

The Honorable Judge Haight
United States Southern District of New York
500 Pearl Street, NY, NY 10007

RE: Handschu Comment from Class Members

Dear Judge Haight and Ms. Dorais,

The purpose of this letter is to submit written comment on behalf of the Micah Institute at New York Theological Seminary, an interfaith collective of clergy and faith leaders devoted to fighting injustice in our beloved city. We are responding regarding the proposed Handschu guidelines addressing NYPD surveillance against Muslims and activists.

Inspired by the Hebrew prophet Micah's call to act justly, love mercy, and walk humbly with God, The Micah Institute seeks to inspire and educate diverse faith leaders to fight poverty and injustice. The central goals of the Institute include educating prophetic leaders from diverse traditions to advocate against racial, economic, and environmental injustice. Second, we offer a powerful voice to 'think globally and act locally.' Lastly, we provide opportunities for community outreach through the Micah Faith Table. Several of our members have been subject to unwarranted NYPD surveillance activity due to our lawful activism fighting poverty and racial injustice in New York City as members of the environmental movement, Occupy movement, Black Lives Matter and other organizations.

As clergy and faith leaders, we are outraged that not only are activists being unlawfully surveilled, but our fellow brothers and sisters in the Muslim community have also been suffering from systematic, unwarranted surveillance purely because of their religion. We have been shocked to learn that sacred spaces where Muslim families gather to pray in times of joy and mourning, are being infiltrated without any kind of warranted suspicion. Mosques are

places where Muslims pray, find community, wisdom and peace. Sacred religious spaces must be respected. Unwarranted and unconstitutional spying by law enforcement defiles the sacred character of these houses of worship. Extensive social scientific research confirms that mosques serve as a bulwark against terrorism, not as terrorism hot-beds. Informants, undercover officers, and other law enforcement agents betray the spiritual purpose of the mosque when they engage in fishing-expeditions--looking for alleged terrorists without cause. It is important that whenever possible the NYPD stays out of mosques and other houses of worship, only entering them as a last resort.

We welcome the proposed settlement guidelines, particularly the language adding that “undercover operations, including confidential informants, may be used when taking into account all the circumstances of the investigation, including the need for the information and the seriousness of the threat, it has been determined that the information sought in the investigation could not be reasonably obtained in a timely and effective way **by a less intrusive means.**” We hope that the Court will approve the proposed settlement guidelines as a minimum safeguard against further NYPD abuse. Yet, in order to ensure that the Civilian Representative does indeed have the proper authority to provide a check against unlawful intelligence gathering, we hope that the Court will further empower him or her in the following areas.

- 1) First, given the sanctity of the mosque space, we think that the Civilian Representative appointed can only have the wherewithal to enforce the new proposed amendments, by seeing, **in writing**, that the use of informants and undercover agents in

mosques has been done *as a last resort*, or by seeing in writing that there is an exigent temporal reason.

2) Further, we ask that the Court allow the Civilian Representative Subpoena power to access records that are not necessarily presented to the Handschu committee, in order to empower the Civilian Representative to do his or her job in appropriately investigating misconduct. This will give the Civilian Representative the capacity to initiate investigations and to carry out their proper oversight role.

3) The records available to the Civilian Representative should include NYPD documents subject to information-sharing with state or federal agencies, such as the FBI, that implicate 1st Amendment Handschu issues.

4) Given the importance of the Civilian Representative position, it should not be subject to the whims of political theatrics, but instead must be a permanent position that cannot be abolished without judicial order. Thus, we stand against the five-year limit and endorse a permanent position. Without accountability to a Civilian Representative, we are not confident that the said reforms will go into effect and will be kept in effect in the Intelligence Bureau and whole Police Department.

5) We request that **“national origin”** be added to the new, equal protection language, in the Statement of Policy section where “care be exercised in the conduct of those investigations so as to protect constitutional rights, including the right to be free from investigation in which race, religion, or ethnicity is a substantial or motivating factor.”

6) Lastly, we insist that the wrongly obtained documents under the Demographics Unit when it existed under the prior administration of Mayor Michael Bloomberg, be expunged. The privacy rights of Muslims matter and should not be infringed upon because of their religious affiliation. There is nothing in the settlement that confirms that this long overdue remedy has occurred.

Muslim leaders who are part of our nation's family of faith traditions, and key leaders within the Micah Faith Table have been instrumental in bettering our way of life since the inception of this country. It is unacceptable to single them out and to treat them differently because of their religion. We know first-hand the devastation of these unlawful spying programs against Muslims, and have noted the dramatic drop in morale among our Muslim brothers and sisters since 9/11 after unwarranted surveillance took hold. Many community members have mentioned that they no longer feel secure in the mosque space. In addition, mosque attendance among young people, has dropped significantly because youth feel particularly targeted by invasive, unwarranted surveillance practices. Also, last month Commissioner Bratton himself, voiced that hate crimes against Muslim New Yorkers, despite being at an all-time high, are not being adequately reported to NYPD officials. We believe that it is in part due to the rift between law enforcement and Muslims, which this unfair policy helped create. Our Muslim friends have become more withdrawn due to the stigma and humiliation of these unjust spying practices and, we hope that these strengthened proposed settlement guidelines will support healing communities across New York City.

There are nearly one million Muslim New Yorkers and they are also a fast-growing population within our metropolis. Like all other New Yorkers, they must be treated with dignity, under the laws of our nation. We respectfully request, that the Court approve the proposed settlement guidelines. We also hope that the Court will approve the additional five suggestions that will protect the civil liberties of all New Yorkers and cultivate safe and healthy communities.

Respectfully Submitted,

Members of the Micah Faith Table

Title	First	Last	Faith Community
Rev. Dr.	Peter	Heltzel	The Micah Institute at New York Theological Seminary
Rev.	Chloe	Breyer	Interfaith Center of New York
Rev.	Stephen	Holton	Warriors of the Dream – St. Philip’s Episcopal Church, Harlem
Rev. Dr.	Karyn	Carlo	American Baptist Churches
Rev. Dr.	Paul	DeVries	NY Divinity School
Rabbi	Michael	Feinberg	Greater New York Labor-Religion Coalition
Dr.	TA	Bashir	New York Theological Seminary/House of Peace, Inc.
Rev. Dr.	Clyde	Kuemmerle	Ecclesia Ministries of New York
Rev.	Stephen	Phelps	Presbytery of NYC
Rev.	Daiken	Nelson	Pamsula Zen Center
Rabbi	Bob	Kaplan	JCRC

Title	First	Last	Faith Community
Rev.	Bertram	Johnson	The Riverside Church in the City of New York
Bro.	Anthony	Zuba	Parish of the Holy Cross – Saint John the Baptist, NYC
Rev.	John	Vaughn	Auburn Seminary
Rabbi	Justus	Baird	Auburn Seminary
Rev.	Jennifer Hope	Kottler	Broadway United Church of Christ
Rev.	Derrick	Harkins	Union Theological Seminary
Bishop Dr.	Raymond	Rufen Blanchette	The Clergy Campaign
Rev. Dr.	Gwendolyn	Hadley-Hall	Christ Temple United Baptist Church
Director	Diane	Steinman	NYS Interfaith Network for Immigration Reform
Rev.	Ertha	Fenelon	R.R. of Ministry Center
Rev.	Leslie	Houseworth-Fields	Christ Church of NY
Executive Director	Sapreet	Kaur	The Sikh Coalition
Executive Director	Mark	Johnson	The Center and Library for the Bible and Social Justice
Executive Director	Onleilove	Alston	Faith in New York
Associate Director	Leah	Kozak	The Micah Institute at New York Theological Seminary
Rabbi	Simkha	Weintrab	
	Frances	Hardy	Habitat for Humanity

Title	First	Last	Faith Community
	Aida	Montero	The Riverside Church in the City of New York
	Judy	Turnock	The Riverside Church in the City of New York
	Fekkak	Mamdouh	
	Tasha	Williams	