SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

JAMES LOGUE, Index No.

Petitioner,

-against-

NEW YORK CITY POLICE DEPARTMENT, and WILLIAM BRATTON, in his official capacity as Commissioner of the New York City Police Department,

Respondents.

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**MEMORANDUM OF LAW IN SUPPORT OF JAMES LOGUE'S VERIFIED PETITION**

Petitioner James Logue ("Petitioner" or "Mr. Logue"), by his attorneys Stecklow and Thompson, respectfully submits this memorandum of law in support of his application, pursuant to Article 78 of the CPLR for judicial review of the denial by Respondents New York City Police Department and Commissioner William Bratton (collectively, "Respondents" or "NYPD") of Petitioner's request for records under New York's Freedom of Information Law ("FOIL"), and for an Order that the records requested be disclosed herewith.

The relevant facts are set forth in the Verified Petition, dated May 10, 2016 and the Affidavit of James Logue ("Logue Aff."), with exhibits annexed, sworn to on May 10, 2016, submitted herewith.

## ARGUMENT

As discussed below, Petitioner's request must be granted because Respondents abused their discretion and unlawfully denied disclosure under FOIL. Respondents' intentionally vague denial in no way demonstrated that the requested information falls within any statutory exemption. The blanket denial Respondents claimed was furthermore entirely speculative, at best, and not at all grounded in the particularized refusal required under FOIL. Indeed, it appears certain that Respondents never undertook a review of the requested records to identify those documents and portions thereof that can be produced consistent with Respondents' purported objections.

In contrast, two other agencies, the Metropolitan Authority Police ("MTA") and Metro North Railroad ("Metro North"), which received the identical request from Petitioner, each disclosed a substantial number of records, some evidentially in the NYPD's possession, and all of the same nature of the records that the NYPD unlawfully refused to disclose.

Respondents' unlawful denial has the effect of frustrating public scrutiny of NYPD surveillance of political protests, at a time when both the media, and the courts, have taken a keen interest in the NYPD's spying on First Amendment-protected political activities.[1] As this memorandum will establish, the information Petitioner sought is presumptively available to the public, Petitioner is entitled to obtain copies of all records relating to this matter of public interest, which do not fall within the very limited

[1] *See, e.g.*, Logue Aff., ¶ 12 (a-c) and Exs. L and M; *see also* Ex. A, annexed hereto, a filing from the pending *Handschu* class action proceedings against the NYPD in the United States District Court, Southern District of New York (No. 71-cv-2203), concerning proposed settlement of a dispute over NYPD surveillance of political activity in apparent violation of the U.S. Constitution. The Court may take judicial notice of the annexed filing in the *Handschu* proceeding, as an indication of the public scrutiny and interest arising from NYPD's surveillance of political protests. CPLR 4511.

exceptions to FOIL, and Petitioner should be compensated for his reasonable attorney's fees and costs in bringing this proceeding.[2]

## POINT I

## THE REQUESTED GOVERNMENT RECORDS ARE CLEARLY WITHIN THE SCOPE OF FOIL AND ARE PRESUMPTIVELY OPEN TO INSPECTION BY THE PUBLIC

The Court of Appeals has explained the broad public policy underlying FOIL as follows:

> The Freedom of Information Law expresses this State's strong commitment to open government and public accountability and imposes a broad standard of disclosure upon the State and its agencies. The statute, enacted in furtherance of the public's vested and inherent "right to know," affords all citizens the means to obtain information concerning the day-to-day functioning of State and local government thus providing the electorate with sufficient information to 'make intelligent, informed choices with respect to both the direction and scope of governmental activities' and with an effective tool for exposing waste, negligence and abuse on the part of government officers.

*Matter of Capital Newspapers v. Burns*, 67 N.Y.2d 562, 565-66 (1986) (citations omitted). Accordingly, under FOIL, it is well-settled that government records are presumed to be open to public inspection. *Matter of Capital Newspapers*, 67 N.Y.2d at 566; *Scott, Sardano & Pomeranz v. City of Syracuse*, 65 N.Y.2d 294, 296 (1985). Further, "the status or need of the person seeking access is generally of no consequence in construing FOIL and its exemptions." *Matter of Capital Newspapers*, 67 N.Y.2d at 567.

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[2] Petitioner has standing to bring this proceeding pursuant to CPLR Article 78. N.Y. Public Officers Law § 89(4)(b) provides that when a request for records under FOIL is denied following an administrative appeal, the requestor may bring a judicial proceeding for review of such denial pursuant to CPLR Article 78.

Here, Petitioner's request falls squarely within the enumerated public policy considerations. Mr. Logue requested records (1) to satisfy the public's right to know the extent to which the NYPD dedicated resources to surveil political protests, in particular those associated with the Black Lives Matter movement; and (2) to discern the extent to which the NYPD collaborated with other governmental agencies to collect information, monitor, and infiltrate the Black Lives Matter movement in New York City. In the final decision denying Petitioner's December 4, 2015 appeal, Respondents' did not dispute this point. Instead, Respondents attempted to invoke a litany of purported exemptions on grounds that are so entirely hypothetical that they defy scrutiny.

In sum, there can be no good-faith dispute that the records at issue here, no less than any other government records, are subject to FOIL and to the presumption that they are open to public inspection.

## POINT II

## RESPONDENTS ABUSED THEIR DISCRETION AND UNLAWFULLY DENIED PETITIONER ACCESS TO THE REQUESTED DOCUMENTS BY FAILING TO COMPLY WITH THEIR OBLIGATIONS UNDER FOIL

This application arises from Respondents' misapplication of FOIL and abuse of their discretion by denying Petitioner's FOIL request and by causing a substantial and unwarranted delay in the release of the requested documents. *See* CPLR 7803(3). As demonstrated below, Respondents' denial lacks rational basis, and appears calculated, moreover, in the agency's studied avoidance of obligations under FOIL, to thwart judicial review.

## A. Respondents Improperly Denied Access to the Records Without First Reviewing Them

It is well-settled that an agency may not deny records without first reviewing them and stating with particularity the reasons for denial. *Cornell University v. City of New York Police Dept.*, 153 A.D.2d 515 (1st Dep't 1989), *leave denied*, 75 N.Y.2d 707 (1990); *Grune v. Alexanderson*, 168 A.D.2d 496 (2d Dep't 1990) (agency failed to identify with specificity those portions of records claimed to be exempt); *Burton v. Slade*, 166 A.D.2d 352 (1st Dep't 1990) (abuse of discretion for agency to deny access without reviewing documents and stating with particularity reasons for denial).

The agency's showing must be detailed enough for the court to make its own evaluation of any claim that disclosure of the government records risks harm so grave as to outweigh the public benefit of the presumption of open public access. The agency must establish the grounds for a refusal with sufficient detail for the court to determine whether *in camera* review is appropriate. "It would frustrate the intent and policy of [FOIL] to permit a public official to determine according to his own judgment what is, or is not, confidential and to withhold disclosure accordingly." *Matter of Gannett Co.*, 59 A.D.2d at 312 (4th Dep't 1977) (citations and quotations omitted).

Here, it is evident that Respondents did not review the requested records on a document-by-document basis before denying Petitioner's FOIL request. *See* Ex. Q, Logue Aff.; *see also, id.*, Ex. O. Instead, Respondents offered mere speculations that certain exemptions could potentially, perhaps, might just apply without reference to the responsive documents at issue. The final denial from the NYPD only supposes that "the requested records, if in existence, would be exempt" under FOIL. *See* Ex. Q, Logue Aff.

(emphasis added). It is clear that Respondents did not search for or review documents responsive to Petitioner's FOIL request.

It is furthermore clear that Respondents, in the final refusal, abused their discretion by shedding doubt as to whether the requested records exist, when, in fact, they do. In the set of documents disclosed by the MTA, in response to Petitioner's same FOIL request, there are no less than 30 email communications sent to or from Anthony D'Angelis, identified therein as a NYPD employee ("NYPD CTD Liaison") and as using the NYPD-issued email address "ANTHONY.DANGELIS@nypd.org." *See* Ex. J, Logue Aff. These 30 records fall squarely within Petitioner's request, see Ex. D, Logue Aff., and should most certainly be in the NYPD's possession. Yet, Respondents denied Petitioner's appeal by falsely implying the requested records may not even exist.

The MTA's and Metro North's disclosures, moreover, evidence frequent communication between the agencies and the NYPD about the protests at Grand Central Terminal, and delivery of numerous photographs of those protests from the MTA and Metro North to the NYPD. *See* Exs. J and K, Logue Aff. Copies of the NYPD's own communications with these agencies and of other photographs shared with the NYPD related to the protests in Grand Central Terminal are among the records Petitioner requested. Consequently, on the basis of this evidence alone,[3] contrary to the NYPD's

[3] By referencing these responsive communications and photographs, Petitioner is not limiting the scope of responsive records in NYPD's possession to merely its communications about the protests with the MTA and Metro North and to photographic images of the protests NYPD received from the MTA and Metro North. Petitioner's request broadly asked for all communications sent to or from the NYPD about the protests in Grand Central Terminal (item 4) and all recordings of the Grand Central protests that the NYPD itself collected or received, from any source (item 1). Petitioner remains entitled to receive all documents responsive to his request.

assertions in the final denial, responsive documents exist that Respondents should have reviewed prior to issuing the denial.

**B. Respondents Failed to Meet Their Burden to Demonstrate Any Statutory FOIL Exemption Could Justify Their Blanket Denial of the Requested Records**

Even if Respondents had satisfied their obligation to review the information sought, the presumption that government records must be disclosed in full can only be overcome if the agency demonstrates that it is entitled to one of the ten exemptions from complete disclosure specified in the statute. *See* POL § 87(2)(a) through (j). An agency that seeks to prevent or limit disclosure carries the burden of demonstrating that the requested material falls squarely within a FOIL exemption by articulating a particularized and specific justification for denying access. *Fink v. Lefkowitz*, 47 N.Y.2d 567, 571 (1979); *Matter of Capital Newspapers,* 67 N.Y.2d at 566, 505; *Matter of Legal Aid Society of Northeastern N.Y. v. New York State Dep't of Social Servs.*, 195 A.D.2d 150, 153 (3d Dep't 1993). Conclusory allegations are insufficient to meet the agency's burden of proof. *See Matter of Key v. Hynes*, 205 A.D.2d 779, 780-81 (2d Dep't 1994); *Mooney v. State Police*, 117 A.D.2d 445 (3d Dep't 1986) (respondent failed to meet burden of entitlement to a statutory exemption by failing to offer any factual basis on which to determine whether [protection of confidential sources] would be impeded by disclosure of the items requested"); *American Soc'y for Prevention of Cruelty to Animals v. State Univ. of New York at Stony Brook*, 147 Misc. 2d 847 (Sup. Ct., Suffolk Cty. 1990) (holding "conclusory assertions by respondents without interjection of specifics related to the documents at hand belie their arguments and

prohibit the exclusion sought"). Moreover, "[e]xemptions are to be narrowly construed to provide maximum access." *Matter of Capital Newspapers*, 67 N.Y.2d at 566.

A blanket conclusory denial, without factual support, is not sufficient to sustain an agency's burden of proof. Respondents may not deny access to an entire category of records merely because some portion may be exempt. Indeed, "the burden of establishing a blanket exemption covering all of the records requested is especially heavy." *Matter of Buffalo Broadcasting Co., Inc. v. New York State Dep't of Correctional Servs.*, 174 A.D.2d 212, 216 (3d Dep't 1992). Respondents are very far from meeting that burden here.

Instead of presenting particularized, factual explanations for its blanket denial, Respondents piled speculation on top of a hypothetical — having not identified documents at issue — but claiming nonetheless that "any such records" "if in existence" would cause a series of grave harms if disclosed. *See* Ex. Q, Logue Aff. Respondents' denial is so wholly contrary to Respondents' obligations under FOIL as to frustrate Petitioner's ability, much less the Court's ability, to challenge the statutory grounds Respondents cited for their refusal. Indeed, while Respondents specifically cites POL §§ 87(2)(e)(i),(iii)(iv) and 87(2)(f) as grounds to refuse "any such records" "if in existence," Respondents then add opaquely that "[o]ther exemptions under FOIL may apply." Ex. Q, Logue Aff.

It is thus unclear which universe of exemptions are at issue here, and entirely unknown why they would apply to an unidentified set of requested documents that Respondents claim may or may not exist. Respondents' refusal is so vague as to impede judicial review, as well as review by Petitioner herein. *See, cf., Johnson v. City of*

*New York Police Dept.*, 257 A.D.2d 343, 349 (1st Dep't 1999) (NYPD's unsupported blanket denial precluded the court from issuing a summary disposition of petitioner's FOIL request, forcing it to order instead an *in camera* review).

In contrast to Respondents' unsupported blanket denial, both the MTA and Metro North, from whom Petitioner requested the same records, each disclosed well over 100 pages of documents related to the protests at Grand Central Terminal. Both these agencies, like Respondents, asserted the public safety exemption under FOIL (POL § 87(2)(f)). Unlike Respondents, however, they properly and sufficiently addressed concern for certain police officers' safety, by redacting those officers' contact information, as well as the names of undercover police officers. *See* Exs. F and H, Logue Aff.

Respondents' impenetrable denial of access is starkly contrasted by these other agencies' lawful disclosures to Petitioner, especially considering that the MTA is similarly situated to the NYPD in its law enforcement capacity. Based on the foregoing, Respondents misapplied FOIL and in bad faith obscured theri reasons for denying Petitioner's request to such an extent as to frustrate judicial review.

## POINT III

## REASONABLE ATTORNEY'S FEES AND COSTS SHOULD BE ASSESSED AGAINST RESPONDENTS

FOIL authorizes courts to award reasonable attorney's fees and costs to a prevailing petitioner when (i) the agency lacked a reasonable basis for denying access; or (ii) the agency did not respond to the request or appeal within the statutory time. POL § 89(4)(c).

The NYPD had no reasonable basis in law for its blanket denial of access and its summary rejection of the FOIL request. At a minimum, Respondents should have reviewed the requested documents and, if necessary, redacted any information warranting legitimate safety or investigative concerns, and produced the remaining requested documents. Instead, Respondents produced nothing other than a grossly speculative, vague, and baseless denial, in avoidance of their obligations under the plain language of FOIL.

Equally plain is Respondents' unwarranted delay in responding to the request, taking over eight months to make their initial denial, when only twenty business days is statutorily allowed. *See* POL § 89(3)(a); Exs. D and O, Logue Aff. Any excuses Respondents might proffer for requiring eight months to assess Petitioner's request is belied by the vacuous denial it issued on November 6, 2015.

Accordingly, Petitioner respectfully requests his attorney's fees and costs in pursuing this Article 78 proceeding. *Kohler-Hausmann v. City of New York Police Dept.*, 215 NY Slip Op 08084, Index No. 10079/13 (1st Dep't Nov. 10, 2015) (awarding fees and costs); *Perlmutter v. City of New York Police Dept.*, 2013 NY Slip Op, Index No. 10220/13 (Sup. Ct., N.Y. Cty. Oct. 17, 2013) (same).

## CONCLUSION

For the foregoing reasons, the Petition should be granted.

Dated: New York, NY
May 10, 2016

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*Counsel for Petitioner James Logue*

# Memorandum of Law
# EXHIBIT A

**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF NEW YORK**

**----------X**

BARBARA HANDSCHU, et al.,

Plaintiffs, No. 71 Civ. 2203 (CSH)

-against-

POLICE DEPARTMENT OF THE CITY OF NEW YORK, et al., **APRIL 27, 2016**

Defendants.

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**RULING ON FORM OF FURTHER PROCEEDINGS IN FAIRNESS HEARING**

**HAIGHT, Senior District Judge:**

This Ruling considers the extent and nature of further proceedings to be taken during the course of a fairness hearing currently being conducted by the Court in this class action civil rights case. The fairness hearing was convened in order to inform and assist the Court in its evaluation of whether a proposed settlement of certain pending disputes is fair and reasonable.

## I. BACKGROUND

Familiarity is assumed with respect to the history of the case and the prior opinions of this Court and the Second Circuit.

For present purposes, it is sufficient to say that the action was filed in 1971. Sixteen individual plaintiffs, the first-named being Barbara Handschu, who were affiliated with certain political action groups, sued the NYPD and New York City officials for a declaratory judgment and

injunctive relief on a claim that various surveillance and other activities of the NYPD violated their constitutional rights. Judge Weinfeld denied the defendants' motion to dismiss the complaint, 349 F.Supp. 766 (S.D.N.Y. 1972). Discovery then ensued. I succeeded the late Judge Weinfeld as the trial judge. In 1979 this Court certified a class of plaintiffs, in terms quoted in 605 F.Supp. 1384, 1388 (S.D.N.Y. 1985). That opinion, following a fairness hearing conducted by the Court, approved as fair and reasonable a settlement proposed by Class Counsel and the City's Corporation Counsel, pursuant to which a consent decree was entered, and the "Handschu Guidelines" were promulgated to regulate and control the NYPD's surveillance activities. A number of class members, dissatisfied with the proposed settlement, objected to it during the fairness hearing. When their objections did not prevail, the objectors appealed this Court's approval of the settlement. The Second Circuit affirmed this Court's judgment. 787 F.2d 828 (2d Cir. 1986).

Following the dreadful events of September 11, 2001, the City asked the Court to modify the Handschu Guidelines in certain respects. The Court granted that motion and, over Class Counsel's objection, approved the Modified Handschu Guidelines, 273 F.Supp. 2d 327 (S.D.N.Y. 2003), and incorporated them into the Court's Judgment, 288 F.Supp.2d 411 (S.D.N.Y. 2003). No appeal was taken from the approval or entry of the Modified Handschu Guidelines.

According to the most recent submissions of Class Counsel, beginning in August 2011 articles and reports appeared in the press which described an NYPD policy of using undercover officers and confidential informants to gather information about political activity in circumstances where there was no indication of criminal activity: conduct which targeted places of worship and association within the City's Muslim communities. Class Counsel regarded these activities as violating the Modified Handschu Guidelines. They filed a motion in this action, before this Court,

for injunctive relief and the appointment of a monitor who would oversee the activities of the relevant NYPD intelligence unit. Corporation Counsel, on behalf of the city and NYPD, denied that the NYPD had violated the Modified Handschu Guidelines. Discovery ensued, as directed by orders of the Court.

At about the same time, a group of individuals filed an action against the City and NYPD in the Eastern District of New York before Judge Chen. *See Raza, et al. v. City of New York, et al.*, No.13-CV-3448 (PKC) (E.D.N.Y.). The plaintiffs in *Raza* are members of the Muslim community who claim that the NYPD's surveillance activities have violated their rights under the United States Constitution; they do not allege violations of the Modified Handschu Guidelines (which may be asserted only by Class Counsel in *Handschu*). Judge Chen directed discovery in *Raza*.

It came to pass that as discovery in these two separate but Muslim-related cases went forward, the surfacing of certain documents and other circumstances overlapped, to the extent that Class Counsel in *Handschu*, plaintiffs' counsel in *Raza*, and the Corporation Counsel, defending both cases, began to discuss, and eventually negotiated, the proposed settlement which, if approved by this Court, would resolve both cases.

It should be noted that this Court's obligation to hold a fairness hearing is derived solely from the *Handschu* case's status as a class action. If Judge Chen, sitting across the River, were presented with a stipulation of settlement in the *Raza* case standing alone, she would have no discernible responsibility to hold a fairness hearing. The *Raza* plaintiffs and their attorneys attended and spoke at the *Handschu* fairness hearing conducted by this Court principally because those plaintiffs are also members of the Handschu class, and the claims they assert against the NYPD are typical of those lying at the heart of *Handschu* since its inception in 1971.

The proposed settlement, if approved by the Court, would amend the Modified Handschu Guidelines in certain respects, and create a "Handschu Committee" within the NYPD, one of whose members would be a "Civilian Representative" with specified attendance privileges and oversight powers and responsibilities.

## II. THE FAIRNESS HEARING

Class Counsel and the Corporation Counsel published notice of the proposed settlement and fairness hearing in the public press. A Court order specified the form and contents of the notice, the newspapers where it would be published, the dates of publication, and the dates for the hearing. The fairness hearing was scheduled for April 19 and April 20, 2016, in the 500 Pearl Street Courthouse. Members of the public wishing to be heard at the hearing were directed to file a notice of that intention with the Clerk by April 5, together with (at the filer's option) a written statement of their comments about the settlement, pro or con.

While some criticism has been voiced about the timing and promulgation of the notice, by April 5 over 100 individuals or entities had filed statements of intent or responsive documents with the Clerk, and 33 individuals (everyone who wished to be heard) spoke during the hearing on April 19 and April 20. These statistics suggest that the notice adequately performed its desired due process function. The intelligent, articulate and often impassioned speakers at the fairness hearing came from a broad spectrum of the large and vibrant Muslim community in New York City. The Court heard from lawyers, physicians, religious leaders, social activists, leaders and members of community or faith organizations, students, and unaffiliated individuals who wished their personal views to be heard. Some speakers also submitted written statements. The Court received additional written comments from individuals or entities who did not speak at the hearing. All proceedings at

the hearing were transcribed by Court reporters. Some comments, oral and written, favored the proposed settlement and urged the Court to approve it. Others opposed the settlement and urged revision or rejection.

It is certainly arguable that the present record is sufficient to allow the Court to exercise its discretion at this time and approve or reject the proposed settlement. When the original Handschu Guidelines were being considered in the context of an earlier proposed settlement between the Class and the City, this Court approved that settlement, after conducting a fairness hearing and considering other evidence in the record. The Second Circuit, in affirming the judgment, stated:

> [T]he record contains a quantity of information which the district court was able to use in evaluating the proposed compromise. This included affidavits from police officials concerning political surveillance and intelligence gathering activities, police departmental guidelines for these operations, pertinent academic commentaries, and decisions in state litigation involving similar issues. The district court correctly concluded that it would be inconsistent with the salutary purposes of settlement to conduct a full trial in order to avoid one.

*Handschu v. Special Servs. Div.*, 787 F.2d 828, 834 (2d Cir. 1986) (citation omitted). This analysis mirrors the present situation, in which the record generated by the fairness hearing is supplemented by the parties' affidavits, the briefs of counsel, documentary evidence of NYPD practices concerning the Muslim community, and evidence of police activities elicited during the discovery procedures that preceded and led to the present proposed settlement.

Nonetheless, a number of individuals who participated in the fairness hearing, by written or oral statements, expressed the view that the importance and complexity of the issues require that more time be given before the Court rules on whether the proposed settlement and amendments to the Modified Handschu Guidelines are fair and reasonable, that being the governing test. *See*

*Handschu*, 787 F.2d at 833 ("Appellants next contest the district court's determination that the settlement agreement was fair and reasonable, a determination that may be reversed only for an abuse of discretion."). The contention is made that more time is needed for Muslim community leaders and attorneys to explain the meaning and consequences of the settlement and Guidelines amendments to the community, in furtherance of individuals' ability to address meaningful comments to the Court.

Class Counsel and Corporation Counsel, the principal proponents of the settlement, accept in principle the allowance of an extended time for education and comment. The issue is how long that extension should be in practice. Class Counsel and Corporation Counsel argue for 30 days. They are joined by counsel for the *Raza* plaintiffs (who would prefer no delay). On the other hand, respected attorneys for an umbrella group of Muslim faith organizations say that the greater Muslim community cannot be fully and sufficiently advised and counseled before late August, at which time there should be additional written submissions and a renewed fairness hearing. Other individuals have expressed comparable views.

I agree that a reasonable extension of time is desirable. The fully informed opinions of members of the Muslim community are important elements in a judicial evaluation of whether the proposed settlement is fair and reasonable for everyone living in or coming to the City, and for those whose duty it is to protect them. However, I cannot accept a delay for instruction and comment that would consume the entire summer and put off this Court's decision until the fall (to be followed, perchance, by another appeal). There is a powerful public interest, for many reasons, in promptly resolving the issues arising from the NYPD's apparent intelligence and surveillance activities directed at the Muslim community.

Moreover, the explications required by the proposed amendments to the Modified Handschu Guidelines are relatively limited. It is useful to observe that while some comments during the fairness hearing just concluded seemed to question the validity or legality of *any* NYPD investigations involving political activity, the reality is that first the Handschu Guidelines, and then the Modified Handschu Guidelines, were promulgated pursuant to orders and judgments of this Court (the former affirmed by the Court of Appeals). Consequently, the legality of those two sets of Guidelines is established. The present inquiry is limited to whether the proposed amendments to the Modified Handschu Guidelines are fair and reasonable. The principal amendments concern the conduct of Preliminary and Full Investigations (Section V) and the creation of the Handschu Committee, with its Civilian Representative (Section VI).

The effect and advisability of these particular amendments to the Modified Handschu Guidelines do not depend upon contested issues of fact. What is required is sufficient time to study the amendments, in the light of presently prevailing circumstances, and then comment upon them. In point of fact, the settlement and Guidelines amendments have already been commented upon by a number of individuals, in writing or orally at the hearing held last week. However, the Court agrees with those who say that the fairness of the hearing will be enhanced by additional time for study and comment, leading up to a final hearing day. For the reasons stated, these steps must be accomplished with reasonable dispatch, and in any event before the month of Ramadan begins on June 6.

Having considered these several factors, the Court directs that additional comments concerning the proposed settlement, pro or con, may be filed with the Clerk of the Court on any date **prior to and including May 26, 2016.** The Court will conduct a further fairness hearing **on June**

**1, 2016, at 10:00 a.m.** in the United States Courthouse, 500 Pearl Street. Individuals wishing to be heard should file a notice to that effect with the Clerk not later than May 26. These dates are peremptory and cannot be extended. The case will then be regarded as ripe for decision.

It is SO ORDERED.

Dated: New Haven, Connecticut
April 27, 2016

*/s/Charles S. Haight, Jr.*
CHARLES S. HAIGHT, JR.
Senior United States District Judge