

# New York police continue to violate court safeguards in surveillance of Muslims

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According to a report released last month by the New York City Department of Investigations Office of the Inspector General for the NYPD (OIG-NYPD), as recently as last year the New York Police Department (NYPD) violated court-ordered safeguards against political spying as part of its ongoing surveillance of Muslim groups.

The report, “An Investigation of NYPD’s Compliance with Rules Governing Investigations of Political Activity,” examined the NYPD’s compliance with the Handschu Guidelines, initially established as part of a class action lawsuit in 1971. The guidelines were ostensibly aimed at limiting the surveillance by police of political activity and required police to regularly file records related to surveillance.

The guidelines were modified in favor of the police in 2003 as part of an NYPD lawsuit, allowing cops greater leniency in spying on religious and political organizations as part of “counterterrorism” efforts.

The guidelines could be modified again as part of a settlement in January of two anti-discrimination lawsuits, *Raza v. City of New York* and *Handschu v. Special Services Division*, which are currently awaiting a judge’s approval. The first case was filed by the New York Civil Liberties Union (NYCLU) and other civil rights groups on behalf of a Brooklyn imam, Hamid Hassan Raza, who avoided certain topics in his sermons out of fear of NYPD spying. The second is a complaint by Muslim and civil liberties organizations that the NYPD has violated the revised Handschu agreement of 2003 by failing to keep records of those that it spies on.

The OIG report focused on a sample of cases closed between 2010 and 2015, and notes that 95 percent of the individuals under investigation were Muslim or engaged in an activity associated with Islam.

The report discovered that the NYPD frequently

continued investigations after legal authorization had expired. In over half the cases reviewed, the NYPD failed to reauthorize the use of informants and undercover officers, and regularly failed to explain the role of informants and undercover officers in the investigation—despite the fact that this requirement is set forth in the NYPD Patrol Guide, which was revised along with the establishment of the Handschu Guidelines.

The report indicates that the police’s anti-democratic practice of spying on Muslims continued after 2014, when New York City Mayor Bill de Blasio, a Democrat, formally disbanded the NYPD’s notorious Demographics Unit, which used plainclothes officers to record the activities of Muslims in mosques, cultural centers and Muslim-frequented businesses.

The activities of the Demographics Unit were exposed in a Pulitzer-prize winning series by the Associated Press that led to a civil lawsuit, *Hassan v. City of New York*, based on the NYPD’s spying on Muslims in New Jersey (the unit operated across state lines). The lawsuit was dismissed by a federal district court, but it won an appeal last year.

John Miller, the NYPD’s deputy commissioner for counterterrorism and intelligence, defended the targeting of Muslims that the OIG-NYPD documented by stating, “If you’re investigating al-Qaida, and TTP [Tehrik-i-Taliban Pakistan] and ISIL [Islamic State of Iraq and the Levant] plots against New York City, your investigative targets are going to be who they are.” He has previously said that the recent settlements in Handschu case would not change the department’s current policy.

The NYPD, however, has recently announced that it would implement an electronic case tracking system for all Handschu-mandated investigations, presumably to

remind cops to submit extensions.

NYPD Commissioner Bill Bratton, who recently announced his resignation, said, “The NYPD has never suggested that protecting New York City from terrorism and adhering to the Handschu Guidelines were mutually exclusive outcomes.”

This statement expresses a fear in ruling circles that the blatant disregard for democratic rights will further discredit the police in the eyes of the population, who increasingly associate cops with spying and brutality, even as police are frequently outfitted with military grade equipment.

Earlier this month, de Blasio and Bratton both appealed to Congress to grant New York City \$100 million in anti-terrorism funding as part of the Homeland Security’s Urban Areas Security Initiative. In the past Bratton let slip that such operations, such as the establishment of a 300-officer counterterrorism unit, would be used against anti-police brutality protesters.

Following the proposed settlement for the Raza case in January, de Blasio’s law department attempted to block two Freedom of Information lawsuits by two Muslim-Americans, Samir Hashmi and Talib Abdur-Rashid, by invoking the Glomar doctrine. This is a legal principle that authorizes the government to refuse information requests by neither confirming nor denying the existence of secret operations. Trial courts ruled against the NYPD in Hashmi’s case, but in favor of it in Abdur-Rashid’s.

De Blasio’s “reforms” of the police reflect little more than a change in managerial style: under the guise of “anti-terror” operations police are allowed to spy on the population and stockpile military grade equipment but must submit the proper paperwork.



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