



New York Civil Liberties Union Fdtn
125 Broad Street, 19th Floor
New York, NY 10004
(212) 607-3300
www.nyclu.org

Arthur Eisenberg
Executive Counsel
Arthur.Eisenberg@nyclu.org

December 15, 2025

Peter G. Farrell
Senior Counsel
New York City Law Department
100 Church Street
New York, NY 10007-2601

Dear Peter,

We write, in our capacity as *Handschu* class counsel, regarding a *Joint Situational Report* (hereafter “Joint Report”), dated August 28, 2025. The Joint Report is apparently the result of surveillance undertaken by an undisclosed informant. The informant collected conversations from an encrypted chat among a loose coalition of individuals engaged in the monitoring of immigration court proceedings in New York City. What purport to be summaries of those conversations appear in the Joint Report.

Observing and reporting on public judicial proceedings are generally considered to be lawful activities protected by the First Amendment. Monitoring the public activities associated with immigration court proceedings deserves similar constitutional protection. The title of the Joint Report suggests that it is the product of the joint efforts of the FBI and the NYPD. The Joint Report itself, however, states repeatedly that it is the product of the FBI NY Division. As counsel for the plaintiff class in *Handschu*, we need to know more about the involvement of the NYPD in the surveillance described in the Joint Report and in the drafting and the subsequent dissemination of the Report to other law enforcement agencies.

We are aware of the statement made by Muhammad Faridi, the Civilian Representative on the *Handschu Committee*, and published in *The City* on November 21. We are also aware of the comments made by NYPD Commissioner Jessica Tisch in a conversation with NYCLU Executive Director Donna Lieberman. Those comments suggest that the investigation was not directed at the court-watching coalition but was focused on an individual suspected of planning to engage in potentially violent conduct. We do not doubt the truthfulness and good faith of the representations offered by the Police Commissioner and the Civilian Representative, but it is not

clear to us whether, and to what extent, this was an NYPD operation, and questions about compliance with the Handschu Guidelines remain unanswered.

If this was in fact a joint operation, the first question relates to the investigative intrusion into the conversation of the court-watching coalition and the obligation of the NYPD to balance competing interests and to use “less intrusive” investigative methods where, as here, core First Amendment rights are implicated. The second question concerns the propriety of disseminating the Joint Report to other law enforcement agencies given the content and inflammatory rhetoric of the Report.

The Joint Report describes information gathering activities pertaining to a serious and continuing controversy about the behavior of immigration officials, in general, and ICE officers, in particular. Immigration court proceedings should serve as dignified venues for the fair adjudication of our immigration laws. Instead, the chaotic conduct of ICE and other federal law enforcement officials at sites in and around the immigration courts has been deeply disruptive. The corridors leading to and from the immigration courtrooms have been turned into combat zones as masked ICE officials have imposed a regime of abuse and intimidation. The masking of ICE officials has been particularly controversial, which was why the participants in the conversations recounted in the Joint Report seemed so intent upon securing the identities of potentially abusive officers.

Court-watching organizations, such as the coalition at issue here, believe it important to document the shockingly abusive misconduct of ICE in the immigration courtroom facilities and to report on the adverse impediments to the fair administration of justice created by ICE. And so it is. Documenting and reporting on such conduct is entitled to plenary First Amendment protection.

The Handschu Guidelines require that, before undertaking highly intrusive surveillance into core First Amendment activity, the NYPD must engage in a balance of countervailing interests. It should “consider whether the information [sought by using intrusive investigative techniques] could be obtained in a timely and effective means by less intrusive means.” Guidelines, Sec. VII(2). The Guidelines further require that the NYPD consider “the potential effect on the political . . . 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 technique.” Guidelines, Sec. VII (1) (iii). That is precisely the circumstance we have here. Again, we do not know whether the NYPD was involved in any way in the surveillance of the court-watchers’ group chat. But, if it was involved, we ask whether NYPD officials engaged in the balancing of interests required by Section VII of the Guidelines.

We are additionally concerned by the dissemination of the Joint Report to other law enforcement agencies and the possible involvement of the NYPD in the drafting and distribution of that document. The content of the Joint Report intrudes upon the First Amendment-protected associational activities of the court-watching coalition by summarizing the conversations of

participants in the group chat and by describing the coalition's political strategies. In doing so, the Report identified no anticipated acts of violence or other seriously unlawful activity. The Joint Report did, however, suggest that the court-watching coalition included "anarchists [and] violent extremist[] actors" who "target law enforcement officers and federal facilities." It does so, again, without providing any facts, evidence, or documentation to support this claim. Here, again, it does not appear that consideration was given to "the potential effect on the political . . . 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 technique." Guidelines, Sec. VII (1) (iii).

For this reason, the distribution of this Report, if undertaken by the NYPD, would conflict with policy commitments set forth in the Handschu Guidelines. At the heart of the Guidelines is the policy that "investigations not be based solely upon activities protected by the First Amendment." Sec. II of the Guidelines. Yet, the factual content of the Joint Report pertains solely to First Amendment protected activities. It contains no facts indicating that the court-watchers were engaged in or planning unlawful activity warranting law enforcement investigation.

Moreover, Section VIII of the Guidelines speaks to the dissemination of information. This section imposes a range of conditions which must be satisfied before the NYPD is permitted to distribute information acquired during an investigation. Central to this set of conditions is the requirement that the information transmitted by the NYPD must have been acquired "pursuant to these Guidelines", that is in a manner consistent with the Guidelines. It follows that if the information in the Joint Report was gathered in a way that violated the Guidelines' requirement that "less intrusive" investigative techniques should have been considered and employed, this Report cannot be regarded as having complied with the Handschu Guidelines and should not be disseminated by the NYPD.

Because of these serious concerns about compliance with the Handschu Guidelines, we would like to meet with you and officials of the Intelligence Division to learn more about the NYPD's involvement in this episode and to discuss the two sets of Handschu concerns that we have identified above. We do so in an effort to avert future misunderstandings and possible missteps of the sort suggested here.

Sincerely,



Arthur Eisenberg

Daniel Lambright

Perry Grossman

New York Civil Liberties Union Foundation

125 Broad Street, 19th Floor

New York, NY 10004

Jethro Eisenstein
Profeta & Eisenstein
515 West End Avenue, Suite 1A
New York, NY 10024

Franklin Siegel

Gideon Oliver
277 Broadway, Suite 1501
New York, NY 10007

cc: Handschu Civilian Representative Muhammad Faridi