

**STATEMENT OF CHIEF ROBERT K. BOYCE
CHIEF OF DETECTIVES
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON PUBLIC SAFETY
COUNCIL CHAMBERS, CITY HALL
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Good morning Chair Gibson and members of the Council. I am Chief Robert Boyce, the Chief of Detectives of the New York City Police Department (NYPD). Today I am joined by John Miller, Deputy Commissioner of Intelligence and Counterterrorism, who will also deliver remarks today. Additionally, I am joined here today by Lawrence Byrne, Deputy Commissioner of Legal Matters, and Oleg Chernyavsky, Director of Legislative Affairs. On behalf of Commissioner James P. O'Neill, we are pleased to address the Council today.

At the outset of our testimonies today, I believe it's important to stress that while conducting our sensitive criminal and counterterrorism operations and deploying state-of-the art technology, the value the NYPD places on privacy rights and other constitutional protections is paramount. The protection of civil liberties is as important to the Police Department as the protection of the City itself. **After all, it is these very freedoms that we seek to defend against our adversaries.** Our criminal and counterterrorism investigations are treated with particular care because we recognize that they may, at times, implicate the First and Fourth Amendments and other important issues. Accordingly, we abide not only by the U.S. Constitution and other applicable law, but also, in the case of counterterrorism operations, a federal consent decree that compels additional checks on our investigations. One of our many goals in conducting a criminal investigation is to strike the appropriate balance between public safety with the need to protect privacy rights.

The NYPD Detective Bureau is responsible for the prevention, detection, and investigation of crime, and its efforts often complement the hard work of the police officers assigned to each precinct. Detective work is highly specialized, usually encompassing the examination and evaluation of evidence to apprehend suspects and to build solid cases against them. The Bureau ensures that each one of its commands conducts solid, high-quality investigations in a timely manner and that each investigation is handled efficiently, with dedication and professionalism.

The focus of the hearing today is on surveillance technology utilized by the Police Department. It should be no secret that NYPD investigators are trained to use a variety of technologies. What is important to underscore, however, is that the purpose of using this technology is to prevent, detect, and investigate crime. Where this technology intersects with a legal expectation of privacy, applications for court orders or warrants are made to a District Attorney, which are in turn submitted before a neutral judge. NYPD personnel are trained on how to make these applications. Many of the technologies utilized by our investigators, be it a wiretap, a pen register, a GPS tracking device, or any kind of technology that permits law enforcement to listen to or gain the contents of a communication requires some kind of court-order or warrant.

We do not begin investigations against anything that would be purely constitutionally protected activity. Likewise, we do not conduct surveillance in every case we investigate. Surveillance is not an ominous exercise by local law enforcement – it is routine police work. Our surveillance is triggered out of articulable leads generated from the cases that our personnel are investigating. All of the commands under the Detective Bureau are responsible for ensuring that where legal questions arise in the course of their investigations that personnel confer with the NYPD Legal Bureau, and when appropriate, with the respective District Attorney's Office and the Corporation Counsel to properly resolve any legal issues.

The Fourth Amendment and the State Constitution place a very high burden on law enforcement – and it should be a high burden. This safeguards civil liberties but also ensures that investigations are properly managed and quality arrests are being made. The stakes are too high if we get it wrong.

While Deputy Commissioner Miller will opine more directly on several of the issues with Intro. 1482, I would like to highlight one area. While perhaps in an effort to encompass future technologies, the definition of "surveillance technology" is drafted so broadly that the strict reporting requirements in the bill could be imposed on non-germane technology. For example, by defining surveillance technology as any equipment capable of collecting "location" information, the bill encompasses technology used in our 911 system for emergency response since it is capable of tracking and transmitting location information.

This definition would also encompass important technologies utilized by the Department that protect public safety. This legislation would require the Department to provide an impact and use statement on the Department's Registered Sex Offender and Gun Offender tracking systems. We would be obligated to publically post a detailed description of this technology and its capabilities, thereby revealing the systems potential strengths and limitations to those who would be seeking to exploit this technology or avoid registering altogether. Many other current technologies would be implicated as well, such as our domestic violence incident report tracking system.

I will now turn it over to John Miller, Deputy Commissioner of Intelligence and Counterterrorism, so that he may provide his remarks. Following his remarks, I am happy to take your questions.