

My name is Jon Moscow. Thank you, Your Honor, for the opportunity to testify and thank you additionally for holding both the first Fairness Hearing and this second Hearing, with the opportunity in between for public debate and discussion. As a participant in this debate, I have learned a great deal and, with other members of the plaintiff class, have been able to grapple with the implications and impact of the proposed Handschu Guidelines on both a policy and a personal level.

I speak in support of the improvements in the proposed Guidelines, while urging that they be strengthened significantly to make them truly fair and reasonable, so they can provide meaningful protections to New Yorkers while allowing the NYPD to carry out its duties to protect public safety without infringing on our civil liberties and civil rights.

Rather than repeat what others have said in detailed testimony, I will associate myself with the points made—in various words but to the same effect—in submissions by Afaf Nasher of CAIR, Dr. Debbie Almontaser of Muslim Community Network, and the testimonies of the American Arab Anti-Discrimination Committee, Interfaith Center of New York, Mass Defense Committee of the National Lawyers Guild, StopNYPDSpying, Picture the Homeless, and the law firm of Omar T. Mohammedi.

I would rather spend my few minutes of testimony telling you why I believe so strongly that the proposed Handschu Guidelines need to be strengthened. My testimony is informed by my personal experience of surveillance and confidential informants. I have been a civil rights, antiwar, labor, education, and environmental activist since 1962, when I became a member of Long Island CORE—the Congress of Racial Equality—as a young teenager. I had the opportunity to collaborate with the Black Panther Party in establishing a health and dental clinic in Portland, OR, at which time I learned from my mail carrier that there was a mail cover on all my mail, as well as on the mail of my two roommates, who were not involved in political activity.

When I later received a copy of my FBI file, I found a report of a supposed visit to me by two FBI agents, who stated that I had declined to speak with them. This supposed visit never took place, but it permanently affected my view of the credibility of documents in law enforcement files.

In the same FBI file, I found that the FBI had stamped each page with a checklist of possible political categories that might apply. They had thoughtfully checked “anarchist” for me, which was not accurate, but considering that the alternatives, if I remember correctly, were “Nazi,” “Fascist,” and “Communist,” probably came closest to reality. However, I had never described myself that way orally or in writing. So, on the one hand, I appreciated the FBI’s helping me clarify my political viewpoints and on the other, I was outraged that my government had the nerve to try to define my political beliefs in an official law enforcement file.

While supporting striking workers at a factory with notoriously bad working conditions, I was approached by a man whom I had gotten to know in the course of the strike. He asked me to join him and a couple of the striking workers in setting fire to scabs’ cars—strikebreakers’ cars—that night. I was 20 years old. I had no love for the scabs, who were willingly trying to prevent workers from getting decent wages and working conditions. I

didn't want to appear to be weak and afraid. I came very close to saying yes. I said no, and that night two workers were arrested—the man who had approached me was a confidential informant working for the police department who had initiated and organized the entire plan. Subsequently, after he was exposed, he turned up at an anti-war rally, and apparently genuinely couldn't understand why people didn't want anything to do with him.

My primary political focus now is anti-Islamophobia work and work for a just resolution of the Israel/Palestine conflict. I have come to know Muslims and others whose personal lives, religious observances, and legal political work have been invaded by inappropriate police activities and who have had no recourse and no opportunity to become whole again.

Some of the experiences that I am citing have been with other police forces or with the FBI rather than with the NYPD. That is partly because I have more documentation of those. However, we know that the lines have become increasingly blurred. There is closer cooperation and joint activity between the NYPD and the FBI and other Federal agencies than ever. After 9/11, the ban on sharing information was dropped. The NYPD hired David Cohen, a former CIA official, as Deputy Commissioner for Intelligence. The NYPD opened an office in Israel. The NYPD is now claiming the right to invoke the Glomar rule, which has only applied up till now in relationship to international cases.

We have also seen Commissioner Bratton attempt to establish a unit to deal both with demonstrations and with "terrorism"; he pulled back only when the plan met with public outrage. And we have heard him condemn "cop-watchers," who have exposed police misconduct, as "an epidemic."

There is a constant tension between the desire of the NYPD—of any law enforcement agency—for as much power and as few constraints as possible and our need as the public for robust protections of civil rights and liberties. In the post 9/11 period, the pendulum has swung much too far toward unchecked police powers and needs to be greatly rebalanced to keep us from becoming an Orwellian surveillance society in the name of safety. As Benjamin Franklin said (in a very different context), "those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety." The proposed guidelines are a step in that direction, but they urgently need to be made stronger.

Thank you.