

November 3, 2010

Hartford City Council
550 Main Street
Hartford, CT 06103

Re: Cotto Ordinance to Stop Ethnic Profiling and Suspicionless Surveillance

Members of the Hartford Common Council:

We would like to first commend Chief Roberts for his “zero tolerance” policy against racial profiling within the Hartford Police Department (“HPD”). Chief Roberts is an asset to the city and his commitment to civil rights reflects his leadership in keeping Hartford safe.

The ordinance proposed by City Council member Luis Cotto aims to stop ethnic profiling and restore constitutional limits on government surveillance. Were HPD complying with the Penn Act, or the federal government operating under meaningful oversight, reforms of this sort might not be necessary.

However, the Department is not complying with the Penn Act’s reporting requirements, nor has the state provided an effective way for any data reported under its provisions to be aggregated and analyzed. Nor has the federal government accepted longstanding limits on surveillance activities, which have grown unhinged from any constitutional baseline and now entail the routine collection, retention, analysis, and dissemination of information about law-abiding individuals and their lawful behavior.

Whether in the context of the wars on drugs, terror, or immigrants, communities of color have been particularly impacted by law enforcement excesses. Until now, those excesses have been endured in relative isolation, without the transparency necessary to identify and address potential systemic problems. In addition, individuals around the country have been targeted for political surveillance on the basis of their First Amendment protected speech.

Councilman Cotto’s proposal meets the needs created by the wholesale derogation of civil rights in the years since 9-11. And, *under the proposed amendments, it does so without undermining the HPD’s operational flexibility. Rather than diminish HPD’s ability to stop and investigate crime, Cotto’s proposed reforms dramatically enhance the Department’s ability to keep the community safe.*

The Cotto reforms would enhance public safety by ensuring that communities in Hartford will not fear the police and enabling them to be forthcoming with information about potential crime. The Cotto reforms would enhance public safety by focusing HPD on its core public safety mission rather than federal immigrant enforcement or intelligence operations unhinged from

suspicion of criminal activity. Finally, the Cotto reforms would enhance public safety by ensuring that investigations target suspects whose behavior indicates criminality, rather than individuals whose identities trigger the potential conscious—or often unconscious—biases of officers.

Ultimately, the Cotto reforms support Chief Roberts and his ability to identify and address potential ethnic profiling by officers under his command. They also restore the rights of Hartford residents who have lost faith in the fairness of the criminal justice system.

The Corporation Counsel has prepared an analysis of the Cotto bill that fails even minimal standards of legal competence. It is premised entirely on conclusory statements and includes threadbare legal analysis. It cites case law only from other jurisdictions, deals with Connecticut law in passing (at best), and ultimately reflects a political judgment that the Council can—and should—disregard.

We, the undersigned, ask the Hartford Common Council to consider the needs of Hartford's diverse residents, and the impact of federal programs that curtail fundamental constitutional rights. We ask that you recognize and act on your authority to protect the rights of Hartford residents by enacting local legislation to stop law enforcement excesses and prevent them from recurring.

Respectfully submitted,

A Better Way Foundation

American Civil Liberties Union – Connecticut

Bill of Rights Defense Committee

Clean Slate Committee

Community Party

Connecticut Coalition for Peace and Justice / Hope Out Loud

Council on American-Islamic Relations – Connecticut

National Lawyers Guild – Hartford

People of Faith – Connecticut