

## CURRENT AND PROPOSED MODIFICATIONS OF HANDSCHU GUIDELINES REQUIRED BY SETTLEMENT

	CURRENT GUIDELINES OR PRACTICE	PROPOSED MODIFICATION OF GUIDELINES
<b>INVESTIGATIVE - PREDICATE (BASIS FOR INVESTIGATION)</b>	Allegation or information indicating <b>possibility of unlawful activity</b>	Language clarifies current NYPD practice:  “The <b>possibility of unlawful activity</b> to initiate a Preliminary Inquiry <b>requires an allegation or information that is articulable and factual. However, such allegation or information need not have been verified</b> as true or accurate”
<b>INVESTIGATION- DURATION</b>	No presumptive duration.  However, practice is for Preliminary Inquiry not to exceed two years	Establishes presumptive duration for an investigation conducted under the Guidelines:  <ul style="list-style-type: none"> <li>- Preliminary Inquiry not to exceed 18 Months</li> <li>- Full Investigation not to exceed 3 years</li> <li>- Terrorism Enterprise Investigation not to exceed 5 years, except when subject is a federally designated foreign terrorist organization</li> </ul> <b>Note: presumptive periods of duration may be exceeded in sole discretion of the Deputy Commissioner of Intelligence, after consultation with Handschu Committee.</b>
<b>PROTECTION OF CONSTITUTIONAL RIGHTS</b>	Current NYPD policy and practice:  Investigations involving political activity conform to the guarantees of the Constitution, that care be exercised in the conduct of those investigations so as to protect constitutional rights, and that matters investigated be confined to those supported by a legitimate law enforcement purpose  To anticipate or prevent unlawful activity, the NYPD must, at times, initiate investigations in advance of unlawful conduct. It is important that such investigations not be based solely on activities protected by the First Amendment.	Inserts language that memorializes the current NYPD practice explicitly stating that:  “ <b>care be exercised</b> in the conduct of those investigations so as <b>to protect</b> constitutional rights, including <b>the right to be free from investigation in which race, religion, or ethnicity is a substantial or motivating factor.</b> ”  and “that <b>investigations not intrude upon rights of expression or association in a manner that discriminates on the basis of race, religion or ethnicity, where such discrimination is a substantial or motivating factor for the investigation.</b> ”

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<b>HANDSCHU COMMITTEE</b>	<p>No committee is obligated.</p> <p>However, NYPD established an internal Handschu Committee of advisors consisting of Intelligence Bureau Executives and personnel assigned to and including the Deputy Commissioner of Legal Matters to review and discuss requests to Open/Extend or Discontinue Investigations on a monthly basis.</p>	<p>Language formalizing the current NYPD practice: <b>Establishes monthly Handschu Committee:</b></p> <ul style="list-style-type: none"> <li>- <b>Members</b> may attend and <b>participate at meeting</b> during which <b>investigations are presented for opening, extension or closure</b> by the Deputy Commissioner for Intelligence.</li> <li>- Members are <b>provided investigative statement(s)</b> pertaining to each proposed opening, extension or closing for the monthly meeting.</li> <li>- At the monthly meeting, <b>any member of the Handschu Committee may ask questions and offer opinions</b> regarding the opening, extension or closure of an investigation presented</li> </ul>
<b>CIVILIAN REPRESENTATIVE ON HANDSCHU COMMITTEE</b>	<p>None</p>	<p>A <b>Civilian Representative</b> shall be <b>on the Handschu Committee</b> who <b>may attend and participate in the monthly meetings</b> and:</p> <ul style="list-style-type: none"> <li>- is an attorney,</li> <li>- was never an employee of the NYPD,</li> <li>- appointed by the Mayor in consultation with Police Commissioner,</li> <li>- may be replaced by the Mayor for good cause, and with advance notice to Class Counsel</li> </ul> <p>Position will exist for a minimum of five years. After initial five-year period, position of Civilian Representative will continue unless abolished or modified by the Mayor (with notice to Class Counsel)</p>

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<b>CHOICE OF INVESTIGATIVE TECHNIQUE</b>	<p><b>NYPD may use any lawful investigative technique permitted by the guidelines.</b></p> <p>The <b>choice of investigative techniques is a matter of judgment</b> considering:</p> <ul style="list-style-type: none"> <li>- objectives of the investigation and available investigative resources;</li> <li>- intrusiveness of a technique, considering such factors as the effect on the privacy of individuals and potential damage to reputation;</li> <li>- the seriousness of the unlawful act; and</li> <li>- the strength of the information indicating its existence or future commission of the unlawful act.</li> </ul> <p>Although not required under the extant Handschu guidelines, the NYPD considers the potential effect of investigative techniques on the political or religious activity of individuals, groups, or organizations who, although not a target of the investigation, are affected by or subject to the technique.</p>	<p>Language codifying the current NYPD practice:</p> <p>The NYPD may use any lawful investigative technique permitted by these guidelines. The choice of investigative techniques is a matter of judgment, which should take account of:</p> <ul style="list-style-type: none"> <li>- the objectives of the investigation and available investigative resources;</li> <li>- the intrusiveness of a technique, considering such factors as the effect on the privacy of individuals and potential damage to reputation;</li> <li>- <b>the potential effect 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 technique;</b></li> <li>- the seriousness of the unlawful act; and</li> <li>- the strength of the information indicating its existence or future commission of the unlawful act.</li> </ul>