest district court in the nation. There, I met our legal nemesis, a city attorney whose official title is "assistant corporation counsel." After what might pass for a cordial greeting, he asked relatively politely whether I was going to except the city's monetary offer of \$8,500 -- which I had rejected the previous week-- to settle my lawsuit for false arrest. As soon as I indicated I wouldn't (as I had from the moment the city started the bidding at \$2,500), any hint of cordiality fled the room. Almost immediately, he was referring to me as a "criminal" -- declassified NYPD documents actually refer to me as a "perp." Soon, he launched into a bout of remarkable bluster, threatening lengthy depositions to waste my time and monetary penalties associated with court costs that would swallow my savings.

Then, we were all directed to a small jury room off the main courtroom, where the city's attorney hauled out a threatening prop to bolster his act -- an imposingly gigantic file folder stuffed with reams of "Nick Turse" documents, including copies of some of my *disreputable* Tomdispatch articles as well as printouts of suspicious webpages from the American Empire Project -- the obviously criminal series that will be publishing my upcoming book, *The Complex*.

There, the litany of vague threats to tie me down with depositions, tax me with fees, and maybe, somehow, send me to jail for a "crime" that had been dismissed years earlier continued until a federal magistrate judge entered the room. To him, the assistant corporation counsel and I told our versions of my arrest story -- which turned out to vary little.

The basic details were the same. As the city attorney shifted in his seat, I told the judge how, along with compatriots I'd met only minutes before, I donned my "WAR DEAD" sign and descended into the subway surrounded by a phalanx of cops -- plainclothes, regular uniformed, Big Brother-types from the Technical Assistance Response Unit (TARU), and white-shirted brass, as well as a *Washington Post* photographer and legal observers from the National Lawyers Guild -- and boarded our train. I explained that we sat there looking as dead as possible for about 111 blocks and then, as the *Washington Post* reported, were arrested when we came back to life and "tried to change trains." I asked, admittedly somewhat rhetorically why, if I was such a "criminal," none of the officers present at my arrest had actually showed up in court to testify against me when my case was dismissed out of hand back in 2004? And why hadn't the prosecutor wanted to produce the video footage the NYPD had taken of the entire action and my arrest? And why had the city been trying to buy me off all these years since?

Faced with the fact that his intimidation tactics hadn't worked, the city attorney now quit his bad-cop tactics and I rose again out of the ditch of "common criminality" into citizenship and then to the high status of being addressed as "Dr. Turse" (in a bow to my PhD). Offers and counteroffers followed, leading finally to a monetary settlement with a catch -- I also wanted an apology. If that guard hadn't directed me

-- under threat of being shot -- to check my digital audio recorder at the door, I might have had a sound file of it to listen to for years to come. Instead, I had to be content with the knowledge that an appointed representative of the City of New York not only had to ditch the *Escape from New York* model -- at least for a day -- pony up some money for violating my civil rights, and, before a federal magistrate judge, also issue me an apology, on behalf of the city, for wrongs committed by the otherwise largely unaccountable NYPD.

The Future of the NYPD and the Homeland-Security State-let

I'm under no illusions that this minor monetary settlement and apology were of real significance in a city where civil rights are routinely abridged, the police are a largely unaccountable armed force, and a culture of total surveillance is increasingly the norm. But my lawsuit, when combined with those of my fellow arrestees, could perhaps have some small effect. After all, less than a year after the convention, 569 people had already "filed notices that they intended to sue the City, seeking damages totaling \$859,014,421," according to an NYCLU report. While the city will end up paying out considerably less, the grand total will not be insignificant. In fact, Jim Dwyer recently reported that the first 35 of 605 RNC cases had been settled for a total of \$694,000.

If New Yorkers began to agitate for accountability -- demanding, for instance, that such settlements be paid out of the NYPD's budget -- it could make a difference. Then, every time New Yorkers' hard-earned tax-dollars were handed over to fellow citizens who were harassed, mistreated, injured, or abused by the city's police force that would mean less money available for the "big expensive toys" that the "big boys" of the NYPD's aviation unit use to record the private moments of unsuspecting citizens or the ubiquitous surveillance gear used not to capture the rest of the city on candid camera. It wouldn't put an end to the NYPD's long-running criminality or the burgeoning homeland security state-let that it's building, but it would, at least, introduce a tiny measure of accountability.

Such an effort might even begin a dialogue about the NYPD, its dark history, its current mandate under the Global War on Terror, and its role in New York City. For instance, people might begin to examine the very nature of the department. They might conclude that questions must be raised when institutions -- be they rogue regimes, deleterious industries, unaccountable corporations, or fundamentally-tainted government institutions -- consistently, over many decades, evidence a persistent disregard for the law, a lack of accountability, and a deep resistance to reform. Those directly affected by the NYPD, a nearly 38,000-person force -- larger than many armies -- that has consistently flouted the law and has proven remarkably resistant to curtailing its own misconduct for well over a century, might even begin to wonder if it can be trusted to administer the homeland security state-let its top officials are fast implementing and, if not, what can be done about it.

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