



May 26, 2016

By Email

The Honorable Charles S. Haight, Jr.
Senior United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Dear Judge Haight,

The Muslim Public Affairs Council (MPAC) is a public service agency working for the civil rights of American Muslims, for the integration of Islam into American pluralism, and for a positive, constructive relationship between American Muslims and their representatives.

Since 1988, MPAC has worked diligently to promote a vibrant American Muslim community and enrich American society through exemplifying the Islamic values of mercy, justice, peace, human dignity, freedom and equality for all.

In all its actions, MPAC works diligently to offer the public a portrayal that goes beyond stereotypes in order to elucidate that Muslims worship God, abhor global terrorism, stand against oppression and are part of a vibrant American pluralism. MPAC operates on the core belief that change in U.S. policy requires more from our community than attending meetings. It requires organized, sustained efforts in coalition with like-minded groups both at the grassroots and national levels.

MPAC respectfully takes this opportunity to submit the following written comment to you, Judge Haight, for consideration to strengthen the proposed Handschu/Raza settlement. MPAC appreciates the opportunity to share its views with the Court on this important matter.

For several years, MPAC has worked in coalition with local and national faith-based, civil rights and advocacy organizations to improve the civil liberties protections of New Yorkers. Since the Pulitzer Prize winning Associated Press articles exposing the NYPD's mass-surveillance program in 2011, MPAC has consistently opposed warrantless law enforcement tactics targeting American Muslims.

MPAC was encouraged with the dismantling of the Demographics Unit and the creation of the NYPD Office of Inspector General. Further, while we commend the attempts of Raza/Handschu counsel and the NYPD to reconstitute some semblance of oversight and accountability to the NYPD after over a decade of unwarranted surveillance and unconstitutional policing of American Muslim New Yorkers, we hope the Court will approve the guidelines. MPAC has, however, identified three ways to strengthen the proposed Handschu/Raza guidelines.



1. The current proposed guidelines must include language that will prevent the NYPD from obstructing civil rights cases challenging past and future unwarranted NYPD surveillance. This includes, but is not limited to, affirmative defenses or motions that utilize the proposed Handschu/Raza guidelines as a shield for the NYPD.
2. The current proposed guidelines must include language which strengthens the role of the appointed Civilian Representative (CR).
 - a. The CR should have authority to initiate formal investigations, should have access to the NYPD records and should be able to make inquiries. The CR should also have access to NYPD documents subject to information-sharing with state or federal agencies, such as the FBI.
 - b. The CR should be appointed by the Court as an independent federal monitor.
 - c. The CR should be a permanent position that cannot be abolished without judicial order.
 - d. Currently, the authorization of undercovers and confidential informants is outside the scope of the Handschu Committee's oversight. The Deputy Commissioner of Intelligence should be required to consult with the Handschu Committee to authorize and extend the use of undercovers and confidential informants.
3. Documents retained by the NYPD's former Demographics Unit must be destroyed. The CR should oversee this process. The CR should also oversee future document retention procedures and should craft an internal privacy policy in collaboration with the NYPD Handschu Committee and the NYC Inspector General.

MPAC believes that the proposed settlement agreement includes concrete rules and mechanisms that are designed to ensure that the NYPD retains sufficient flexibility to fulfill its public safety mandate while ensuring that its surveillance operations respect Constitutional rights. It should be approved by this Court. MPAC is grateful to Class Counsel for negotiating and drafting this much-needed return to a set of police practices that hold constitutions rights in the proper regard, and grateful to Your Honor in your careful review of and attention to the concerns expressed in the course of this hearing.

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