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April 5, 2011

The Honorable Greg Ball
Chairman
Senate Committee on Veterans, Homeland Security, & Military Affairs
817 Legislative Office Building
Albany, NY 12247

Dear Chairman Ball:

We write to you to express our concern regarding the Senate's upcoming hearing entitled, **"Reviewing our Preparedness: An Examination of New York's Public Protection Ten Years After September 11."** New York State faces unique and very real challenges to ensure the safety of all our citizens. However, we are troubled that elements of this and subsequent hearings do not accomplish the stated objective of the Committee to secure our state. Instead, this hearing will provide a venue to unqualified individuals who profit from maligning Muslims.¹ Unfortunately with the rising use of racist and incendiary language over the past two years there are increasing acts of violence, isolation, and discrimination against Muslim, Arab, Sikh, and other South Asian communities.

The State Senate has a solemn obligation to ensure that this institution does not enable or fuel misconceptions and prejudices toward any religious or ethnic community. The members and committees of this body are required to fact-find in order to develop policies with the best information available. Unfortunately, the actions and words of some of the witnesses invited by you seek only to inflame hysteria and place an entire faith under suspicion.

One of the so-called experts invited to testify, Nonie Darwish, lacks the authority to speak on Shariah, the Arabic word for Islamic jurisprudence. Other than obtaining a bachelors degree in Egypt, we are unaware of Ms. Darwish's scholarly credentials. It is also worth noting that recently both Columbia and Brown University withdrew their invitation to her. Yet despite this, Ms. Darwish, who is neither a legal or religious scholar has been invited to speak. In public interviews she asserts Islam is "not a true religion,"² and that "inside Islam, it's a rotten

¹ *Anti-Muslim crusaders make millions spreading fear*, Bob Smietana, The Tennessean, Oct. 24, 2010, available at, <http://www.tennessean.com/article/20101024/NEWS01/10240374/Anti-Muslim-crusaders-make-millions-spreading-fear>. Frank Gaffney, head of a nonprofit, is a panelist scheduled for a future hearing earned \$288,300 in 2008.

² Nonie Darwish interviewed on September 16, 2008 on the syndicated radio program, the Jan Markell show, available at, http://mediamatters.org/research/200809170020?f=s_search.

religion."³ In her book she writes that the Quran is "violent, incendiary, and disrespectful."⁴ Furthermore, less than two months before the presidential election in 2008 Ms. Darwish stated that President Obama's mother was a "radical" for having a relationship with a Muslim man and that the President is a "political Muslim" and asserted that he was raised un-American.⁵ These statements alone should give pause to the veracity and credibility of the testimony provided by this individual.

In addition, by including Islamic law as a topic of the hearing, you conflate the religious observations and practices of a faith into a security matter. Some opportunists and political leaders have sought to create hostility against Muslims by raising the specter of the Shariah "bogeyman" as a threat to America. We find this disconcerting, especially as thirteen states have introduced legislation prohibiting their respective state courts from applying Islamic law in adjudicating matters, with a bill in Tennessee making the observance of Shariah punishable by 15 years in prison.⁶ Ironically, those promoting anti-Shariah initiatives are themselves in violation of the Supremacy Clause in Article VI, the Establishment and Free Exercise of Religion Clauses of the First Amendment Clauses, the Contracts Clause of Article I, as well as the Due Process Clause of the Fourteenth Amendment of our federal Constitution.⁷ Notably, this past November, Oklahoma passed the anti-Shariah "Save our State" constitutional amendment, only to have a federal judge grant a permanent injunction nullifying it.⁸

We are also concerned about the selection of Frank Gaffney who is scheduled for a subsequent hearing in Albany. Mr. Gaffney recently testified before a court in Murfreesboro, Tennessee in support of petitioners challenging zoning approval for a mosque who argued that Islam is not a religion. In his testimony Mr. Gaffney announced that "Sharia is the enemy-threat doctrine we face today...and that threat has trickled down to local governments."⁹ In his opposition to the construction of mosques, Gaffney describes that imams (Muslim congregational leaders) impose Shariah, which "ultimately winds up becoming a cancer inside a society."¹⁰

³ *Id.*

⁴ Book Review *National Post*, by Thomas Nelson, Feb. 7, 2009 on *Cruel and Usual Punishment: The Terrifying Global Implications of Islamic Law* by Nonie Darwish, available at, <http://network.nationalpost.com/np/blogs/afterword/archive/2009/02/17/book-review-cruel-and-usual-punishment-the-terrifying-global-implications-of-islamic-law-by-nonie-darwish.aspx#ixzz1I7010n60>.

⁵ *Supra* Fn. 2.

⁶ Report: At Least 13 States Have Introduced Bill Guarding Against Non-Existent Sharia Law Threat, Feb. 8, 2011, available at, <http://thinkprogress.org/2011/02/08/sharia-states/>.

⁷ See Report by New York City Bar Association, The Unconstitutionality of Oklahoma Referendum 755 – The Save Our State Amendment," available at, <http://www.abcny.org/pdf/report/uploads/20072027-UnconstitutionalityofOklahomaReferendum755.pdf>, (discussing the Constitutional implications of Oklahoma's Constitutional amendment.)

⁸ Judge Blocks Oklahoma's Ban on Using Shariah Law in Court, James McKinley, Nov. 29, 2010, available at, <http://www.nytimes.com/2010/11/30/us/30oklahoma.html>.

⁹ *TN Mosque Opponents Bring In National Sharia 'Expert' Frank Gaffney*, Rachel Slajda, Sept. 28, 2010, available at,

http://tpmmuckraker.talkingpointsmemo.com/2010/09/tn_mosque_opponents_bring_in_national_sharia_exper.php.

¹⁰ *Gaffney on CNN Mosques Want to Destroy Western Civilization from Within*, Rachel Slajda, Sept. 29, 2010, available at,

http://tpmmuckraker.talkingpointsmemo.com/2010/09/gaffney_on_cnn_mosques_want_to_destroy_western_civ.php

The increasing vitriolic rhetoric from the abovementioned individuals and others, including some irresponsible political leaders coincides with a rise in violence against members of the Muslim, Arab, Sikh, and South Asian communities. Children are being harassed and abused at schools, houses of worship are being vandalized and desecrated, and individuals are being discriminated against at work and physically harmed on our streets. Just this month, two elderly Sikh men wearing turbans with full beards were shot as they went for an evening walk, one was tragically killed.¹¹ On March 30th, a 12 year old Muslim girl was attacked in Staten Island by two classmates who according to police reports had harassed, beaten, and thrown her to the ground, asking if she was Muslim while trying to pull off her headscarf.¹² The growing intolerance is also exemplified in a statistic provided by the Department of Justice Office of Civil Rights on the issue of mosque construction, of the 24 cases opened by the Civil Rights Division since 9/11, 14 have been opened in the past ten months alone.¹³

The above incidents and incendiary language betray the values of our nation. The Senate should not lend voice or credibility to those who advocate intolerance, hate, and promote bigotry. Nonie Darwish and Frank Gaffney have no place before the Senate. Furthermore, as your hearing notice states, it has been nearly ten years since the attacks of September 11th, when thousands of Americans of all creeds and races were tragically lost. Now is the time for the Senate to examine the backlash of increasing hate crimes, harassment, and discrimination the Muslim, Arab, Sikh, and South Asian communities have endured so that the homeland is secure for all.

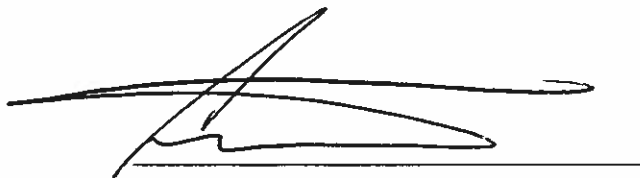
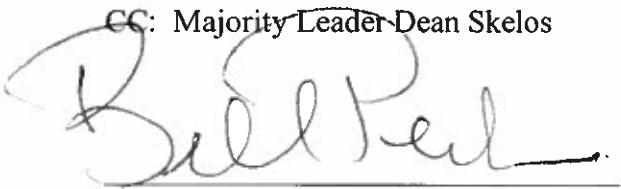
We thank you for your consideration of this critical matter.

Sincerely,



KEVIN S. PARKER

CC: ~~Majority Leader Dean Skelos~~





¹¹ *Attack on Sikh Men Seen as Possible Hate Crime*, Robert Lewis, Mar. 6, 2011, available at, <http://www.sacbee.com/2011/03/06/3453199/attack-on-two-sikh-men-seen-as.html>

¹² *12-year-old Staten Island student faces hate-crime charges after alleged headscarf assault inside Stapleton school*, Judy L. Randall, Mar. 31, 2011, available at,

http://www.silive.com/northshore/index.ssf/2011/03/pupil_nabbed_in_headscarf_assa.html.

¹³ Department of Justice Fact Sheet: Protect the Civil Rights of American Muslims Outreach and Enforcement Efforts, issued Mar. 29, 2011.

Russell


Justin


William Montgomery

Liz Krueger



