

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BARBARA HANDSCHU, RALPH DiGIA, ALEX
MCKEIVER, SHABA OM, CURTIS M. POWELL,
ABBIE HOFFMAN, MARK A. SAGAL, MICHAEL
ZUMOFF, KENNETH THOMAS, ROBERT RUSCH,
ANNETTE T. RUBINSTEIN, MICKEY SHERIDAN, JOE
SUCHER, STEVEN FISCHLER, HOWARD BLATT,
ELLIE BENZONI, on behalf of themselves and all others
similarly situated,

**DECLARATION OF
STEPHEN HOBAN**

71 Civ. 2203 (CSH)

Plaintiffs,

- versus -

SPECIAL SERVICES DIVISION, a/k/a Bureau of Special
Services; WILLIAM H.T. SMITH; ARTHUR GRUBERT;
MICHAEL WILLIS; WILLIAM KNAPP; PATRICK
MURPHY; POLICE DEPARTMENT OF THE CITY OF
NEW YORK; JOHN V. LINDSAY; and various unknown
employees of the Police Department acting as undercover
operators and informers,

Defendants.

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DECLARATION OF STEPHEN HOBAN

STEPHEN HOBAN, declares under penalty of perjury and pursuant to 28 U.S.C. §1746
that the following statements are true and correct:

1. I have been employed by the New York City Police Department (“NYPD”) since July
1989, and have held the rank of Detective since December 1997. I submit this declaration in
support of Defendants’ Opposition to Class Counsel’s Motion for Injunctive Relief and
Appointment of an Auditor or Monitor. This declaration is based upon my personal knowledge
and upon my review of official NYPD documents and reports.

2. For the relevant period of January 2012 through September 2012, I was assigned to the NYPD Intelligence Division's Terrorist Interdiction Unit and, as part of my assignment, was responsible for assisting in the recruitment and management of confidential informants.

3. In the recruitment and management of confidential informants, specific information relating to an investigation is rarely shared with a confidential informant. For example, a confidential informant is typically *not* told or provided the following information: (i) an overview of the investigation, (ii) the legal predicate for the investigation, or (iii) the informant's relative role in the investigation. In addition, on a case by case basis, a confidential informant may or may not be informed which individual(s) he or she is interacting with are of investigative interest to the NYPD. Providing a confidential informant with this type of sensitive information would be dangerous because of the risk that the confidential informant would intentionally or unintentionally disclose that information, and thereby jeopardize both the investigation and his or her safety, the safety of NYPD personnel, and the safety of those under investigation (potential retaliation against them, either here or abroad). In addition, it could compromise the integrity of an investigation by influencing the informant's reporting, as well as his or her interaction with the subjects of the investigation.

4. Because a confidential informant does not have a complete understanding of an investigation, an informant that speaks publicly is likely to disseminate false and misleading information based solely on a limited knowledge and partial understanding of an investigation.

Shamiur Rahman

5. In my official capacity, I assisted in the recruitment of Shamiur Rahman ("Rahman") as a confidential informant. Rahman was utilized by the NYPD as a confidential informant from January 2012 to September 2012, a period of approximately eight months.

6. During that same time period, I served as Rahman's "handler." As Rahman's "handler," I was his primary contact with the NYPD and was responsible for maintaining the NYPD's relationship with him, tasking him, managing information received from him, and addressing any crimes or threats he reported.

7. I reviewed the raw information Rahman collected, and memorialized information that had intelligence value and was relevant to the investigation. Information reported that was not relevant and of no intelligence value was not retained.

8. Shortly after Rahman began his service as a confidential informant with the NYPD, he began to report on the activities of a small group of individuals that, unbeknownst to him, included subjects of a Preliminary Inquiry authorized under the Modified Handschu Guidelines. Rahman also unknowingly provided limited and incidental reporting on individuals who were subjects of a Terrorism Enterprise Investigation, and a Full Investigation.

9. Rahman was **never** told the identities of the subjects of any NYPD investigation. He was **never** provided with an overview of any NYPD investigation, was **never** told his relative role in any NYPD investigation, and was **never** told the legal predicate for any NYPD investigation.

10. Rahman was **never** told to "spy on the Muslim community."

Rahman's Role in The Handschu Investigations

11. Rahman was initially tasked to attend a public event where subjects of a Preliminary Inquiry being conducted under the Modified Handschu Guidelines would be in attendance. The location of this event was a public seminar at the John Jay College of Criminal Justice ("John Jay") organized by the school's Muslim Students Association ("MSA"). Two individuals that were subjects of the Preliminary Inquiry had stated publicly on their Facebook pages that they

would be attending the seminar, and a third had indicated he might. In addition, the subjects of two Full Investigations being conducted under the Modified Handschu Guidelines had both stated they would be present at the seminar. Rahman was **never** told the foregoing facts for the reasons stated in paragraph 3.

12. Rahman was tasked to attend the event, and told to report generally on the individuals in attendance. The undisclosed reason he was sent was to make contact with members of a group of individuals that included subjects of a Preliminary Inquiry and their close associates (“the group”), which is exactly what happened. While there, Rahman was provided a direct introduction to members of the group, and from that point on had a relationship with “the group.”

13. Rahman was tasked to “stay with the group” when possible, report on the activities and rhetoric of “the group,” go where they went, and maintain a relationship with the individuals in “the group.”

14. Rahman was **never** instructed to “infiltrate” the MSA at John Jay, and the MSA at John Jay was **never** a named subject of any investigation authorized under the Modified Handschu Guidelines. The subject(s) of the Preliminary Inquiry were individuals who happened to attend events organized by the MSA at John Jay. As previously stated, Rahman was tasked to stay with “the group” and that brought him to the John Jay MSA, as well as to a variety of locations.

15. Rahman was **never** tasked to, nor did he as far as I know, engage in what he refers to as a “create and capture” methodology. There are 57 field reports documenting Rahman’s work as an informant. In reviewing those field reports, it is clear that Rahman did not use what he refers to in his declaration as a “create and capture” strategy, where in his words, he was to “start an inflammatory conversation about jihad or terrorism and then capture the response to send to

the NYPD.” None of the 57 field reports record any such tactic. To the contrary, based on the reporting contained in the field reports, on several occasions where it appears Rahman had an opportunity to start or engage in an inflammatory conversation, he did not. Rahman was never told to “infiltrate” mosques. For the purpose of staying with “the group,” Rahman did visit more than half a dozen mosques while working as a confidential informant, usually at his or the group’s initiative.

16. On the rare occasion Rahman was told by me to go to a specific mosque, it was only because I had information indicating members of “the group” were expected to be there. While Rahman was tasked to report on rhetoric from “the group,” Rahman was never tasked to report on “radical rhetoric” heard at the mosques. None of the mosques visited by Rahman in his capacity as a confidential informant were ever the subject of any investigation Rahman was assigned to work on.

17. Rahman was never tasked to report on what any Imam said; additionally, none of the field reports reflecting his reporting contain any information regarding what an Imam said. Lectures of the Imams’ were not reported in the field reports, nor were the names of attendees not affiliated with the Preliminary Inquiry.

18. In the course of Rahman’s assignment, he accompanied “the group” to a number of other locations and events, including events hosted by the Islamic Circle of North America (“ICNA”) and the Muslim American Society (“MAS”).

19. ICNA and MAS were never subjects of the Preliminary Inquiry Rahman was working on, and he was never told to investigate or “assigned to infiltrate” these organizations. Rahman was tasked to go to an event sponsored by ICNA only because, prior to the event, several members of the group publicized their intention to be there. Rahman and “the group”

made the determination to attend the event associated with MAS entirely on their own. Rahman and "the group" intended to observe I'tikaf (a spiritual retreat in a mosque, occurring most commonly over the last ten days of Ramadan) at Masjid al-Ansar, but the masjid was overcrowded and could not accommodate them. As a result, they spontaneously went to the MAS Youth Center because it was "a bigger place and probably had more room." I was told they went there after-the-fact.

Dated: New York, New York
May 16, 2013


STEPHEN HOBAN