

ATTENTION ALL INDIVIDUALS AND ORGANIZATIONS WHO ENGAGE OR HAVE ENGAGED IN LAWFUL POLITICAL, EDUCATIONAL, SOCIAL OR RELIGIOUS ACTIVITY IN NEW YORK CITY:

YOUR RIGHTS MAY BE AFFECTED BY A SETTLEMENT IN THE HANDSCHU CIVIL RIGHTSCLASS ACTION.

PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 23(e) YOU ARE NOTIFIED AS FOLLOWS:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BARBARA HANDSCHU, et al.,

Plaintiffs,

71 Civ. 2203 (CSH)

-against-

SPECIAL SERVICES DIVISION, et al.,

Defendants.

BACKGROUND

In 1979, the Court certified a class in this civil rights action (“The Plaintiff Class”) defined as follows:

“All individuals resident in the City of New York, and all other persons who are physically present in the City of New York, and all organizations located or operating in the City of New York, who engage in or have engaged in lawful political, religious, educational, or social activities and who, as a result of these activities have, been, are now or hereafter may be subjected to or threatened by infiltration, physical and verbal coercion, photographic, electronic and physical surveillance, provocation of violence, recruitment to act as police informers and dossier collection and dissemination by defendants and their agents.”

In 1985, the Court approved a settlement of the action and entered a consent decree incorporating Guidelines governing the investigation of political activity by the New York City Police Department (“The Handschu Guidelines”).

In 2003, the Court approved the motion of the New York City Police Department (“NYPD”) for modifications to the Handschu Guidelines, and subsequently incorporated the modified guidelines governing investigation of political activity by the NYPD in the Consent Decree (“The Modified Handschu Guidelines”).

In 2007, the Court ruled that counsel for the Plaintiff Class (“Class Counsel”) are entitled to seek judicial relief when they can demonstrate that the NYPD systematically and repeatedly violated the Modified Handschu Guidelines to a degree sufficient to show an NYPD policy to act in such a fashion or when the NYPD adopts a policy that violates the Modified Handschu Guidelines.

On April 2, 2013, Class Counsel brought a Motion For Injunctive Relief and Appointment of a Monitor, alleging that the NYPD had a policy or practice that violated the Modified Handschu Guidelines in that the NYPD conducts investigations of individuals and organizations associated with the Muslim religion solely on the basis of religion, and without a factual predicate (the “Handschu Motion”).

Defendants have denied the allegations in the Handschu Motion and have denied any and all liability arising out of the Handschu Motion.

Beginning in August 2014, the Parties in this action and the parties in *Raza, et al. v. City of NY, et al.*, 13 CV 3448 (PKC) (JO)¹, an action filed in the United States District Court for the Eastern District of New York, entered into a Joint Settlement Process under a strict confidentiality agreement.

The Joint Settlement Process has resulted in further modifications to the Modified Handschu Guidelines, which, if approved by the Court, will settle the claims in the Handschu Motion in the manner and upon the terms summarized and described below.

¹The complaint in *Raza* alleged that Defendants have violated, and continue to violate the First and Fourteenth Amendment rights of the *Raza* plaintiffs in that the NYPD’s Intelligence Bureau has a policy or practice of investigating individuals and conducting surveillance unlawfully on the basis of religion. Defendants have denied the allegations in the *Raza* complaint.

SUMMARY OF SETTLEMENT TERMS, INCLUDING PROPOSED CHANGES TO THE MODIFIED HANDSCHU GUIDELINES

The full text of the proposed Modified Handschu Guidelines, showing the changes that are proposed, can be viewed at <http://www.nyclu.org/Handschu-Settlement>.

- Under the Amended Modified Handschu Guidelines, there will be an explicit commitment against investigations in which race, religion or ethnicity is a substantial or motivating factor.
- The Amended Modified Handschu Guidelines will require that the choice of investigative techniques should take account of the potential effect of the investigation on the political or religious activity of individuals, groups or organizations and the potential effect on persons who, although not a target of the investigation, are affected by or subject to the particular investigative technique.
- The Amended Modified Handschu Guidelines will require that undercover police officers and confidential informants may be used when taking into account all of 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 could not be reasonably obtained in a timely and effective way by a less intrusive means.
- Under the Amended Modified Handschu Guidelines, there will be presumptive time limits on investigations – before there were none. In addition, each investigation will be reviewed every six months.
- The Deputy Commissioner for Intelligence will continue to make the final decision whether or not an investigation should be opened, continued, or closed, but the Amended Modified Handschu Guidelines will provide for the establishment of a Handschu Committee, thereby institutionalizing and formalizing an existing collaborative decision-making process involving many NYPD participants with regard to opening, continuing and closing investigations.

- The Amended Modified Handschu Guidelines will add to the Handschu Committee a civilian representative, unaffiliated with the Police Department, as a full participant in the collaborative process with regard to the initiation, continuation and closing of investigations.²
- The civilian representative of the Handschu Committee will be endowed with the power and obligation to monitor compliance with the opening or extension of investigations under the Modified Handschu Guidelines. If the rules are being violated, the civilian representative will be required to record his or her objection in the minutes of the Handschu Committee. The civilian representative will be required to contact the Police Commissioner and to secure from the Commissioner a review of the opening or extension of an investigation for compliance with the Modified Handschu Guidelines. In addition, in the event that the civilian representative concludes that the NYPD is violating the Modified Handschu Guidelines as a matter of policy, he or she will be required to notify the Handschu Court of the violative policies and, with notice to class counsel, to seek judicial intervention.
- In addition to these changes to the Modified Handschu Guidelines, the NYPD will remove from its website the report entitled Radicalization in the West.
- If the settlement is approved by the Court, the City of New York has agreed to pay Plaintiff Class Counsel the sum of \$361,730.26 in full satisfaction of all claims for costs, expenses and attorneys' fees in connection with the Handschu Motion.

THE SETTLEMENT HEARING

A. Before the settlement can become final, it must be approved by the Court. Any affected person or organization may comment for or against the proposed settlement.

B. In order to give class members an opportunity to express their comments in support or objection to the settlement, a hearing will be held before the Hon. Charles S. Haight, Jr., at the courthouse, 500 Pearl Street, New York, NY 10007 on **April 19, 2016** at 10 a.m.

² The civilian representative is appointed for a five-year term and continues thereafter unless the position is abolished or modified by the Mayor. If the Mayor chooses to abolish this position, Class Counsel must be given 90 days advance notice. The plaintiff class will thus have an opportunity to mobilize popular opposition to the elimination of the civilian representative, if it should ever be proposed.

C. If you wish to comment for or against the settlement, you must register to comment by sending an email with your name and address to handschusettlement@gmail.com or by sending a letter with your name and address to Handschu Settlement, Clerk's Office, US District Court, 500 Pearl Street, NY, NY 10007. All emails and letters must be sent or postmarked on or before **April 5, 2016**. You may include the substance of your comment or objection in the email or the letter, but you are not required to do so. **Objections or comments will not be considered by the court unless you have given notice by email or by US Mail that you want to comment or object.** You may present your comments yourself or you may have an attorney present them for you. You are invited to attend the hearing whether or not you have given notice that you want to comment on the settlement.

D. This settlement, if approved by the Court, will be a full and final adjudication of the issues raised on behalf of the plaintiff class in the Handschu Motion and of any and all claims of violation of the Modified Handschu Guidelines that were known to plaintiff class counsel on January 7, 2016.

Dated: New York, N.Y.
February 10, 2016

/s/Charles S. Haight, Jr. _____
Hon. Charles S. Haight, Jr.
Senior United States District Judge