

Much has been made of the benign nature of this particular event where no discussion of terrorism occurred. A post about the trip on New York magazine's website claims, "What has civil-liberties advocates really worried is just how far the NYPD has stretched the parameters of its domestic espionage program—until now, at least, the official line was that the force only pursued leads about suspected criminal activity. Clearly, that's no longer the case."

Such histrionics are hardly warranted. In the subway-bomb-plot trial of Najibullah Zazi and Adis Medunjanin, it was disclosed that operational planning for the plot occurred on the basketball courts of Kissena Park and while hiking on Bear Mountain, north of New York City. Neither a bucolic setting nor a recreational endeavor guarantees peaceful intentions.

The AP also has claimed that these and other investigations have occurred with insufficient oversight. One article uncritically quoted New York Civil Liberties Union lawyer Christopher Dunn, who declared of the NYPD anti-terrorism program: "At the end of the day, it's pure and simple a rogue domestic surveillance operation." He continued: "One of the hallmarks of the intelligence division over the last 10 years is that, not only has it gotten extremely aggressive and sophisticated, but it's operating completely on its own. There are no checks. There is no oversight."

In particular, the AP has asserted that the modified Handschu Guidelines gave the NYPD operational carte blanche. "He scrapped the old rules and replaced them with more lenient ones," reads an August 23, 2011, article describing U.S. District Judge Charles S. Haight Jr.'s decision to modify the guidelines in 2002. "It was a turning point for the NYPD."

But far from providing evidence of this charge, the whitewater-rafting case reveals it as folly. The Handschu Guidelines require written authorization from the deputy commissioner of intelligence when utilizing human intelligence. That requirement was met here as it has been in every other case. Moreover, an internal committee reviews each investigation to ensure compliance, and a legal unit based in the Intelligence Division evaluates every field intelligence report generated through an investigation. This committee meets regularly every month, and at one meeting at the end of my tenure, no fewer than 10 attorneys and five assistant or deputy commissioners were in attendance. It is important to note that investigations are discontinued unless they reasonably indicate that an unlawful act has been, is being, or will be committed.

As a matter of Police Department policy, undercover officers and confidential informants do not enter a mosque unless they are doing so as part of an investigation of a person or institution approved under the Handschu Guidelines. Likewise, when undercover officers or confidential informants have attended a private event organized by a student group, they have done so only on the basis of a lead or investigation reviewed and authorized in writing at the highest levels of the department.

Given my dual role as a former director of intelligence analysis at the NYPD and a visiting lecturer at Columbia University, I took a special interest in this issue and personally reviewed the documents in question to see the number of times that NYPD human sources were present on local campuses in the last five years. The numbers are very small and almost always involved intelligence-collection efforts limited to individuals who were under investigation, not the broader student body.

So, yes, in 2006, given the trends observed both here and overseas, the NYPD thought it

prudent to learn more about what was occurring at Muslim Student Associations in the region via open sources, and the six-month initiative generated six months' worth of public-information reports. The NYPD did not send undercover sources to infiltrate MSAs throughout the northeast. Both the open-source initiative and the few investigations where undercover officers examined the activities of university students as part of an ongoing investigation authorized by Handschu Guidelines have led to a greater understanding of the relationship between terrorism and university organizations and have, as a result, kept New York City safer.

In total, the NYPD has helped to prevent 14 terrorist attacks on New York City and its surrounding areas and permitted exactly zero deadly plots to materialize in the 11 years since 9/11. Its success, based on the math alone, is indisputable. But in a free country, success is not enough. Civil libertarians are correct in asserting that safety at the cost of political freedom would betray the highest American ideals. And the unlawful targeting of New York City's minorities would constitute nothing less than a cultural and spiritual gutting of the greatest, most diverse city history has seen. But neither of those travesties have occurred, thanks to the genius of America's Constitution and the NYPD's exquisite adherence to it.

Sadly, the absence of wrongdoing goes only so far in a media-driven society shaped by the 24-hour news cycle and explosive headlines. The damage the AP inflicted upon the NYPD's reputation cannot be mitigated wholly by this or any other honest airing of the facts. Indeed, one can argue that inflicting such damage—not debating police methodology—was the point of the AP's series.

The war on the NYPD's method of combating terrorism is a war on the war on terror by proxy—an effort to portray the least controversial aspect of homeland security as instead a matter of great civil-libertarian concern. Long before the AP series, the war on the war began with efforts to discredit the federal government's endeavors to collect intelligence from combatants and terror suspects captured on the battlefields of Afghanistan and Iraq. It zoomed in on the rights of those detained overseas and at the American base in Guantánamo Bay. Now it has come home, to take on a once universally heralded and supported effort at domestic counterterrorism at the epicenter of the 9/11 attacks, New York City.

Having impugned military and intelligence efforts to fight terrorism, these foes are now taking aim at the most conventional kind of anti-terror approach—one that works within the domestic criminal-justice system, is overseen by courts, and is being managed by a police department that has rigorously kept to the terms of legal limits to which it agreed nearly 30 years ago.

By portraying the NYPD efforts as rogue operations, the AP and the Pulitzer committee are seeking to slacken attempts inside the United States to stop terrorist plots before they happen. Letting these false and misleading stories alter local counterterrorism work would be catastrophic. It has taken many hard years to craft the effective anti-terrorism policies that serve us so well today. Now, with al-Qaeda on the ropes, our renewed sense of security can morph easily into complacency—and terrorists will be sure to exploit any new opportunities to attack. The price of maintaining the safety of New Yorkers has been kept remarkably low, not only for residents but for the country as a whole. Preventing another devastating attack from occurring in the city after 2001 was much more than a local necessity. Such an attack would have been devastating to national morale.

And it still would be.

#### PERSONAL EXPLANATION

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 1, 2012

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained and missed rollcall vote Nos. 297, 298, 299, 300, 301, 302, 303, 304 and 305. Had I been present, I would have voted "Aye" on rollcall vote Nos. 300, 301, 302, 304 and 305. Had I been present, I would have voted "No" on rollcall vote Nos. 297, 298, 299, and 303.

#### PERSONAL EXPLANATION

### HON. DAVID P. ROE

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 1, 2012

Mr. ROE of Tennessee. Mr. Speaker, on May 30, 2012 I was recorded as voting "no" on rollcall No. 303, the Franks amendment to H.R. 5854. I intended to vote "aye" and would like that to be noted in the RECORD.

#### H.R. 5186, THE HALT INDEX TRADING OF ENERGY COMMODITIES OR HITEC

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 1, 2012

Mr. MARKEY. Mr. Speaker, I rise today to discuss H.R. 5186, the Halt Index Trading of Energy Commodities, or HITEC, Act. I recently introduced this bill with Representatives FRANK and DELAUNO because I believe urgent action is needed to protect our nation's oil and refined product commodities markets from artificial and excessive levels of volatility caused by the trading practices of certain Wall Street traders. Since 1991, Wall Street investment banks such as Goldman Sachs have created and marketed a new financial product known as commodity index funds, which are really energy speculation funds, gasoline gambles. These energy speculation funds track the financial performance of one or more commodities. If a speculation fund has an investment in oil and the value of oil goes up, then the value of the fund goes up; if the value of oil goes down, the value of the speculation fund goes down.

These investments have been incredibly popular with investors but have had an adverse effect on the operation of the markets for the commodities that comprise the funds. Hundreds of billions of dollars have been invested in various energy speculation funds, artificially inflating the prices of our commodities. While these energy speculation funds may be driving up prices for many different commodities, they are having an especially pernicious effect on energy commodities. According to testimony submitted to the House Natural Resources Committee, excessive speculation added nearly \$1.00 to the per gallon price of

gasoline this spring, and energy speculation funds appear to be largely responsible. Due to the activities of these energy speculation funds, Wall Street investment banks have profited by introducing new and unprecedented levels of volatility and speculation into oil and refined product markets.

Energy speculation funds have changed the very nature of our commodities markets. Traditionally, the commodities market was dominated by companies who actually used the commodities to hedge the business risk associated with oil or refined products prices. Large oil, gasoline, diesel or jet fuel consumers such as airlines, trucking firms, and shipping services were the largest participants in these markets. Indeed, in 1996, companies who actually bought oil on the commodities market so they could use it owned 93% of the oil futures or derivatives in that market. Now, however, these companies only own 37% of the oil futures or derivatives in that market. The bulk of the remaining 63% is owned by speculators who have invested in these energy speculation funds, none of whom will actually use any of the oil or natural gas in which they have invested.

Despite only being twenty-one years old, energy speculation funds have already had a profound impact on our country. They have increased the size of our commodities market. They have increased the volatility of our commodities prices. They have hurt consumers' wallets and small businesses by making them pay more at the pump. They have slowed the growth of our economy by requiring that we devote even more money to energy instead of creating new jobs. These energy speculation funds are a danger to our economy, our financial system, and the average American's wallet.

The HITEC Act will restore order to our energy commodity markets and end this experiment. The bill will ban all new investment in energy commodities like light sweet crude oil, natural gas, heating oil, and gasoline by these commodity index funds from the date of enactment. The day the President signs this bill, energy speculation funds will not be allowed to grow any more if they count speculators among their investors. Existing energy speculation funds that continue to count speculators among their investors will then have two years to wind down their investments. As the average length of a "spot" commodity contract is one year, this should allow energy speculation funds that continue to house speculators more than enough time to wind down their investments in a fair and orderly fashion.

This bill does not prohibit energy speculation funds from investing in agricultural commodities like wheat or corn, nor does it prohibit those funds from investing in metals such as gold. The bill also does not implicate trading of electricity in any way, shape, or form. Instead, this bill just prohibits energy speculation funds from interfering with our energy commodities, a market that determines the prices for the fuels that power our economy.

This bill will end an unnecessary and harmful source of excessive price volatility that has only served to benefit Wall Street traders and has harmed our economy by pumping up oil, gasoline, and other refined product prices. Enactment of this legislation will address one major source of the pain American consumers have recently been feeling at the pump, and I urge all of my colleagues to co-sponsor this critical legislation.

# MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2013

SPEECH OF

**HON. LAURA RICHARDSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 31, 2012

The House in Committee of the Whole House on the state of the Union had under consideration the bill (H.R. 5854) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2013, and for other purposes:

Ms. RICHARDSON. Madam Chair, I rise today in support of H.R. 5854, the Military Construction and Veterans Affairs and Related Agencies Appropriations Act for Fiscal Year 2013, which supports our military and their families and provides the benefits and medical care that our veterans have earned for their service.

H.R. 5854 provides the facilities and infrastructure needed to house, train, and equip our military personnel to defend this Nation, both in the United States and abroad, provides the housing and military community infrastructure that supports a good quality of life for them and their families, and allows the military to maintain an efficient and effective base structure. The bill also funds programs to ensure that all veterans receive the benefits and medical care that they have earned as a result of their sacrifices in the service to our Nation.

This bill builds on the progress of Democratically-led Congresses from 2007 through 2010 for veterans. Just as our military pledges to leave no one behind on the battlefield, Democrats in Congress have pledged to leave no veteran behind when they come home. This bill provides \$71.7 billion in discretionary spending for Fiscal Year 2013, equal to last year's level.

For VA programs, the bill provides \$60.7 billion in discretionary funding, \$2.2 billion above the FY 2012 enacted level. The bill also assumes \$74.6 billion in mandatory funding. With this funding, the VA will be able to provide quality medical care to more than 6.3 million patients in 2013, including 610,000 veterans of Iraq and Afghanistan.

Madam Chair, let me note my strong opposition to a number of provisions in this bill. This bill enacts a pay freeze on federal workers and rejects the President's proposed 0.5 percent pay raise.

I also oppose the language banning the implementation of the executive order encouraging government agencies to require contractors for large-scale Federal construction projects to negotiate or participate in labor agreements with unions. Republicans are trying to use this critical measure for our military and veterans to advance their controversial anti-worker agenda of no project labor agreements in Federal contracting.

I would like to take a moment to express my strong support for the Grimm amendment. Last year, I worked with Congressman LATOURETTE on defeating anti-Project Labor Agreements (PLAs) language in the MilCon/VA Appropriations bill and this year I rise in support of the Grimm amendment.

Section 517 of H.R. 5854 prohibits agencies from being able to use all available methods to ensure that Federal contracts are cost-efficient. Section 517 of this legislation increases the risk of project cost overruns, delays, and fails to protect our workers.

The Grimm amendment ensures that funds for large-scale construction projects utilize the most cost-effective and efficient process for the awarding of Federal contracts and simply saves taxpayers money!

Madam Chair, however one feels about Project Labor Agreements, the MilCon/VA bill is not the appropriate vehicle to have this debate. The MilCon/VA bill is intended to reflect our commitment to our veterans and our service members in uniform and should be limited to that purpose.

The Grimm amendment simply allows Federal agencies to use all tools at their disposal in awarding large-scale contracts that ensure taxpayer funds are used efficiently and that projects are completed on time and on budget.

All of us in Congress are looking at ways to rein in our deficit. This amendment protects workers and taxpayer funds. I urge my colleagues to support the Grimm amendment.

Madam Chair, in my remaining time let me discuss an additional reason why I support this legislation. This bill includes \$169 million for the ongoing effort to create an integrated electronic health record system that transitions from an individual's active service in the military to the VA and requires the VA and Defense Department to provide Congress with an execution and spending plan for FY 2013 and outline a road map for completing the project.

The bill also includes the requested levels of \$1.4 billion for VA homeless assistance programs and \$4.8 billion for homeless veterans' treatment costs. The bill provides the requested \$250 million to improve access and quality care for the more than three million veterans residing in rural areas and \$6.5 billion for mental health programs including \$443 million for post-traumatic stress disorder and \$76 million for suicide prevention.

This is not a perfect bill but this piece of legislation addresses the most critical needs of our service members, military families, and veterans. The positive provisions outweigh the negative ones and I urge my colleagues to support H.R. 5854.

## PERSONAL EXPLANATION

**HON. MARTIN HEINRICH**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 1, 2012

Mr. HEINRICH. Mr. Speaker, I unfortunately missed three votes the afternoon of May 31, 2012, which included rollcall votes 294, 295 and 296. If I had been present, I would have voted in favor of rollcall vote 294, Representative UPTON's (MI-6) bill, H.R. 5651. If I had been present, I would have voted in favor of rollcall vote 295, Representative TURNER's (OH-3) bill, H.R. 4201. Lastly, I would have voted in favor of rollcall vote 296, Representative CUELLAR's (TX-28) bill, H.R. 915.