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Judicial Decision Eases NYPD Restrictions On Spying



FEBRUARY 12TH, 2003

The city notched another court victory Tuesday in the ongoing war on terrorism, as a federal judge approved modifications to the Handschu Guidelines that will give the NYPD the right to spy on political activists in certain cases.

Since 1971, New Yorkers have been protected by the Handschu Guidelines, named after political activist Barabara Handschu, who along with others sued the Police Department for illegally spying on political gatherings. However, the NYPD filed a lawsuit last year asking the court to ease restrictions that resulted from the suit, saying they impeded the city's effort to track terrorists.

In a 36-page order, Judge Charles Haight sided with the police position that the Handschu Guidelines "severely handicap police efforts to gather and utilize information about potential terrorist activity."

The judge concluded: "The court will enter a modified decree and approve the modifications to the Handschu Guidelines the NYPD proposes."

The modifications mean police can do surveillance if they have a "reasonable indication" of criminal activity, which Judge Haight acknowledges is substantially lower than the "probable cause" required for most investigations.

The city's corporation counsel released a statement praising the judge, calling it, "a critical

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victory for the city, because it allows the police to investigate the full range of activities terrorists engage in in the city."

Police Commissioner Ray Kelly said in a statement: "We live in a different, more dangerous time than when the consent decree was approved. This ruling removes restrictions from a bygone era and will allow us to more effectively carry out counter-terrorism investigations."

Civil rights advocates did win a provision requiring police to add FBI guidelines on surveillance to the NYPD patrol guide. Plus, the judge pointed out New Yorkers still have the Handschu authority at their disposal, meaning anyone who feels like their rights have been violated by police or that they have been unfairly spied upon can – in writing – request a specific inquiry against an officer in the NYPD.

The New York Civil Liberties Union said the police also backed off a push for totally eliminating spying restrictions.

"The Police Department abandoned that radical position, and finally, on the last submission to the court, came in with a position that came very close in substantive terms to provisions required by the Handschu decree," said NYCLU Legal Director Arthur Eisenberg.

City Hall seems to be on a roll, having just won another decision this week blocking an anti-war march, by citing post-September 11 security concerns. Some civil rights advocates say it's a troubling trend.

"The government's attempt to gut the Handschu decree comes in a context where Bush and Ashcroft have launched a campaign to undermine fundamental rights," said NYCLU Executive Director Donna Lieberman.

City lawyers call that "nonsense" and say New Yorkers should feel safer, not more uneasy.

The NYPD has until February 21 to tell the judge exactly what its new surveillance guidelines will be.

, in which Chef Floyd Misek presents a weekly recipe.

In The Papers

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