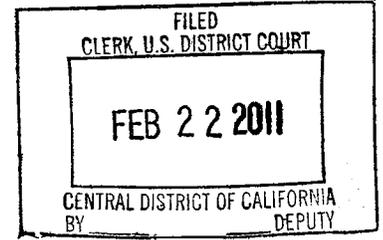


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18 UNITED STATES DISTRICT COURT

19 CENTRAL DISTRICT OF CALIFORNIA

20
21 YASSIR FAZAGA, ALI UDDIN
22 MALIK, YASSER ABDELRAHIM,
23 Plaintiffs,

24 v.

25 FEDERAL BUREAU OF
26 INVESTIGATION; ROBERT
27 MUELLER, DIRECTOR OF THE
28 FEDERAL BUREAU OF
INVESTIGATION, in his official
capacity; STEVEN M. MARTINEZ,

SACV11-00301 JST(VBK)

CASE NO.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 ASSISTANT DIRECTOR IN CHARGE,
2 FEDERAL BUREAU OF
3 INVESTIGATION'S LOS ANGELES
4 DIVISION, in his official capacity; J.
5 STEPHEN TIDWELL; BARBARA
6 WALLS; PAT ROSE; KEVIN
7 ARMSTRONG; PAUL ALLEN;

8 Defendants.

9 Additional Plaintiffs' Attorneys:

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PRELIMINARY STATEMENT

1
2 1. This case concerns an FBI-paid agent provocateur who, by
3 misrepresenting his identity, infiltrated several mainstream mosques in Southern
4 California, based on the FBI's instructions that he gather information on Muslims.

5 2. The FBI then used him to indiscriminately collect personal
6 information on hundreds and perhaps thousands of innocent Muslim Americans in
7 Southern California. Over the course of fourteen months, the agents supervising
8 this informant sent him into various Southern California mosques, and through his
9 surveillance gathered hundreds of phone numbers, thousands of email addresses,
10 hundreds of hours of video recordings that captured the interiors of mosques,
11 homes, businesses, and the associations of hundreds of Muslims, thousands of
12 hours of audio recording of conversations — both where he was and was not
13 present — as well as recordings of religious lectures, discussion groups, classes,
14 and other Muslim religious and cultural events occurring in mosques.

15 3. This dragnet investigation did not result in even a single conviction
16 related to counterterrorism. This is unsurprising, because the FBI did not gather
17 the information based on suspicion of criminal activity, instead it gathered the
18 information simply because the targets were Muslim.

19 4. Ironically, the operation ended when members of the Muslim
20 communities of Southern California reported the informant to the police because of
21 his violent rhetoric, and ultimately obtained a restraining order against him.

22 5. After this, the informant's identity was revealed, first in court
23 documents where the FBI and local law enforcement revealed his role, and then
24 through his own statements which were reported widely in the press.¹

25
26

¹ See, e.g., Jerry Markon, *Tension grows between Calif. Muslims, FBI after*
27 *informant infiltrates mosque*, WASH. POST (Dec. 5, 2010); Gillian Flaccus, *Calif.*
28 *case highlights use of mosque informants*, ASSOC. PRESS (Mar. 1, 2009); Matt
 (cont'd)

1 violations of the Privacy Act, *see* 5 U.S.C. 552a(e)(7), this Court also has
2 jurisdiction under 5 U.S.C. 552a(g)(1)(D).

3 10. This Court has the authority to grant damages, declaratory and
4 injunctive relief, and any other appropriate relief pursuant to *Bivens v. Six*
5 *Unknown Agents*, 403 U.S. 388 (1971); 28 U.S.C. 1331; 28 U.S.C. § 1343; 42
6 U.S.C. § 1985; 42 U.S.C. § 2000bb; 5 U.S.C. 552a; and the Declaratory Judgment
7 Act, 28 U.S.C. §§ 2201 and 2202. A substantial, actual, and continuing
8 controversy exists between the parties, with respect to both the class's claim for
9 injunctive relief in the form of file destruction and the individual claims for
10 damages.

11 11. Venue is proper in the Central District of California under 28 U.S.C.
12 § 1391(b) because a substantial part of the events or omissions giving rise to the
13 claims herein occurred in this District.

14 PARTIES

15 12. Plaintiff Sheikh Yassir Fazaga is a thirty-eight year-old U.S. citizen
16 born in Eritrea, who moved to the United States at age fifteen and attended high
17 school in Orange County. From about 1998 to the present, Plaintiff Fazaga served
18 as an imam, or religious leader, of the Orange County Islamic Foundation, a
19 mosque in Mission Viejo, California. His duties there have included directing the
20 religious affairs of the mosque, leading prayer, and conducting educational,
21 spiritual, and recreational activities for the entire mosque community and its
22 youth.²

23 13. Plaintiff Ali Malik is a twenty-six year-old U.S. citizen born in
24 Southern California. Malik's parents came to the United States from Pakistan
25 before he was born. From the time of his birth through the events alleged herein,
26

27 ² Plaintiff Fazaga's legal name is Yassir Mohammed; but he uses the name
28 "Fazaga" in all his personal and professional dealings.

1 Plaintiff Malik resided in and around Orange County, California. Plaintiff Malik is
2 a practicing Muslim who, from about 2004 through the events alleged herein,
3 regularly attended religious services at the Islamic Center of Irvine (“ICOI”), a
4 mosque in Irvine, California.

5 14. Plaintiff Yasser AbdelRahim, is a thirty-four year-old lawful
6 permanent resident of the United States, who emigrated from Egypt when he was
7 twenty-one years old. Plaintiff AbdelRahim first attended business school in
8 Arizona, then moved to Southern California after he obtained his degree in 1999 to
9 work in business consulting. AbdelRahim is a practicing Muslim and has attended
10 religious services regularly at ICOI since about 2005.

11 15. Defendant the Federal Bureau of Investigations (FBI) is an agency of
12 the federal government within the meaning of the Privacy Act. It maintains
13 records on individual whom its agents have investigated, including Plaintiffs and
14 the putative class they seek to represent. The FBI is sued for injunctive relief only.

15 16. Defendant Robert Mueller is the Director of the FBI. In that capacity
16 he is responsible for the direction and oversight of all operations of the FBI,
17 including the retention of records arising out of the investigations of FBI agents.
18 He is sued in his official capacity for injunctive relief only.

19 17. Defendant Steven M. Martinez is the Assistant Director In Charge of
20 the FBI’s Los Angeles Field office. In that capacity, he is responsible for the
21 direction and oversight of all operations of the FBI in Los Angeles and Orange
22 Counties, including the retention of records arising out of the investigations of FBI
23 agents in his jurisdiction. He is sued in his official capacity for injunctive relief
24 only.

25 18. Upon information and belief, Defendant Kevin Armstrong was, at all
26 times relevant to this action, employed as an FBI Special Agent assigned to the
27 Orange County area, and a handler for Craig Monteilh. Agent Armstrong met with
28 Monteilh repeatedly and on a regular basis during the time period at issue in this

1 lawsuit. He directed Craig Monteilh to indiscriminately gather information on the
2 Muslim community in Orange County, and personally supervised and directed
3 Monteilh's surveillance activities as described herein.

4 19. Upon information and belief, Defendant Paul Allen was, at all times
5 relevant to this action, employed as an FBI Special Agent assigned to the Orange
6 County area, and a handler for Craig Monteilh. Agent Allen met with Monteilh
7 repeatedly and on a regular basis during the time period at issue in this lawsuit. He
8 directed Craig Monteilh to indiscriminately gather information on the Muslim
9 community in Orange County, and personally supervised and directed Monteilh's
10 surveillance activities as described herein.

11 20. Defendant J. Stephen Tidwell, at all times relevant to this action, was
12 an employee of the FBI. Defendant Tidwell served as the Assistant Director in
13 Charge of the FBI's Los Angeles Field Office from August 2005 to December
14 2007, in which capacity he supervised operations in the Central District of
15 California. Upon information and belief, Defendant Tidwell authorized the search
16 for an informant to go into mosques in Orange County to collect information on
17 Muslims, authorized the selection of Craig Monteilh as that informant, read
18 Monteilh's notes of his activities, and authorized and directed the actions of Agents
19 Armstrong and Allen in the handling of Monteilh at all times relevant in this
20 action.

21 21. Upon information and belief, Defendant Barbara Walls was, at all
22 times relevant to this action, employed by the FBI as Special Agent in Charge of
23 the Santa Ana branch office, a satellite office of the FBI's Los Angeles field office.
24 Upon information and belief, Defendant Walls was regularly apprised of the
25 information Agents Armstrong and Allen collected through Monteilh; directed the
26 action of FBI agents on various instances based on that information; and actively
27 monitored, directed, and authorized the actions of Agents Armstrong and Allen at
28 all times relevant in this action, for the purpose of surveilling Plaintiffs and other

1 putative class members because they were Muslim. Eventually, she ordered that
2 Agents Armstrong and Allen cease using Monteilh as an informant because she no
3 longer trusted him.

4 22. Upon information and belief, Defendant Pat Rose was, at all times
5 relevant to this action, employed by the FBI as a Special Agent and acted out of a
6 Santa Ana branch office, a satellite office of the FBI's Los Angeles field office.
7 Upon information and belief, Defendant Rose was apprised of the information
8 Agents Armstrong and Allen collected through Monteilh, and authorized the
9 actions of Agents Armstrong and Allen at all times relevant in this action, for the
10 purpose of engaging in surveillance of the Plaintiffs and the putative class
11 members because they were Muslim. Agent Rose also sought additional
12 authorization to expand the scope of the surveillance program described herein, in
13 an effort to create a Muslim gym that the FBI would use to gather yet more
14 information about the class.

15 23. Defendant Does 1-20 are agents of the Federal Bureau of
16 Investigation and United States Department of Justice, whose identities are not yet
17 known to Plaintiffs, who authorized, directed, and actively monitored the actions
18 alleged herein in order to engage in surveillance of the Plaintiffs and putative class
19 members because they were Muslim.

20 FACTUAL ALLEGATIONS

21 FBI Focus On Islam Since 2001

22 24. Since September 11, 2001, the FBI has focused much of its
23 counterterrorism efforts on broad investigations in the Muslim communities of the
24 United States. In the weeks and months following 9/11, the United States detained
25 hundreds of "suspects" across the country, the vast majority of whom were
26 Muslim. Over the next few years, the FBI engaged in a program to conduct
27 interviews of thousands of individuals who had immigrated to the U.S. from
28 countries in which intelligence allegedly indicated al-Qaeda operated, a burden that

1 fell overwhelmingly on Muslims.³

2 25. In January 2003, the FBI ordered its field supervisors to count the
3 number of mosques and Muslims in their jurisdictions to aid in counterterrorism
4 investigations.⁴

5 26. Starting in 2002 and continuing through 2005, the FBI engaged in a
6 program of monitoring radiation levels across the country, including at more than
7 one hundred “Muslim sites,” though officials indicated that religion was not the
8 “only criterion.” According to one official, Muslim sites were picked because, in
9 the past, terrorists or people close to them had tended to live in Muslim areas or
10 attend local mosques.⁵

11 27. In a 2006 briefing to reporters, the FBI official second-in-command
12 over the National Security Branch displayed a map of the San Francisco area
13 showing where Iranian immigrants were clustered — and where, he said, an F.B.I.
14 squad was “hunting.”⁶

15 **Evolution of FBI Policies on Use of Religion in Investigation**

16 28. The FBI has been accused of targeting people based on their First
17 Amendment activity before. During the 1960s and 1970s, domestic intelligence-

18
19 ³ *Homeland Security: Justice Department’s Project to Interview Aliens after*
20 *September 11, 2001*, U.S. Gen. Accounting Office, G.A.O. No. GAO-03-459
(April 2003) available at <http://www.gao.gov/new.items/d03459.pdf>.

21 ⁴ Eric Lichtblau, *F.B.I. Tells Offices to Count Local Muslims and Mosques*, N.Y.
22 *TIMES* (Jan. 28, 2003), available at
<http://www.nytimes.com/2003/01/28/politics/28MOSQ.html>.

23 ⁵ Kevin Bohn and Jeanne Meserve, *Officials: Muslim sites subject to secret*
24 *monitoring for radiation*, C.N.N. (Dec. 24, 2005), available at
[http://articles.cnn.com/2005-12-23/us/nuke.monitoring_1_radiation-levels-](http://articles.cnn.com/2005-12-23/us/nuke.monitoring_1_radiation-levels-radioactive-material-fbi-program)
25 [radioactive-material-fbi-program](http://articles.cnn.com/2005-12-23/us/nuke.monitoring_1_radiation-levels-radioactive-material-fbi-program); Mary Beth Sheridan, *Mosques Among Sites*
26 *Monitored for Radiation*, WASH. POST (Dec. 29, 2005).

27 ⁶ Scott Shane and Lowell Bergman, *F.B.I. Struggling to Reinvent Itself to Fight*
28 *Terror*, N.Y. *TIMES* (Oct. 9, 2006), available at
<http://www.nytimes.com/2006/10/10/us/10fbi.html>.

1 gathering activities by the FBI came under increasing scrutiny, culminating in the
2 “Church Committee,” a Senate Select Committee that investigated the FBI’s
3 COINTELPRO operation.

4 29. In 1976, the Church Committee wrote that “The Government has
5 often undertaken the secret surveillance of citizens on the basis of their political
6 beliefs, even when those beliefs posed no threat of violence or illegal acts on
7 behalf of a hostile foreign power. The Government, operating primarily through
8 secret Informants . . . has swept in vast amounts of information about the personal
9 lives, views, and associations of American citizens. Investigations of groups
10 deemed potentially dangerous – and even of groups suspected of associating with
11 potentially dangerous organizations – have continued for decades, despite the fact
12 that those groups did not engage in unlawful activity. Groups and individuals have
13 been harassed and disrupted because of their political views and their lifestyles.
14 Investigations have been based upon vague standards whose breadth made
15 excessive collection inevitable.”⁷

16 30. After uncovering rampant abuses in the FBI’s domestic intelligence
17 programs, the Church Committee recommended a series of reforms that were
18 ultimately adopted, including new laws to restrict domestic surveillance for
19 national security purposes under the Foreign Intelligence Surveillance Act, 50
20 U.S.C. § 1801 *et seq.*, and guidelines issued by Attorney General Edward Levi
21 (known as “Attorney General’s Guidelines”) to regulate domestic intelligence-
22 gathering by the FBI.

23 31. The Levi Guidelines restricted the FBI’s domestic intelligence
24

25 ⁷ *Final Report of the Select Committee to Study Governmental Operations with*
26 *Respect to Intelligence Activities*, “Book II: Intelligence Activities and the Rights
27 of Americans,” at 5, U.S. Senate, 94th Cong., 2nd Sess. (Apr. 26, 1976), available
28 at http://www.aarclibrary.org/publib/church/reports/book2/html/ChurchB2_0009a.htm.

1 collection authorities to investigations of potential violations of federal law, and
2 limited the use of specific investigative techniques, including informants. The
3 Guidelines allowed the FBI to conduct full domestic security investigations only
4 on the basis of “specific and articulable facts giving reason to believe that an
5 individual or group is or may be engaged in activities which involve the use of
6 force or violence and which involve or will involve the violation of federal law...”⁸
7 More limited Preliminary Investigations could be authorized for 90 days based on
8 receipt “allegations or other information that an individual or group is or may be
9 engaged in activities which involve the use of force or violence and which involve
10 or will involve the violation of federal law,” but only to determine whether there is
11 a sufficient factual basis for opening a full investigation.⁹

12 32. In 2002, Attorney General John Ashcroft revised the Guidelines for
13 General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations,
14 respectively, significantly reducing or eliminating the requirement of a factual
15 basis to believe federal crimes would be committed before the FBI could initiate
16 investigations.¹⁰ Significant changes to the General Crimes guidelines included
17 expanding the duration and type of investigative techniques that could be utilized
18 in preliminary investigations; and creating new authorities for the FBI to
19 proactively conduct internet and commercial database searches and attend public
20 places and events for the purpose of detecting or preventing terrorist activities, all

22 ⁸ FBI Statutory Charter: Hearings Before the Senate Committee on the Judiciary,
23 95th Cong. pt. 1, p. 22 (1978).

⁹ Id., at 21.

24 ¹⁰ Attorney General’s Guidelines for General Crimes, Racketeering Enterprise and
25 Terrorism Enterprise Investigations, (May 2002), available at:
26 <http://www.fas.org/irp/agency/doj/fbi/generalcrimes2.pdf> and, Attorney General’s
27 Guidelines for National Security Investigations and Foreign Intelligence
28 Collection, (Oct. 2003), available at:
<http://www.fas.org/irp/agency/doj/fbi/nsiguilines.pdf>

1 without any factual basis or allegation indicating a possible violation of federal
2 law. Attorney General Ashcroft said terrorism prevention was the key objective of
3 these new Guidelines, arguing that “Our philosophy today is not to wait and sift
4 through the rubble following a terrorist attack. Rather, the FBI must intervene early
5 and investigate aggressively where information exists suggesting the possibility of
6 terrorism, so as to prevent acts of terrorism. The new guidelines advance this
7 strategy of prevention by strengthening investigative authority at the early stage of
8 preliminary inquiries. Also, even absent specific investigative predicates, FBI
9 agents under the new guidelines are empowered to scour public sources for
10 information on future terrorist threats.”¹¹

11 33. In June 2003 the Department of Justice issued “Guidance on the Use
12 of Race by Federal Law Enforcement Agencies,” purporting to ban the use of
13 racial or ethnic profiling.¹² This Guidance explicitly failed to include religion as an
14 attribute that could not be used by federal law enforcement officials in making law
15 enforcement decisions. In addition, the Guidance contained broad exemptions for
16 the use of racial profiling in national security and border integrity investigations.¹³

17 34. In October 2003 Attorney General Ashcroft revised the Guidelines
18 for FBI National Security Investigations and Foreign Intelligence Collection, to
19 authorize the “proactive collection of information concerning threats to the
20 national security, including information on individuals, groups and organizations
21 of possible investigative interest, and information on possible targets of
22

23 ¹¹ Remarks of Attorney General John Ashcroft, Attorney General Guidelines
24 May 30, 2002, at:

25 <http://www.justice.gov/archive/ag/speeches/2002/53002agpreparedremarks.htm>

26 ¹² Department of Justice Civil Rights Division, “Guidance Regarding the Use of
27 Race by Federal Law Enforcement Authorities, (June 2003), available at:

28 <http://www.scribd.com/doc/22092319/DOJ-Guidance-Regarding-the-Use-of-Race-by-Federal-Law-Enforcement-Agencies-June-2003>

¹³ Id.

1 international terrorist activities or other national security threats.”¹⁴ These
2 Guidelines authorized the FBI to conduct “threat assessments” without opening
3 preliminary or full investigations – in other words without the required factual
4 basis to justify such investigations.¹⁵

5 35. The combined effect of these Guidelines and Guidance was to
6 authorize the FBI to engage in intrusive investigations of First Amendment
7 protected activity, and specifically religious practices, without any factual basis to
8 believe any criminal violations or threat to the national security existed.

9 36. In 2008, Attorney General Mukasey revised the guidelines further,
10 explicitly eliminating the need for any factual predicate before FBI agents are
11 allowed to conduct a new category of investigation called “assessments.” The
12 2008 revisions allow FBI agents to use an array of intrusive investigative
13 techniques during assessments, including physical surveillance, recruiting and
14 tasking informants, and pre-textual interviews by FBI agents acting in ruse. In
15 response, the FBI revised its internal policy, publishing the FBI’s *Domestic*
16 *Intelligence and Operations Guides* (“DIOG”) in December 2008.¹⁶ The DIOG
17 only requires an “authorized purpose” to conduct an assessment, which is defined
18 broadly as “a national security, criminal or foreign intelligence collection
19 purpose.”¹⁷ Requiring only an authorized purpose rather than a factual predicate
20 means that the authority to conduct investigations in this category is based on the
21 subjective intent of the agent, rather than any factual information regarding the
22

23 ¹⁴ Attorney General Guidelines for FBI National Security Investigations and
24 Foreign Intelligence Collection, (Oct. 2003), available at:
25 <http://www.fas.org/irp/agency/doj/fbi/nsiguilines.pdf>

26 ¹⁵ Id., at 3.

27 ¹⁶ Federal Bureau of Investigation Domestic Investigations and Operations Guide,
(Dec. 2008), available at: http://www.muslimadvocates.org/DIOGs_pt1.pdf

28 ¹⁷ DIOG p. 21.

1 potential subjects of the assessment establishing suspicion of wrongdoing.
2 Moreover, the DIOG authorizes FBI headquarters and field offices to conduct
3 “Domain Management” assessments to “identify locations of concentrated ethnic
4 communities in the Field Office’s domain” and to collect, analyze and map racial
5 and ethnic “behaviors,” “cultural traditions,” and “life style characteristics” in local
6 communities. FBI Director Robert Mueller issued a broad mandate for FBI
7 offices to “know your domain,” which meant “understanding every inch of a given
8 community—its geography, its populations, its economy, and its vulnerabilities.”¹⁸
9 Domain Management assessments appear to be mandated as a matter of course,
10 and require no specific threat or criminal predicate to justify the collection of
11 information regarding the makeup of American communities.

12 37. Upon information and belief, Defendants operated under the
13 principles set forth in the revised Mukasey Guidelines and DIOGs even before the
14 Attorney General formally issued them. For instance, a 2010 report by the
15 Department of Justice Inspector General revealed that from 2002 to 2006 the FBI
16 engaged in a number of investigations of domestic advocacy groups based on
17 “factually weak” or “speculative” predication.¹⁹ The Inspector General (IG)
18 determined many of the investigations were opened based upon the FBI agents’
19 mere speculation that the individuals or groups might commit some federal crime
20 in the future. The IG determined that most of these investigations did not violate
21 the 2002 Attorney General’s Guidelines in effect at the time because all that was
22 required to initiate a preliminary inquiry was “information indicating the
23

24 ¹⁸ Robert Mueller, Speech to the International Association of Chiefs of Police, San
25 Diego, CA California, Nov. 10, 2008, at: [http://www.fbi.gov/news/speeches/using-
intelligence-to-protect-our-communities](http://www.fbi.gov/news/speeches/using-intelligence-to-protect-our-communities)

26 ¹⁹ Department of Justice Inspector General Review of FBI’s Investigations of
27 Certain Advocacy Groups (Sept 2010):
28 <http://www.justice.gov/oig/special/s1009r.pdf>

1 possibility of a federal crime,” which illustrated “the broad scope of the FBI’s
2 authority under the Attorney General’s Guidelines to open preliminary inquiries
3 based on extremely limited information, including information about the First
4 Amendment expressions of subjects.”²⁰ Moreover, the IG noted that while the
5 FBI’s collection and retention of First Amendment material in these cases often
6 violated the 2002 Guidelines, it would not have violated the revised 2008
7 Guidelines: “Therefore, some of the violations of policy we found in this review
8 would not be violations if they occurred today.”²¹ Additionally, a 2006 New York
9 Times report indicated that FBI Associate Executive Assistant Director Phil Mudd
10 was “pitching” a vague domestic intelligence program called “Domain
11 Management,” which vaguely implied “ethnic targeting.”²²

12 **FBI Investigation of Muslims in Orange County, California**

13 38. Approximately 500,000 Muslims live in Southern California, more
14 than 120,000 of them in Orange County, making the area home to the second-
15 largest population of Muslims in the United States.

16 39. The FBI has surveilled Muslims in Southern California and Orange
17 County for at least several years.

18 40. In about late 2001 or 2002, the FBI approached at least one Muslim
19 leader asking who the Muslim leaders in the Southern California area are and for a
20 list of mosques.

21 41. In May 2006, Pat Rose, a supervisor of the FBI’s Orange County
22 counterterrorism operations, spoke to the Pacific Club in Irvine about the FBI’s
23 counterterrorism efforts. There, she stated that “[t]here are a lot of individuals of

24 ²⁰ IG report p. 87.

25 ²¹ IG report p. 189.

26 ²² Scott Shane and Lowell Bergman, “FBI Struggling to Reinvent Itself to Fight
27 Terror,” NY Times, (Oct. 10, 2006), at:
28 <http://www.nytimes.com/2006/10/10/us/10fbi.html?pagewanted=1&r=1>

1 interest right here in Orange County.”²³ She described recent efforts the FBI had
2 taken in the region: planting bugs and closed-circuit TV cameras, examining
3 computer use and email, and establishing units on both foreigners and domestic
4 suspects. She indicated that the FBI frequently received calls from people who
5 wanted to tell them about situations like a Muslim neighbor who is changing his
6 license plates or someone who has an apartment with only a mattress and five
7 computers, stating, “I can't tell you how many” tips like that paid off. When asked
8 whether citizens should be worried about activist Muslim students at University of
9 California at Irvine, Rose characterized that as a “tough question,” but indicated
10 the FBI was aware of large numbers of Muslim students at UCI and the University
11 of Southern California. “We live in Irvine. I can't tell you how many subjects’
12 names come up, and they live right down the street from me,” she stated. “I think
13 we need to be concerned with everybody, including our next-door neighbor.”

14 42. In 2006 and 2007, authorities arrested reserve officers who worked at
15 the Strategic Technical Operations Center, an intelligence unit at Camp Pendleton,
16 for stealing classified intelligence documents and providing them to local law
17 enforcement. According to reports, the theft ring had operated since 2001, and the
18 documents seized from the participants included more than 100 FBI and Defense
19 Department files, including documents establishing the existence of programs to
20 surveil Muslim communities and mosques in Southern California.²⁴

21 43. Documents obtained by the ACLU of Southern California via the
22

23 ²³ Frank Mickadeit, *Feds warn O.C. of terror lurking 'down the street'*, THE
24 ORANGE COUNTY REGISTER (May 25, 2005), available at
25 <http://www.ocregister.com/news/fbi-194882-county-orange.html> (last visited Feb.
10, 2011).

26 ²⁴ Rick Rogers, *Records detail security failure in base file theft*, SAN DIEGO UNION-
27 TRIBUNE (May 22, 2008), available at [http://www.signonsandiego.com/
28 uniontrib/20080522/news_1n22theft.html](http://www.signonsandiego.com/uniontrib/20080522/news_1n22theft.html).

1 Freedom of Information Act show that the FBI has collected information about the
2 membership of the Shura Council (an association of mosques in the Southern
3 California area), as well as information about activities or events organized at or by
4 mosques or Muslim organizations — including individuals handing out flyers for
5 fundraising, events on political issues such as the war in Iraq or immigration
6 reform, and a wide variety of fundraising efforts.

7 44. The FBI has sought and continues to seek interviews of hundreds of
8 people in the Southern California Muslim community, often by sending FBI agents
9 to appear unannounced at the homes or workplaces of people to request an
10 interview. During these interviews, FBI agents have often questioned interviewees
11 about religious practices that have no discernible relationship to criminal activity,
12 such as what mosque interviewees attend, how many times a day they pray, who
13 the imam of their mosque is, or what they think of particular religious scholars.

14 **Monteilh's Role in the FBI's Investigation of Muslims**

15 45. In the face of substantial evidence of the FBI's particular focus on
16 investigating Muslims, in June 2006, Los Angeles FBI Assistant Director Stephen
17 Tidwell attended a forum for the Muslim community at ICOI, where he assured an
18 audience of about two hundred people that the FBI would enter mosques only
19 openly to outreach to the community and would not send covert informants into
20 mosques for the purpose of monitoring the Muslim community.²⁵

21 46. At some time prior to July 2006, the FBI hired Craig Monteilh to
22

23 ²⁵ At some point during the spring of 2007, Agents Armstrong and Allen told
24 Monteilh that the Assistant Director in Charge of the FBI's Los Angeles Field
25 Office had told the Muslim community that there would be no undercover
26 informants placed in mosques at a meeting held only about a month or so before
27 Monteilh had publicly "converted," on their instructions, at the ICOI mosque.
28 They told him that at the time Tidwell made this statement, they had already been
looking for someone to send into the mosques, and that Tidwell had approved
recruitment of an informant.

1 become a paid informant for them to covertly gather information about Muslims in
2 the Irvine area.

3 47. In about July 2006, Monteilh requested a meeting with the imam of
4 the Islamic Center of Irvine (“ICOI”). Monteilh told the imam that he was of
5 French and Syrian descent, and that he wanted to embrace his roots by formally
6 converting to Islam. The following Friday, Monteilh attended the *jummah* prayer
7 (the Friday afternoon prayer that is the most important service of the week), where
8 he went before the congregation of hundreds and made a public declaration of his
9 Muslim faith. This declaration, known as *shahadah*, is one of the five pillars of
10 Islam. After this, Monteilh began going to ICOI on a daily basis, often attending
11 multiple prayers a day. About a week later, he began using the Muslim name
12 Farouk al-Aziz.

13 48. After taking *shahadah*, Monteilh attended prayers at ICOI on a daily
14 basis. He attended prayers at mosque multiple times per day, and was often
15 waiting for the mosque to open before dawn prayers at about 5 a.m. He also
16 attended classes and special events. He primarily attended ICOI, but also went
17 with some regularity to about five of the other largest mosques in Orange County.

18 49. Congregants at ICOI generally welcomed Monteilh. People
19 introduced themselves, spoke with him about his conversion and their faith, and
20 offered to help him learn about Islam and Muslims in America. Various
21 congregants offered help by buying him books on Islam, talked with him about the
22 tenets of the religion, and showed him the movements of prayers. Congregants
23 invited him to have meals or tea outside of the mosque to help welcome him to the
24 mosque’s community and discuss questions he might have.

25 50. After several months, Monteilh began wearing traditional Muslim
26 robes and skull caps both at mosque and in public, in place of his “western”
27 clothes.

28 51. After Monteilh had attended ICOI for some time, Muslim community

1 leaders began to hear concerns voiced by the congregants about Monteilh's
2 behavior. Monteilh engaged people in conversations in which he aggressively
3 probed their views on religion and American foreign policy. Soon leaders began
4 hearing that he was asking people's opinions on *jihad* and its meaning in Islam,
5 and that he was resisting their claims that Islam did not condone terrorism.

6 52. Among the many people Monteilh met during his time as an FBI
7 informant were Plaintiffs Fazaga, Malik, and AbdelRahim.

8 **Plaintiff Sheikh Yassir Fazaga**

9 53. Plaintiff Sheikh Yassir Fazaga is a thirty-eight year-old U.S. citizen
10 born in Eritrea, who has lived here since he was a teenager. He attended high
11 school in Orange County. Sheikh Fazaga has an undergraduate degree in Islamic
12 Studies from the Institute of Islamic and Arabic Sciences in Virginia and a masters
13 degree in marriage and family counseling from the California State University of
14 Long Beach, and has taken coursework toward a masters degree in Christian
15 Theology at Loyola Marymount University. From about 1998 to the present,
16 Sheikh Fazaga has served as an imam of the Orange County Islamic Foundation
17 (OCIF), a mosque in Mission Viejo, California. His duties there have included
18 directing the religious affairs of the mosque, leading prayer, and conducting
19 educational, spiritual, and recreational activities for the entire mosque community
20 and its youth.

21 54. Sheikh Fazaga earned a national reputation for his contemporary
22 American teaching of Islam. He has spoken at numerous conferences, colleges,
23 and other fora both in the United States and abroad on the topics of Islam and the
24 American Muslim. In 2007, he traveled to Romania at the invitation and expense
25 of the U.S. State Department to speak on terrorism, radicalism and extremism.
26 He has also been interviewed for print, television and radio media, including for
27 NBC's Today show on spirituality in America and for a New York Times article
28 on American imams in which he was featured. See Neil MacFarquhar, *A*

1 *Growing Demand for the Rare American Imam*, N.Y. Times (June 1, 2007).

2 55. Over the years, Sheikh Fazaga's mosque conducted a number of
3 events in conjunction with various other mosques in the area, including the Islamic
4 Center of Irvine. Sheikh Fazaga was, and still is, concerned about the erosion of
5 civil rights for people in the Muslim community, and he often took actions to
6 advocate on behalf of that issue.

7 56. On one occasion in early 2006 he attended one such event, which
8 Defendant Stephen Tidwell, Assistant Director in Charge of the Los Angeles FBI
9 Field Office, also attended. At the event, Fazaga asked questions to Tidwell
10 concerning the FBI's use of informants in mosques.

11 57. Shortly afterward, Sheikh Fazaga came into contact with Craig
12 Monteilh, because Monteilh came to attend prayers and other events at his mosque,
13 OCIF, starting in approximately 2006.

14 58. Some time after Monteilh began attending his mosque, Sheikh Fazaga
15 hosted a famous Islamic speaker named Yusuf Estes at his mosque. Estes is a
16 former National Muslim Chaplain for the United States Bureau of Prisons, and was
17 a Delegate to the United Nations World Peace Conference for Religious Leaders
18 several years before being invited to speak at the OCIF.

19 59. A number of Sheikh Fazaga's congregants, including Monteilh,
20 attended the lecture.

21 60. Several months after Monteilh first began attending events at OCIF,
22 another member of the OCIF community formally introduced Fazaga to Monteilh.

23 61. After Monteilh's role as an FBI informant became publicly known in
24 February 2009, a number of Sheikh Fazaga's congregants expressed their dismay
25 to him, because Monteilh had spent a considerable amount of time at the OCIF.

26 62. Sheikh Fazaga had to spend considerable time counseling his
27 congregants who were afraid that they were being targeted for FBI surveillance
28 because of their faith. He often conducted this counseling away from the mosque

1 and in person, rather than over the telephone, because of his congregants' fear of
2 surveillance.

3 63. Sheikh Fazaga also observed the trust within and cohesion of his
4 congregation, and of other Muslim communities in Southern California, to be
5 significantly damaged, and that this damage directly undermined the Islamic
6 practice of *jama'ah*, or worship in a congregation. In part because of this, he
7 devoted two whole sermons to addressing the fears of the congregation about
8 surveillance, rather than addressing religious subjects.

9 **Plaintiff Ali Uddin Malik**

10 64. Plaintiff Malik grew up in Orange County, California. When Malik
11 was growing up, his family were strong supporters of the Republican Party. Malik
12 started a young Republicans club at his high school. During high school, Malik
13 aspired to work for the U.S. State Department or elsewhere in government.

14 65. Plaintiff Malik attended the University of California, Irvine ("UCI")
15 from about 2007 to 2009. While at Irvine, Malik co-founded the Olive Tree
16 Initiative, a peace-building program through which a culturally and religiously
17 diverse group of UCI students take joint factfinding trips to Israel and Palestine to
18 better understand the Israel-Palestine conflict and report on their findings to the
19 UCI community. Malik and the other founders were recognized for their work
20 with the University of California President's Award for Outstanding Student
21 Leadership, UCI Chancellor's Living Our Values Award, and recognition by the
22 Orange County Human Relations Commission and the U.S. State Department.

23 66. When Malik was about twenty years old, he developed an interest in
24 religion. His family had always attended mosque, but he started attending more
25 regularly and trying to study Islam with more seriousness. In about summer 2006,
26 he attended a six-week summer course on Islam at Dar al-Mustafa, a seminary in
27 Yemen. Malik also began wearing traditional robes and head covering when he
28 went to the mosque to pray. He also grew a full, long beard in a traditional

1 fashion. Malik found that wearing his clothes and beard in this way helped serve
2 as a reminder of his faith.

3 67. Plaintiff Malik attended ICOI and was present when Monteilh took
4 *shahadah* in about July 2006. Plaintiff Malik, along with many other congregants,
5 approached Monteilh after he took *shahadah*, offering his well-wishes and
6 assistance.

7 68. In about August 2006, the imam at ICOI asked Plaintiff Malik to
8 teach Monteilh how to pray and to guide him through the basics of Islam.

9 69. At the imam's request, Plaintiff Malik approached Monteilh. Malik
10 talked with Monteilh about the basics of Islam, including the basic tenets, how to
11 pray, and the development of faith. Monteilh asked for Malik's cell phone number
12 and email address, which Malik provided. He tried to offer Monteilh support and
13 welcome him in the community, and talked about inviting him over to his family's
14 house for dinner.

15 70. To help Monteilh learn about Islam, Plaintiff Malik gave him a very
16 basic book on the religion. The book is commonly used to teach Sunday school
17 classes to children, and Malik knew that his father had taught Sunday school and
18 had used the same book.

19 71. Monteilh talked frequently with Malik at the mosque. He also
20 suggested that they talk at a nearby gym, which they did in part because Monteilh
21 worked out there. Shortly after their meeting, Monteilh began asking Malik things
22 that made Malik uncomfortable. At one point Monteilh asked Plaintiff Malik what
23 would happen if someone went up to the imam at ICOI and told him they wanted
24 to blow themselves up. Plaintiff Malik replied that the imam would think this
25 person was crazy. Monteilh persisted, and asked Plaintiff Malik if there were other
26 imams in the area that would respond to someone who wanted to blow themselves
27 up. Plaintiff Malik told Monteilh that there are no such imams or mosques in
28 Southern California as far as he knew.

1 72. On another occasion, Monteilh asked Malik about *jihad*, citing
2 specific pages in the children's book Malik had given him that mentioned jihad.
3 When Malik answered that *jihad* meant a "struggle," and that the concept referred
4 to the spiritual struggle to purify oneself, Monteilh pressed him about whether it
5 meant physical violence, and resisted Malik's answer that it did not.

6 73. These conversations deeply concerned Malik and made him very
7 uncomfortable around Monteilh. Malik thought that Monteilh had strange ideas
8 about Islam from movies or media, and urged him to go talk to the imam so that
9 the imam could guide him.

10 74. When Monteilh persisted in talking with Malik about his violent
11 ideas, Malik began trying to avoid Monteilh. He would avoid answering or
12 returning Monteilh's calls, although Monteilh called repeatedly. Malik also began
13 trying to go to the gym at times Monteilh did not attend.

14 75. Malik also noticed that Monteilh spoke with many others at the
15 mosque. For example, Malik occasionally saw Monteilh praying near meetings of
16 a youth group Malik attended in the mosque's prayer hall. Malik noticed on
17 several occasions that when Monteilh would pray near the group, he would leave
18 his belongings in the prayer hall while he went elsewhere.

19 76. Finally, Malik stopped attending the mosque altogether because
20 Monteilh was there so often. Malik also stopped attending the mosque in Tustin
21 because he heard that Monteilh had also been seen at that mosque. Malik resumed
22 attending ICOI only after Monteilh began approaching other people and speaking
23 to him less often. Even since returning to the mosque, Malik attends less often
24 than he had before he had contact with Monteilh.

25 In about spring 2007, Monteilh asked Malik about studying Islam abroad.
26 Malik suggested that Monteilh look into the seminary where Malik had studied,
27 Dar al-Mustafa, which Malik had enjoyed very much.
28

1 **Plaintiff Yasser AbdelRahim**

2 78. Plaintiff AbdelRahim was another victim of Monteilh's dragnet
3 surveillance of Muslims in Irvine. AbdelRahim started attending ICOI in about
4 2005. Shortly afterwards, he rented a room in a large house where a friend he met
5 through the mosque lived. Over the next few months, two other mutual friends
6 from ICOI, and AbdelRahim's brother, moved into the house as other roommates
7 left. All five of the housemates were, like AbdelRahim, of Egyptian origin.

8 79. In about July 2006, one of AbdelRahim's roommates told him about a
9 guy who had taken *shahadah* at the mosque. The following Saturday, they saw
10 Monteilh and introduced themselves, offering to help him learn about Islam if he
11 had any questions. Monteilh said that he appreciated it and took their phone
12 numbers.

13 80. Shortly afterward, Monteilh called AbdelRahim and began socializing
14 with AbdelRahim and his roommates. They talked, went out to get coffee, and
15 soon AbdelRahim invited Monteilh to their house for *iftar* (a meal eaten during
16 Ramadan). Monteilh began to spend time with them at their house watching TV or
17 playing X-box. AbdelRahim and his roommates also tried to help Monteilh feel
18 welcome by introducing him to other people in the Muslim community.

19 81. Initially, Monteilh talked with AbdelRahim and his roommates about
20 a variety of innocuous topics — not only about Islam, but about politics, world
21 affairs, movies, and sports. At some point, however, Monteilh began asking
22 questions about *jihad*, again with a focus on violence. AbdelRahim found this
23 odd, and responded that Monteilh should not concern himself with that, but
24 instead should concentrate on developing his faith, and should talk to the imam at
25 ICOI if he had questions about the meaning of *jihad*. However, Monteilh
26 persisted in raising the subject. AbdelRahim eventually became worried that
27 Monteilh had asked him several times about *jihad*, particularly when he heard
28 from several of his friends at the mosque that Monteilh had made similar inquiries

1 with them. AbdelRahim also noticed that Monteilh guided conversations to
2 political subjects like the wars in Iraq and Afghanistan, and would say
3 inflammatory things that seemed aimed at eliciting agreement or angry responses
4 from others.

5 82. Shortly afterward, a friend of AbdelRahim reported to him that
6 Monteilh had asked the friend to coffee to discuss a personal issue, but then
7 started asking particularly pointed questions about *jihad*. Upon hearing this,
8 AbdelRahim confronted Monteilh. AbdelRahim told Monteilh that if someone
9 was teaching him this view of *jihad*, then he needed to find another teacher.

10 83. After this conversation, AbdelRahim stopped speaking with Monteilh
11 or returning his calls. Over the next several months, AbdelRahim noticed that
12 Monteilh was spending time with different people at the mosque, and AbdelRahim
13 warned a few of them about his concerns regarding Monteilh.

14 **The FBI's "Dragnet" Approach**

15 84. The interactions between Monteilh and Plaintiffs Fazaga, Malik, and
16 AbdelRahim were part of a broader pattern of dragnet surveillance that Monteilh
17 engaged in at the behest of his FBI handlers. Two FBI Special Agents instructed
18 Monteilh to gather information on Muslims in general, and instructed him to adopt
19 strategies of information-gathering and surveillance that ensured that he would
20 obtain that information in an indiscriminate manner, such that Plaintiffs and
21 numerous other people were surveilled solely due to their religion. They also
22 provided Monteilh with the tools needed to conduct this indiscriminate
23 surveillance, including sophisticated audio and video recording devices. Again,
24 their instructions ensured that the surveillance tools would target people solely due
25 to their religion.

26 85. Monteilh's handlers at the FBI were FBI Special Agent Kevin
27 Armstrong and FBI Special Agent Paul Allen. Agents Armstrong and Allen
28 supervised all of Monteilh's work with the FBI. The FBI paid Monteilh for the

1 duration of his work for Agents Armstrong and Allen, in amounts ranging from
2 about \$6,000 to over \$11,000 per month.

3 86. Agents Armstrong and Allen told Monteilh that the FBI used the
4 name "Operation Flex" for the surveillance program that used him, and used that
5 term repeatedly. Agents Armstrong and Allen told him that the name referenced
6 him, since he operated under the cover of a fitness consultant. But they also told
7 Monteilh that Operation Flex was a broader surveillance program that went beyond
8 just his work.

9 87. The central feature of the FBI agents' instructions to Monteilh was
10 their directive that he gather information on Muslims, without any further
11 specification. Agents Armstrong and Allen did not limit Monteilh to specific
12 targets on which they wanted information. On the contrary, they repeatedly made
13 clear that they were interested simply in Muslims. To the extent they differentiated
14 within that group, they held a heightened interest in Muslims who were particularly
15 religious.

16 88. When Agents Armstrong and Allen first sent Monteilh to meet the
17 imam at ICOI and began infiltrating the Muslim community, they gave him no
18 specific targets, but instead told him to gather as much information on as many
19 people in the Muslim community as possible. Agent Allen told Monteilh, "We
20 want to get as many files on this community as possible." Agents Armstrong and
21 Allen told Monteilh that the United States was five to ten years behind Europe in
22 the extent of Islamic presence, and that they needed to build files on as many
23 individuals as possible so that when things started to happen, they would know
24 where to go. They said they were building files in areas with the biggest
25 concentrations of Muslim Americans — New York; the Dearborn, Michigan area;
26 and the Orange County/Los Angeles area.

27 89. In addition to information about the membership of each mosque,
28 Agents Armstrong and Allen instructed Monteilh to get the names of all board

1 members, imams, people who taught classes at the mosques, and other leadership
2 figures within the mosques.

3 90. Over the course of the investigation, Agents Armstrong and Allen sent
4 Monteilh to about ten mosques to conduct surveillance and audio recording in each
5 one. Monteilh spent the most time at ICOI, which he attended daily, but spent
6 significant time at other mosques, including the Orange County Islamic Foundation
7 mosque in Mission Viejo, Durul Falah in Tustin, Omar al-Farouq mosque in
8 Anaheim, Islamic Society of Orange County in Garden Grove, Al-Fatiha in the
9 West Covina/Azusa area, the mosque in Lomita, and King Fahd mosque in Culver
10 City. For about five or six months Monteilh went at least once a week to each of
11 these mosques, and would go to as many as four different mosques in a day to meet
12 with and talk to people, if not to pray.

13 91. Agents Armstrong and Allen initially told Monteilh he would make
14 his first contact with the community by attending services at a mosque in Anaheim,
15 but then instructed him to attend ICOI instead because it was closer to where he
16 lived, so he could spend more time there.

17 92. Agents Armstrong and Allen also informed Monteilh that the
18 surveillance program was itself spread indiscriminately across the area's mosques.
19 Electronic surveillance equipment was installed in at least eight area mosques
20 including ICOI, and mosques in Tustin, Mission Viejo, Culver City, Lomita, West
21 Covina, and Upland. They told him at one point that they could get in a lot of
22 trouble if people found out what surveillance they had in the mosques, which
23 Monteilh understood to mean that they did not have warrants. Nonetheless, Agent
24 Armstrong told Monteilh that the FBI had every mosque in the area under
25 surveillance — including both the ones he went to and the ones he didn't.

26 93. Apart from the electronic surveillance program, Agents Armstrong
27 and Allen also directed their surveillance at people on the basis of their religion by
28 instructing Monteilh to look for and identify to them people with certain religious

1 backgrounds or traits, such as anyone who studied *fiqh* (a strand of Islamic law
2 concerning morals and etiquette), who was an imam or sheikh; who went on *Hajj*;
3 who played a leadership role at a mosque or in the Muslim community; who
4 expressed sympathies to *mujahideen*; who was a “white” Muslim; or who went to
5 an Islamic school overseas.

6 94. Even with respect to these categories of Muslims, Monteilh’s handlers
7 did not tell him to limit the information he collected to those people. Agents
8 Armstrong and Allen would occasionally instruct Monteilh to spend more time
9 with or find out more about particular people he identified, but these were always
10 people Monteilh had identified to them during the course of the operation, not
11 people who had been targeted from the outset.

12 95. Agents Armstrong and Allen also instructed Monteilh to focus on
13 Muslim youth by keeping an eye out for people who tended to attract young
14 Muslims. They instructed him to identify and gather information on such people.
15 For example, Monteilh told them about a popular youth group on Tuesdays at ICOI
16 run by the imam. Students from the Muslim Student Union at the University of
17 California, Irvine (“UCI”) would attend. On many occasions, Monteilh recorded
18 the youth group meetings at ICOI by leaving his possessions, including the
19 recording key fob, near where the group met in the prayer hall so that all of their
20 discussions could be recorded. Monteilh did this by going into the prayer hall
21 during their meetings to pray, and then leaving behind his possessions as if he had
22 forgotten them or just chosen to leave them there while he did other things.
23 Monteilh would go to another part of the mosque or the courtyard, and return
24 sometime later to collect his things. Monteilh told his handlers he did this in his
25 written reports. His handlers never instructed him to stop this practice, and instead
26 repeatedly discussed with him the contents of the recordings obtained in this
27 manner.

28 **The FBI’s Surveillance Strategies**

1 96. The FBI agents instructed Monteilh to engage in a number of
2 surveillance strategies, all of which served to gather information on Muslims in an
3 indiscriminate manner.

4 97. After Monteilh agreed to work as a confidential informant and
5 underwent some training under the supervision Agents Armstrong and Allen,
6 Agents Armstrong and Allen instructed him to make the appointment to see the
7 imam at the ICOI. Once Monteilh had taken *shahadah* and began attending both
8 ICOI and other mosques, Agents Armstrong and Allen instructed him to gather
9 information on the Muslims at the mosques.

10 98. Agents Armstrong and Allen instructed Monteilh to obtain
11 information through various methods. They told him to take every opportunity to
12 meet people, get their contact information, meet them privately to get to know
13 them, find out their background, find out their religious and political views, and get
14 any information about them that he could to pass on to the FBI.

15 99. As a result, over the time he spent at ICOI and other mosques
16 Monteilh did not focus on any particular group of people, such as those who may
17 have engaged in criminal activity or even those from a particular country, but
18 instead socialized widely with different groups and individuals. ICOI is a multi-
19 lingual, multi-ethnic mosque, with separate social groups that form around
20 common language or country of origin. Monteilh surveilled people from every
21 social group regardless of their ethnic origin or dominant language.

22 100. Pursuant to his handlers' instructions, Monteilh went out of his way to
23 engage all of these different groups, even when he had no natural connection to
24 them. For example, he attended religion classes given in Arabic even when he did
25 not speak Arabic, and questioned 17 and 18 year olds about religious doctrine and
26 politics, when a stranger in his forties might be expected to ask such questions of
27 adults, not youth. Similarly, Monteilh spent significant time with a group of
28 Egyptians, a group of Pakistanis and Indians, a group from Syria and Lebanon, and

1 with the younger, second-generation social groups (generally identified as
2 “Muslim Students Union,” or MSU, in reference to on-campus Muslim
3 organizations). Within each group, he spoke to large numbers of people so as to
4 probe their views on religion, politics and violence, and then report them back to
5 his handlers at the FBI.

6 101. Within these groups, Monteilh tended to focus more heavily on people
7 who were more religious; people who came to the mosque only to attend Friday
8 prayers were less likely to be recipients of his attention.

9 102. Agents Armstrong and Allen also gave Monteilh a standing order to
10 gather information on Muslims’ charitable giving. They instructed him to collect
11 any pamphlet or brochure at any mosque that concerned charitable donations, to
12 inquire of Muslims about which charities and Islamic schools to give to, and to
13 then pass on the names of the charities and Islamic schools to them.

14 103. Monteilh’s handlers also instructed him to attend Muslim fundraising
15 events, to interact with the community and gather information, to identify people
16 who attended and who they came with, and, if there were any speakers, to record
17 what those speakers said.

18 104. Agents Armstrong and Allen also asked Monteilh to collect
19 information on the travel plans of Muslims in the community. They told him that
20 they shared this information with the Department of Homeland Security so as to be
21 able to monitor or search people during their travels.

22 105. Monteilh’s handlers also instructed him to attend lectures by Muslim
23 scholars and other guest speakers. Because Monteilh’s handlers wanted to know
24 both what the lecturers said and who attended these lectures, they equipped
25 Monteilh with a video surveillance device that had a camera in a shirt button, so
26 that he could both record lectures and film attendees socializing. Monteilh also
27 collected license plate numbers from the parking lots to identify those who
28 attended.

1 106. In keeping with his handlers' orders, Monteilh also attended classes at
2 the mosque so as to obtain more information on Muslim community members. For
3 example, he attended an Arabic language class at ICOI from about December 2006
4 to March 2007. On his handlers' instructions, he obtained and provided them with
5 the lists of the individuals who attended the class. Monteilh also attended a course
6 in *fiqh*, and obtained and provided the class list to his handlers, as per their
7 instructions.

8 107. Agents Armstrong and Allen also instructed Monteilh to attend *fajr*
9 (dawn) prayers, which are held about 4 a.m., or *ishaa* (late) prayers, which are held
10 about 9:30 p.m. Agents Armstrong and Allen told him that people who attended
11 prayers very early in the morning or late at night, and especially both, were very
12 devout and therefore more suspicious. They instructed him to obtain the names
13 and the license plate numbers of individuals who attended these prayers. Agents
14 Armstrong and Allen increased his pay when he agreed to go to *fajr* prayer four
15 days a week.

16 108. Agents Armstrong and Allen also instructed Monteilh to memorize
17 certain *ayas* and *surahs* (verses and chapters from the Quran) and to ask Muslims
18 about them. They said they had picked these verses because they believed them to
19 be susceptible to a "jihadist" interpretation, so that people's reactions to them
20 would help discern who was and was not a threat. They told Monteilh that
21 discussions about these verses would elicit responses that could be used to justify
22 additional surveillance measures.

23 109. Agents Armstrong and Allen also expressed interest in any Muslims
24 who followed websites that the agents believed were "jihadist," including
25 *MissionIslam.com* and *CagePrisoners.com* (a site devoted to raising awareness
26 about the detainees at Guantanamo Bay). Agent Allen told Monteilh to encourage
27 people he spoke with to go to these websites because they could document
28 people's visits to the website and use that either to pressure them to become

1 informants or to justify further surveillance on them.

2 110. Agents Armstrong and Allen also encouraged Monteilh to bring up in
3 conversation certain Muslim scholars and thinkers whom they believed were
4 extremist, so as to elicit people's views on them. The scholars they instructed him
5 to discuss included a number of Islamic scholars who, at the time, were both
6 widely popular and moderate, such as Sheikh Suhaib Webb and Yusef Estes.

7 111. Monteilh also used his cover as a fitness consultant to gather
8 information on the Muslims with whom he interacted. During his time working on
9 Operation Flex, Monteilh told people in the Muslim community that he worked as
10 a fitness consultant. In about November 2006, Agent Allen instructed Monteilh to
11 start going to the gym to work out with people he met from the Muslim
12 community, in order to get close to them and obtain information about them.
13 Again, Monteilh's handlers did not limit the scope of their instructions; the
14 directive included anyone from any mosque without any specific target, for the
15 purpose of collecting as much information as possible about Muslims in the
16 community. Pursuant to these instructions, Monteilh worked out with Muslims in
17 various gyms around the Orange County area and elicited a wide variety of
18 information, including travel plans, political and religious views.

19 112. The goal of these conversations was to obtain compromising
20 information that his handlers could use to pressure the Muslims with whom
21 Monteilh interacted into providing information or becoming informants. Monteilh
22 recorded these conversations using the equipment on his key fob or cell phone.
23 This surveillance was so fruitful that Monteilh's handlers eventually told him they
24 were seeking approval to have him open a Muslim gym.

25 113. Agents Armstrong and Allen talked repeatedly with Monteilh about
26 obtaining new informants within the Muslim community, primarily by getting
27 information on potential informants that could be used against them if they refused
28 to inform — such as immigration issues, sexual activity, business problems, or

1 crimes like drug use. Agents Armstrong and Allen instructed Monteilh to pay
2 attention to people's problems, to talk about and record them, including marital
3 problems, business problems, and petty criminal issues. Agents Armstrong and
4 Allen on several occasions talked about different individuals that they believed
5 might be susceptible to rumors about their sexual orientation, so that they could be
6 persuaded to become informants through the threat of such rumors being started.

7 114. Agents Armstrong and Allen also often spoke with Monteilh about a
8 maxim that "everybody knows somebody." They explained that if someone is
9 from Afghanistan, that meant that they would likely have some distant member of
10 their family or acquaintance who has some connection with the Taliban. If they
11 are from Lebanon, it might be Hezbollah; if they are from Palestine, it might be
12 Hamas. By finding out what connections they might have to these terrorist groups,
13 no matter how distant, they could threaten the individuals and pressure them to
14 provide information, or could justify additional surveillance.

15 115. Agents Armstrong and Allen also instructed Monteilh to engage in
16 acts that would build his reputation as a devout Muslim who had access to black
17 market items. On one occasion, Agents Armstrong and Allen instructed Monteilh
18 to provide Vicodin to a person whose father was sick in a foreign country. On
19 another occasion, Agent Allen instructed Monteilh to provide prescription anabolic
20 steroids to another two individuals to similarly further his credibility, which he did.

21 116. During their regular meetings with Monteilh, Agents Armstrong and
22 Allen also showed him photographs of Muslims from the community, taken from
23 many of the methods identified above (e.g. at the gym, at fajr prayer, etc.), asked
24 him to identify the people in those photographs, and then directed him to provide
25 as much information as possible about each person, including what mosque they
26 attended, their ethnicity or country of origin, the languages they spoke, the people
27 they associated with, what kind of car they drove, their occupation or whether they
28 were a student, as well as any other information Monteilh could obtain.

1 117. One theme ran throughout all of these different surveillance gathering
2 strategies. Agents Armstrong and Allen expressed interest in gathering
3 information only on Muslims, and they set aside any non-Muslims who were
4 identified through surveillance Monteilh performed. For example, on several
5 occasions when Agents Armstrong and Allen asked Monteilh to identify
6 individuals from photographs taken by surveillance cameras at the entrances to
7 gyms, they presented him with photographs of individuals who were not Muslim
8 — usually Latino — who Monteilh had spoken to or who had simply helped him
9 lift weights. Each time Monteilh indicated to Armstrong and Allen that the
10 individual identified was not a Muslim, they discarded the picture.

11 118. Indeed, both Agent Armstrong and Agent Allen, as well as other
12 agents, explicitly told Monteilh that Islam was a threat to America's national
13 security.

14 **The FBI's Surveillance Tools**

15 119. Agents Armstrong and Allen recorded information about virtually all
16 of the people with whom Monteilh interacted in several different ways – through
17 audio recording, video recording, extensive review of Monteilh's handwritten
18 notes about all aspects of his daily interactions, and a dragnet program to obtain
19 cellphone numbers, email addresses, and information about internet usage.

20 120. Upon information and belief, virtually all of Monteilh's interactions
21 with Muslims in the mosques were recorded by audio, video, or both. The
22 recordings were then transcribed and reviewed by officials within the FBI. Agent
23 Allen told Monteilh that there was a team transcribing all of his recorded
24 conversations.

25 121. Agents Armstrong and Allen instructed Monteilh that because of his
26 criminal background, all information he collected would have to be recorded.
27 After about September 2006, Armstrong and Allen gave Monteilh a cell phone and
28 two key fobs (which resembled the remote controls for car locks) with audio

1 recording devices in them, and which Monteilh used to record all day, every
2 moment he worked undercover, regardless of whom he was meeting or what was
3 discussed.

4 122. People at ICOI noticed that Monteilh would often forget his keys, so
5 that they would be delivered to the imam's office. People joked about Monteilh
6 frequently forgetting his keys, and for having his keys out during lectures and
7 conversations, even if he had to get them out after he sat down.

8 123. In fact, Monteilh utilized the trick of leaving his keys around the
9 mosque to allow audio recording of conversations to take place even when he was
10 not present.

11 124. On several occasions, Monteilh also left the recording devices in
12 locations in mosques in the area. For example, in a large mosque in Culver City,
13 Monteilh several times attended with a friend who changed in the office from
14 business clothes to more traditional dress before they went into the mosque to pray.
15 Monteilh left his keys in the office so that the key fob would record staff and board
16 members who came in and talked, then retrieved his keys from the office when
17 they were finished in the mosque. Monteilh did this several times, and in several
18 different mosques. Agents Armstrong and Allen received the notes where
19 Monteilh said he did this but never instructed him to stop.

20 125. Monteilh's recording activity was not limited to audio. Beginning in
21 about February 2007, on numerous occasions Agents Armstrong and Allen
22 outfitted Monteilh with video surveillance equipment that recorded through a
23 camera hidden in a button in the front of his shirt, while recording audio as well.
24 Toward the end of his assignment, Agents Armstrong and Allen had equipped
25 Monteilh to use this video surveillance as often as several days per week.

26 126. Agents Armstrong and Allen instructed Monteilh to use the video
27 camera for various specific purposes, including to capture the internal layout of
28 mosques, to film basketball or soccer games to see who associated with whom, to

1 film guest lectures at mosques to see what was said and who attended, and to
2 record the interiors of people's houses. Monteilh's handlers at various times
3 instructed him to open particular doors in homes or mosques and film the room
4 behind.

5 127. Agents Armstrong and Allen also used Monteilh's activities to gather
6 telephone and cell phone numbers, email addresses, and other electronic
7 information for indiscriminate surveillance.

8 128. Agents Armstrong and Allen told Monteilh they wanted him to collect
9 contact information, particularly email addresses and phone numbers. At times,
10 they even gave Monteilh quotas to collect contact information for ten new Muslims
11 per day. Agents Armstrong and Allen told Monteilh that they monitored his email
12 and cell phones to obtain the telephone numbers and email addresses of people
13 with whom he corresponded. Agent Allen instructed him to give out his cell phone
14 number widely so that people would call him or give their cell numbers in return,
15 so that the FBI could then collect those numbers. Armstrong and Allen also
16 instructed him to email frequently with people, so that the FBI could collect their
17 email addresses. Agents Armstrong and Allen told Monteilh that they used the cell
18 phone numbers and email addresses of individuals who contacted him to obtain
19 information from those individuals' phone and email accounts, including the list of
20 people they contacted.

21 129. Agents Armstrong and Allen told Monteilh that they kept the numbers
22 and emails he collected in a database that could be monitored for international
23 calls, or cross-referenced against phone calls or emails to persons of interest who
24 were believed to be linked to terrorism. Monteilh's handlers also told him that the
25 emails could be used to determine if the person was visiting certain websites, and
26 with whom they were emailing. Monteilh joined email distribution lists for many
27 of the mosques he surveilled, and would forward messages from the mosques to
28 the FBI so they would be informed about events and bulletins, and so they would

1 have the email addresses of anybody else who received the message.

2 130. Agents Armstrong and Allen also instructed Monteilh to gather all
3 available information, including literature, on events occurring at the mosques.
4 Following these instructions, Monteilh would collect brochures on charities that
5 were distributed in the mosques, visit the mosques' libraries or book areas, collect
6 newsletters and bulletins to see what activities were going on in the mosque, and
7 collect the names of individuals who attended, as well as their cell phone numbers
8 and license plates when possible. He would record this information either
9 electronically or through a system of notes.

10 131. Agents Armstrong and Allen instructed Monteilh to compose daily
11 notes of his activities and the surveillance he had undertaken. These notes were
12 extensive — Agents Armstrong and Allen instructed Monteilh to “empty [his]
13 head” about what he had learned that day — so that Monteilh regularly spent an
14 hour or two each evening writing notes. After a while, these notes became so
15 voluminous that Armstrong and Allen instructed Monteilh to prepare separate
16 “supplemental notes” containing any sensitive or particularly valuable information.
17 These were all handwritten. Armstrong and Allen took these notes from Monteilh
18 when they met him twice a week.

19 132. At times, Monteilh reported to Agents Armstrong and Allen that when
20 he was left alone in a mosque office, he had looked in drawers for information.
21 Armstrong and Allen never instructed him not to do this.

22 133. Agents Armstrong and Allen were well aware that many of the
23 surveillance tools that they had given Monteilh were being used illegally. Agent
24 Armstrong once told Monteilh that while warrants were needed to conduct most
25 surveillance for criminal investigations, “National security is different. Kevin is
26 God.” Agent Armstrong also told Monteilh more than once that they did not
27 always need warrants, and that even if they could not use the information in court
28 because they did not have a warrant, it was still useful to have the information. He

1 said that they could attribute the information to a confidential source if they needed
2 to.

3 134. Over the course of the fourteen months that Agents Armstrong and
4 Allen supervised Monteilh's work as an informant in the Los Angeles and Orange
5 County Muslim communities, they gathered hundreds of phone numbers and
6 thousands of email addresses of Muslims. They also obtained background
7 information on hundreds of individuals, gathered hundreds of hours of video
8 recordings that captured the interiors of mosques, homes, businesses, and the
9 associations of hundreds of Muslims. They also obtained thousands of hours of
10 audio recording of conversations — both where Monteilh was and was not present
11 — as well as recordings of public discussion groups, classes, and lectures
12 occurring in mosques and at other Muslim religious and cultural events.

13 **The FBI's Oversight, Supervision, and Use of Monteilh**

14 135. FBI Agents Armstrong and Allen, as well as their superiors Director
15 Tidwell, and Agents Walls and Rose, maintained extremely close oversight and
16 supervision of Monteilh. Moreover, because they made extensive use of the results
17 of his surveillance, they knew about the methods of surveillance he used in great
18 detail and authorized them.

19 136. From about August 2006 to October 2007, Agents Armstrong and
20 Allen met with Monteilh about twice per week for meetings to discuss their
21 assignments for him, to give him instructions, to obtain his daily notes, and to
22 either exchange his recording devices for fresh ones or upload the recordings to a
23 computer. These meetings were held in public places, outside the areas where the
24 Muslim community lived. About once per month, they met with Monteilh in a
25 room at the Anaheim Hilton Hotel, where they discussed the information he had
26 obtained and gave him instructions in greater detail.

27 137. Agents Armstrong and Allen monitored and supervised Monteilh's
28 work as an undercover informant closely. Through the daily notes they collected

1 from him and the twice-weekly meetings, Monteilh told them about virtually
2 everything he did and all the information he had obtained. They gave Monteilh
3 instructions, or “tasking orders,” regularly. They gave him both standing
4 instructions on kinds of information to gather whenever possible — for example, to
5 meet and get contact information for a certain number of Muslims per day — and
6 also gave him specific instructions on information they wanted, often in response
7 to information he provided — such as, for example, instructions to get inside a
8 certain house within the week or to have lunch with a particular person two times.
9 Agents Armstrong and Allen also gave Monteilh standing orders to call one of
10 them every day, even on his days off, which Monteilh would do, apprising them on
11 the call of his day’s activities.

12 138. Agents Armstrong and Allen at various times discussed with Monteilh
13 what happened to these notes. They said that their supervisors read the notes, that
14 the notes were seen in “the Beltway,” that they were seen by people with “a lot of
15 authority,” and that the Assistant Director in Charge of the FBI’s Los Angeles field
16 office, who at that time was Stephen Tidwell, read all of Monteilh’s daily notes.

17 139. During the course of the investigation, Agents Armstrong and Allen
18 discussed with Monteilh how the information he collected was actually being used.
19 They assured him that all the information he collected was retained, and that they
20 discarded none of it. They also told him that the information was used to build
21 files on individuals: that every person he contacted — whose phone number he got,
22 who he emailed, who he identified through photographs — had an individual file
23 in which the information he gathered was retained.

24 140. On about four different occasions, during the meetings between
25 Agents Armstrong and Allen and Monteilh at the hotel room, they showed him a
26 huge photo array on a large board consisting of the photos of around two hundred
27 Muslims from the Orange County/Los Angeles area. Agents Armstrong and Allen
28 used different sets of photographs for each of these meetings, so that Monteilh saw

1 hundreds of photographs over the four meetings. They instructed him to arrange
2 the photos from the most dangerous to the least based on his knowledge and
3 experience. The entire leadership of the Islamic community were in the photos —
4 sheikhs, imams, board members, prayer leaders, leaders of civic organizations, and
5 youth groups. The process took hours. Agents Armstrong and Allen also asked
6 Monteilh to assist them in organizing the photos according to categories such as
7 financial, operative, and leadership; to divide photos into possible cells according
8 to mosques and ethnicity or nationality. The first of these meetings was in about
9 March 2007, and the last was in about September 2007.

10 141. Over the course of several conversations, Agents Armstrong and
11 Allen told Monteilh that they considered the leaders in the Muslim community —
12 board members and leadership at mosques and leaders of Muslim organizations —
13 to be potential threats, and that they regularly surveilled them and maintained more
14 detailed files of information on their background and activities.

15 142. In about early spring of 2007, Agents Armstrong and Allen told
16 Monteilh that information he had provided was particularly valuable, and told him
17 he was “gold” in Los Angeles and in Washington. Agent Allen said that
18 information from the operation was followed by people “at the highest levels,”
19 and that the operation was among the ten most important intelligence
20 investigations going on in the country. In about March or April 2007, Agent Allen
21 said that he had meetings with Stephen Tidwell and one of his supervisors from
22 Washington, D.C., Joseph Billy, Jr., about the operation. Around the same time
23 period, Agent Allen flew to Washington, D.C. with his supervisor, Pat Rose, in
24 part to meet with high-level FBI officials to get approval to open a gym for
25 Muslims that would function in part as a mosque with a prayer room. Agent Allen
26 told Monteilh that approval to open the gym had been granted.

27 143. At around that time, Agents Armstrong and Allen told Monteilh that
28 information from the operation would be shared with other agencies — that

1 information obtained on people's finances or foreign assets was shared with the
2 Treasury Department, and that information about people's immigration issues
3 would be sent to immigration officials.

4 **The End of the Monteilh Operation**

5 144. Agents Allen and Armstrong had instructed Monteilh to ask general
6 questions about *jihad* from the beginning of the operation. In early 2007, they
7 instructed him to start asking more pointedly about *jihad* and armed conflict, then
8 to more openly suggest his own willingness to engage in violence. Pursuant to
9 these instructions, in one-on-one conversations, Monteilh began asking people
10 about violent *jihad*, expressing frustration over the oppression of Muslims around
11 the world, pressing them for their views, and implying that he might be willing or
12 able to take action.

13 145. In about May 2007, on instructions from his handlers, Monteilh told a
14 number of individuals that he believed it was his duty as a Muslim to take violent
15 actions, and that he had access to weapons. Many members of the Muslim
16 community at ICOI then reported these statements to community leaders, including
17 Hussam Ayloush. Ayloush both called the FBI to report the statements and
18 instructed the individuals who had heard the statements to report them to the Irvine
19 Police Department, which they did.

20 146. As a community, ICOI also brought an action for a restraining order
21 against Monteilh to bar him from the mosque. A California Superior Court granted
22 the restraining order in June 2007.

23 147. After the court granted the restraining order, Monteilh continued
24 going to other mosques for a month or two, but then disappeared from the Muslim
25 community.

26 148. At around the same time -- during the summer of 2007 -- Agents
27 Armstrong and Allen told Monteilh that Defendant Barbara Walls, then the
28 Assistant Special Agent in Charge of the FBI's Santa Ana office, had come to

1 distrust him and did not want him working any more. They told him there was
2 significant conflict between Agent Walls and field agents over how to handle the
3 operation, and that there had been an audit team sent from Washington, D.C., to
4 examine Agent Walls' handling of one of the leads from the operation. Because of
5 this conflict and complications surrounding the restraining order, Agents
6 Armstrong and Allen told Monteilh in about September 2007 that he would be
7 going on hiatus from undercover work in the Orange County Muslim community.

8 149. During one of their final meetings with Monteilh in about October
9 2007, Agent Allen told Monteilh that although his role was over, Operation Flex
10 and the FBI's operations in Orange County and Los Angeles would continue. He
11 said that the information Monteilh had provided was a valuable foundation for the
12 FBI's continuing work.

13 150. During one of the final meetings between Agents Armstrong and
14 Allen and Monteilh, Agent Walls was also present. She warned Monteilh to stay
15 silent about the operation.

16 151. In August 2008, Monteilh returned to Irvine and contacted the Irvine
17 Police Department to voice concerns about his safety because of his role as an
18 informant. He spoke with a detective, as well as a sergeant that he recognized as
19 someone who had once escorted him when he was undercover with his handlers.
20 The sergeant knew very specific information about individuals Monteilh had
21 surveilled who he had concerns about, and told Monteilh in this meeting that he
22 worked for JTTF. He told Monteilh that several individuals he had asked him
23 about were still under surveillance. He also specifically mentioned that
24 surveillance was ongoing at gyms and at least two mosques.

25 **Monteilh's Identity Revealed**

26 152. On or about about February 20, 2009, a man named Ahmed Niazi was
27 arrested in Orange County and charged in federal criminal court with immigration
28 fraud for lying on his naturalization application.

1 153. Niazi had met Monteilh at ICOI and had spent a significant amount of
2 time with him. Niazi had heard Monteilh's most direct statements about *jihad* and
3 had reported those statements to Hussam Ayloush and to the Irvine Police
4 Department.

5 154. At Niazi's bail hearing, which occurred on February 24, 2009 in
6 federal district court in Santa Ana, California, FBI Special Agent Thomas Ropel
7 testified that Niazi presented a threat to national security. Agent Ropel testified
8 that he had heard numerous recordings of conversations between Niazi and a
9 confidential informant. Agent Ropel stated that this confidential informant was the
10 man Hussam Ayloush had reported to the FBI, and that Niazi and another
11 individual had reported to the Irvine Police Department. Together, these
12 statements confirmed that the informant was Craig Monteilh, and that he had
13 recorded numerous conversations that he had while an informant.

14 155. Charges against Niazi were dismissed at the request of the United
15 States Attorney's office on about September 30, 2010.

16 156. Agent Ropel's testimony on February 24, 2009 confirmed for the first
17 time that Monteilh was a confidential informant for the FBI who had recorded
18 numerous conversations.

19 157. Prior to that testimony, Plaintiffs did not know and could not
20 reasonably have known that Monteilh was working for the FBI as an informant;
21 that the FBI and Defendants, through Monteilh, had surveilled and gathered
22 information about them from their interactions with Monteilh; and that the FBI had
23 subjected them to this surveillance because of their religion. Upon information and
24 belief, prior to February 2009, Monteilh never told anyone outside of law
25 enforcement and his immediate family that he was working as an informant for the
26 FBI.

27 158. Subsequent to Ropel's testimony, a number of different sources have
28 confirmed that Monteilh worked for the FBI, including Monteilh himself.

1 159. In news accounts of the investigation, Monteilh himself has stated to
2 reporters that the FBI paid him more than \$170,000 over fifteen months to be an
3 undercover informant in mosques in Orange County, that “he was instructed to
4 infiltrate mosques throughout Orange [County] and two neighboring counties in
5 Southern California,” that he was “ordered to randomly surveil and spy on
6 Muslims to ferret out potential terrorists,” and that his handlers told him that
7 “Islam is a threat to our national security.”²⁶

8 160. Upon information and belief, on August 20, 2007, the district attorney
9 in a state criminal case against Monteilh from 2003 moved to terminate his
10 probation early. In the proceeding, the district attorney explained the basis for the
11 termination:

12 Apparently, [Monteilh] is working with F.B.I. Agent Kevin Armstrong.
13 He has given Agent Armstrong very, very valuable information that has
14 proven to be essential in an F.B.I. prosecution. It was Agent Armstrong
15 that contacted the head deputy and the head deputy instructed us to ask
for termination.²⁷

16 A copy of the transcript is attached hereto as Attachment 1.

17 161. Further confirmation comes from court documents filed in a civil
18 action that Monteilh brought against the FBI and the City of Irvine. In some of
19 those documents, the City of Irvine acknowledged that while a pending criminal
20 investigation of Monteilh was underway, members of the FBI’s Orange County
21 Joint Terrorism Task Force approached members of the Irvine police force and
22
23

24 ²⁶ See Jerry Markon, *Tension grows between Calif. Muslims, FBI after informant*
25 *infiltrates mosque*, WASH. POST (Dec. 5, 2010).

26 ²⁷ Transcript of Proceedings held Aug. 20, 2007, Probation Termination, *People v.*
27 *Monteilh*, L.A. Sup. Ct. No. KA059040, filed in support of Motion to Set Aside
28 Conviction, Exh. I, *Monteilh v. Federal Bureau of Investigation*, Dkt. 89-9, Case
No. 10-cv-00102 JVS (RNBx) (C.D. Cal.).

1 asked them to delay any action against Monteilh.²⁸

2 162. In discovery served by Monteilh in that same federal lawsuit, the City
3 of Irvine admitted that it and its agents “were aware that [Monteilh] was an FBI
4 informant,” and that the City of Irvine “[was] informed by the FBI that [Monteilh]
5 was an FBI informant.”²⁹

6 163. Correspondence in connection with that lawsuit provides yet more
7 evidence of Monteilh’s work as an FBI informant. Upon information and belief,
8 on June 16, 2010, Associate General Counsel for the FBI, Henry R. Felix, sent a
9 letter to Adam Krolikowski, an attorney representing Monteilh in his civil action
10 against the FBI, in reply to a letter Krolikowski had sent the previous day. Felix’s
11 June 16 letter indicated that Monteilh had signed a non-disclosure agreement with
12 the FBI on October 5, 2007. Felix noted that Krolikowski had sent previous letters,
13 but stated that his most recent letter mentioned “Operation Flex” and that this was
14 “the first letter in which [Krolikowski] reference[d] a particular FBI operation or
15 investigation.” A copy of this letter is attached hereto as Attachment 2.³⁰

16 164. Monteilh himself confirms many of the above-described details of his
17 work as an informant, including that he worked for the FBI to infiltrate the Muslim
18 community of Southern California from about July 2006 until October 2007; that,
19 during this time, he spent about six or seven days a week posing as a Muslim
20 convert named Farouk al-Aziz; that he conducted surveillance and other
21 information-gathering on a wide variety of individuals and organizations in the

22
23 ²⁸ See Answer to Complaint of City of Irvine and Ronald Carr, *Monteilh v. Federal*
Bureau of Investigation, Dkt. 23, Case No. 10-cv-00102 JVS (RNBx) (C.D. Cal.).

24 ²⁹ See Motion to Set Aside Conviction, Exh. G, *Monteilh v. Federal Bureau of*
Investigation, Dkt. 89-7, Case No. 10-cv-00102 JVS (RNBx) (C.D. Cal.) (exceprts
25 of City of Irvine’s responses to requests for admissions).

26 ³⁰ A copy of the letter was filed by Monteilh in his damages action against the FBI.
27 See Motion to Set Aside Conviction, Exh. D, *Monteilh v. Federal Bureau of*
Investigation, Dkt. 89-4, Case No. 10-cv-00102 JVS (RNBx) (C.D. Cal.).
28

1 Muslim community, solely because they were Muslim; and that he conducted
2 surveillance of Plaintiffs as alleged below.

3 **Monteilh's Interactions with Sheikh Yassir Fazaga**

4 165. Agents Armstrong and Allen instructed Monteilh to conduct
5 surveillance of the Orange County Islamic Foundation (OCIF) mosque in Mission
6 Viejo, California. The imam of that mosque is Plaintiff Yassir Fazaga.

7 166. Agents Armstrong and Allen told Monteilh they believed that Plaintiff
8 Fazaga, the imam of OCIF, was a radical, for several reasons: They said that
9 Fazaga directed students on how to conduct demonstrations and encouraged them
10 to speak out. They said that when the FBI Assistant Director in Charge of the Los
11 Angeles Field Office, Stephen Tidwell, attended a meeting at an Orange County
12 mosque in about spring 2006, Fazaga openly pressed Tidwell about FBI informants
13 in mosques, and when Tidwell denied putting informants in mosques, Fazaga had
14 openly said he did not believe Tidwell. They also said that Fazaga was a person of
15 interest because he was a board member of "In Focus News," a prominent Muslim
16 newspaper that was vocal in speaking out against U.S. government actions that
17 negatively affected Muslims and which Agents Armstrong and Allen believed was
18 anti-American and linked to Muslim civil rights groups.

19 167. Agents Armstrong and Allen told Monteilh that OCIF was linked to
20 another mosque they were interested in, the Islamic Center of Irvine, because the
21 two mosques held joint events and jointly organized foreign trips, including the
22 hajj pilgrimage to Mecca. They referred to OCIF as a "definite hotspot."

23 168. Agents Armstrong and Allen also told Monteilh that OCIF was radical
24 because it had certain religious scholars as guest speakers whom they believed
25 were radical —particularly Yusef Estes, Suhaib Webb, and a local imam, Ahmad
26 Sakr. They said that a moderate mosque would not have chosen these guest
27 speakers.

28 169. Agents Armstrong and Allen instructed Monteilh to attend the Yusef

1 Estes lecture which Sheikh Fazaga's mosque hosted. They equipped him with
2 hidden video equipment that he used to video record the entire lecture, the
3 literature Estes had set out, and the people who attended.

4 170. Pursuant to Agent Armstrong and Allen's instructions, Monteilh
5 attended OCIF a number of times to conduct surveillance, including during Sheikh
6 Fazaga's sermons.

7 171. Agent Armstrong and Allen also equipped Monteilh with a video
8 camera hidden in a shirt button that he used to take video of the interior of OCIF.
9 Agents Armstrong and Allen instructed Monteilh to get a sense of the schematics
10 of the place — entrances, exits, rooms, bathrooms, locked doors, storage rooms, as
11 well as security measures and whether any security guards were armed. Agent
12 Armstrong later told Monteilh that they had used the information he gathered to
13 enter the mosque.

14 172. On the instructions of Agents Armstrong and Allen, Monteilh made
15 video recordings of an area in the back of OCIF where there were religious books
16 available for congregants to use, so that they could determine if any of the
17 literature there was extremist.

18 173. Agents Armstrong and Allen also instructed Monteilh to make
19 contacts within Sheikh Fazaga's the Mission Viejo congregation. To comply,
20 Monteilh worked out on various different occasions with about 40 of their
21 congregants, usually in groups, obtaining the email address and cell phone number
22 of anyone he worked out with and passing that information on to his handlers.

23 174. Agents Armstrong and Allen instructed Monteilh to gather additional
24 information on a few individuals within the congregation who seemed to have the
25 most direct access to Fazaga — to gather their email addresses, cell phone
26 numbers, and addresses, as well as basic background information such as their
27 occupation, whether they were married or had children, and what prayers they
28 attended. Monteilh gathered this information and passed it on to Armstrong and

1 Allen.

2 175. Agents Armstrong and Allen instructed Monteilh to monitor Fazaga at
3 the prayers he conducted: to record and report on what he said, to talk with him
4 afterwards and see who else talked to him afterwards, and to note individuals who
5 appeared to be close to him. Monteilh also monitored what was said by a member
6 of the congregation who substituted for Fazaga during one of the prayers.

7 176. In about April 2007, a member of the community introduced Monteilh
8 to Fazaga while he was recording with a hidden video camera. Monteilh also
9 obtained Fazaga's cell phone number and email address (not through Fazaga, but
10 through others) and passed those on to Agents Armstrong and Allen, who told him
11 they used the email addresses and telephone numbers gathered to monitor
12 communications and conduct further surveillance.

13 177. Monteilh also gave Agents Armstrong and Allen the license plate
14 numbers of cars Fazaga traveled in and the people with whom Monteilh saw him
15 associate.

16 178. Agents Armstrong and Allen instructed Monteilh that whenever he
17 saw Fazaga at another mosque or anywhere outside OCIF, he should call them and
18 let them know immediately. Monteilh did this at least once when he saw Fazaga at
19 another mosque.

20 179. On one occasion, during Friday afternoon prayer at OCIF, the mosque
21 had a booth set up to collect donations for a cause for some kind of relief for
22 Muslims abroad. Pursuant to Agents Armstrong and Allen's orders to monitor
23 donations, Monteilh stood near the booth and used the hidden video camera to
24 make video recordings of people who went up to the booth to contribute money.

25 180. After Monteilh's role as an FBI informant became publicly known in
26 February 2009, many members of the OCIF congregation were horrified to learn
27 that the man who spent so much time in their mosque was an informant. This
28 revelation significantly undermined the trust within that community, which in turn

1 deterred members from worshipping as a congregation.

2 181. Since he had contact with Monteilh, Fazaga has also been subjected to
3 secondary screening and searches upon return to the U.S. from various
4 international trips, being held between 45 minutes and three hours most times he
5 travels.

6 182. Since discovering the FBI surveilled him and the mosque where he
7 serves as imam, Sheikh Fazaga believes that any of his communications in the
8 mosque and over telephones may be monitored, and indeed that he may be under
9 surveillance at any time. As an intern therapist as well as an imam, Fazaga
10 provided counseling to congregants and Muslims at the mosque as part of his
11 service to the Muslim community. Since learning of the FBI's surveillance, he no
12 longer counsels congregants at the mosque for fear that their conversations are
13 monitored and therefore the personal information shared is not confidential, which
14 has limited his capacity to provide such counseling. The constant fear of being
15 under surveillance, the scrutiny during travel, the effect on the sense of community
16 at his mosque and others, and the additional difficult in providing counseling to
17 clients have all caused Sheikh Fazaga severe and ongoing anxiety and emotional
18 distress.

19 **Monteilh's Interaction with Plaintiff Ali Uddin Malik**

20 183. In their early meetings with Monteilh, Agents Armstrong and Allen
21 showed Monteilh a picture of a young man who they identified as Plaintiff Ali
22 Malik. They told him Malik had been a surfer kid in Newport Beach who wore
23 dyed hair, but had travelled to Yemen to attend a religious school, and had returned
24 to the U.S. wearing traditional Muslim dress and a full beard.

25 184. Agents Armstrong and Allen told Monteilh that Malik's change in
26 behavior in embracing religion and traditional dress was highly suspicious and for
27 that reason they needed to investigate him. They also told him they were
28 suspicious of Malik because he was involved with people from the "MSU."

1 (“MSU” stands for “Muslim Student Union,” which is the name of Muslim student
2 groups at many colleges and universities, including U.C. Irvine.) Agent Armstrong
3 told Monteilh that before he was assigned to be his handler, he had been assigned
4 to investigate the MSUs and young Muslims, including Ali Malik.

5 185. Agents Armstrong and Allen told Monteilh that the way that Malik
6 groomed his beard indicated that he was a radical.

7 186. Agents Armstrong and Allen already had information on Malik and
8 his family before they assigned Monteilh to do anything, but they told Monteilh to
9 get more information on one of his brothers; on another individual who Malik was
10 close to; on Malik’s associations from the Irvine mosque, and on anyone with
11 whom Malik hung out at the gym.

12 187. Agents Armstrong and Allen said that they knew Malik had been to an
13 Islamic religious school in Yemen, and that he had been blocked from entering
14 Saudi Arabia after he had traveled to Yemen. They tasked Monteilh with finding
15 out what school he had been to and why he had been denied entry into Saudi
16 Arabia.

17 188. In about April 2007, Agents Armstrong and Allen began discussing
18 the possibility of sending Monteilh abroad to study Islam and Arabic. When
19 Monteilh started asking about a school to go to, Malik told him that he had
20 attended Dar al-Mustafa in Tarim, in Yemen. Monteilh reported this information
21 to Agents Armstrong and Allen.

22 189. On several occasions, Monteilh used the key fob or cell phone
23 recording devices provided by Agents Armstrong and Allen to record groups of
24 young Muslims talking in the prayer hall, particularly after *ishaa* prayer. On these
25 occasions, Monteilh greeted people, left his things — including the recording
26 device — near to where they were talking, then went to another part of the mosque
27 or a different part of the prayer hall to pray so that the recording device would
28 capture their conversation when he was gone. Several times Ali Malik was one of

1 the people in the group Monteilh recorded. Monteilh recorded these conversations
2 when he was not present, then gave notes that detailed the people he saw there to
3 Agents Armstrong and Allen, so they would be able to identify the voices. Agents
4 Armstrong and Allen received notes in which Monteilh said that he had recorded
5 these conversations without being physically present, and never told him not to do
6 this.

7 190. Malik more than once told Monteilh that he heard Monteilh was going
8 regularly to *fajr*, or early morning prayer. Malik commended Monteilh on his
9 commitment — he said that he had gotten into the routine of attending *fajr* prayers
10 daily when he had been studying abroad, but that, regrettably, it was easy to fall
11 into attending prayers only when it was convenient. He stated that he wanted to
12 get back to that kind of regimen. Agents Armstrong and Allen told Monteilh this
13 was significant information that indicated Malik was returning to extremist beliefs,
14 which justified further surveillance.

15 191. Agents Armstrong and Allen received significant information on
16 Malik. In addition to the surveillance described above, including recordings of all
17 Monteilh's conversations with Malik, they several times showed Monteilh photos
18 with people they said had seen with Malik and asked him to identify them. The
19 pictures sometimes had Malik in them.

20 192. Since his contact with Monteilh, Malik has repeatedly been subjected
21 to extended interviews with FBI and Customs upon re-entering the country,
22 including one interview that lasted for several hours, resulted in him missing a
23 connecting flight, and consequently missing a summer school class that made him
24 lose credit for the class and required that he push his college graduation back by
25 several months at considerable financial expense.

26 193. Also as a result of the FBI's surveillance, Malik altered his religious
27 practices. Because he understood he was targeted because of his outwardly
28 religious appearance, adherence to Islamic ritual practice, and involvement with

1 the mosque and Muslim Student Union at UCI, Malik trimmed his beard, does not
2 regularly wear a skull cap any longer, and stopped attending the mosque regularly
3 for an extended period of time. To this day, he attends mosque less frequently than
4 he did before having contact with Monteilh because of his fear of being monitored
5 at mosque and the effect that this fear has on his sense of the mosque as a place of
6 peace and spiritual refuge. This interference with his religious practice results
7 from Defendants' actions and has caused Malik severe and ongoing anxiety and
8 emotional distress.

9 194. Malik also believes his reputation in the community to have been
10 damaged. He believes that because of his association with Monteilh, people have
11 also assumed that he is a government informant and act as if they are suspicious of
12 him. He believes that he does not have the full trust of the Muslim community.
13 This belief that others suspect him because of Defendants' actions has caused
14 Malik severe and ongoing anxiety and emotional distress.

15 195. Since discovering the FBI surveilled him and the mosque he attended,
16 Malik believes that any of his communications in the mosque and over telephones
17 may be monitored, and indeed that he may be under surveillance at any time. He
18 curtails phone and email conversations with his friends and family because of his
19 belief that they may be monitored. He also suspects that any newcomer to a
20 mosque may be an FBI informant, and has refused to be as welcoming to
21 newcomers as he believes his religion requires. This constant fear of being under
22 surveillance because of Defendants' acts has caused Malik severe and ongoing
23 anxiety and emotional distress.

24 **Monteilh's Interaction with Yasser AbdelRahim**

25 196. A few weeks after Monteilh took *shahadah* at ICOI, a group of young
26 men approached him at mosque, said they were impressed that he attended mosque
27 so regularly and invited him to socialize with them at their house. Agents
28 Armstrong and Allen told Monteilh that the men's home was already under

1 surveillance because it was shared by five young, unmarried Muslim Egyptian men
2 with different skills and backgrounds — including a computer analyst, a
3 pharmacist, an accountant, and one who handled logistics — and that for that
4 reason they believed they might be a Muslim Brotherhood cell.

5 197. A few days after this invitation, Monteilh told Agents Armstrong and
6 Allen that one of the young men who lived at the house, Plaintiff Yasser Abdel
7 AbdelRahim, was a person who seemed to attract and have influence with young
8 Muslims. Agents Armstrong and Allen told him they thought AbdelRahim was the
9 leader of the cell, and that he should spend time at their house, and with
10 AbdelRahim in particular, and gather as much information as he could. Monteilh
11 did so, and gave recordings of all the conversations he had with AbdelRahim and
12 the other members of the house to Agents Armstrong and Allen, along with notes
13 about his observations.

14 198. Agents Armstrong and Allen told Monteilh to get into every room in
15 AbdelRahim's house to see what was in there, and include that information in his
16 reports. Later, in about February or March of 2007, Armstrong and Allen
17 equipped Monteilh with a video camera hidden in a shirt button and instructed him
18 to conduct video surveillance of the layout and contents of the house, which he did.

19 199. Shortly after first meeting Monteilh, AbdelRahim and one of his
20 roommates bought Monteilh some books on Islam, and later asked he what thought
21 of them. Some time after that, AbdelRahim agreed to meet with Monteilh to teach
22 him various prayers. Agents Armstrong and Allen expressed excitement at this,
23 and asked for the first sheet of paper on which AbdelRahim had written a prayer
24 for Monteilh to learn, telling him when they gave it back a few days later that they
25 had lifted AbdelRahim's fingerprints from it.

26 200. When Monteilh reported that AbdelRahim always led prayer in the
27 house, Agents Armstrong and Allen said that showed leadership, and confirmed
28 that the surveillance should focus on him.

1 201. Pursuant to standing instructions from Agents Armstrong and Allen,
2 Monteilh gathered and provided them information about AbdelRahim's travel
3 plans, particularly when AbdelRahim was going to or from Egypt to see his family
4 or his fiancé's family. After one of these trips to Egypt, AbdelRahim complained
5 that he had questioned for a long time when he re-entered the country – that he
6 expected some delay but this had been way too long. Agents Armstrong and Allen
7 told Monteilh they had been responsible for that questioning.

8 202. During this time, AbdelRahim played pick-up soccer with other
9 Muslim youth. Monteilh attended some of these games and took down the license
10 plates of people who attended. On more than one occasion, he made a video
11 recording with a hidden camera Agents Armstrong and Allen provided him, in
12 order to document who was attending and socializing with one another.

13 203. After Monteilh learned through conversations that AbdelRahim
14 traveled to a particular city for his job, Agents Armstrong and Allen had a
15 particular group of Muslims in that city surveilled and believed he went there to
16 report or get instructions from this group. As Agents Armstrong and Allen had
17 told Monteilh to report all travel plans, he reported AbdelRahim's travel plans on
18 several occasions. Agents Armstrong and Allen told Monteilh that they had
19 AbdelRahim surveilled when he traveled, based on Monteilh's information.

20 204. Monteilh talked to AbdelRahim about his fiancée, who lived in
21 Detroit, and her family, and transmitted what information he learned to Agents
22 Armstrong and Allen — including her email address.

23 205. On different occasions, Agents Armstrong and Allen told Monteilh
24 that the FBI had electronic listening devices in AbdelRahim's house, as well as in
25 AbdelRahim's car and phone. For example, one day, one of Monteilh's handlers
26 called to tell him that a friend had driven up to AbdelRahim's house quickly in an
27 agitated state, and asked Monteilh to go down there to find out what was going on.
28 When Monteilh asked how he knew this, he indicated they had video outside the

1 house. Another time, Agents Armstrong and Allen asked him about something
2 that happened inside the house that he hadn't yet put in his notes, then told him that
3 they knew because they had audio surveillance in the home.

4 206. Agents Armstrong and Allen said that AbdelRahim was donating
5 money to a charitable organization in Egypt and that these donations had been
6 tracked by the Treasury Department. They said that these donations were not
7 unlawful, but that they could make them seem suspicious in order to threaten him
8 and pressure him to provide information and become an informant.

9 207. On many Tuesday nights, an imam from the Garden Grove mosque
10 gave Arabic language teachings at ICOI. AbdelRahim often attended. On several
11 occasions, Monteilh used recording devices provided by his handlers to record
12 these teachings and the discussions afterward by going into the prayer hall to pray
13 near the group, then leaving his things — including the recording device (disguised
14 as a key fob or cell phone) — near to where the group was talking, and then go to
15 another part of the mosque or a different part of the prayer hall to pray. The
16 recording device would capture their conversation when Monteilh was not within
17 earshot. AbdelRahim was part of the group when Monteilh recorded on several
18 occasions.

19 208. On instructions from Agents Armstrong and Allen, Monteilh asked
20 AbdelRahim questions about *jihad* and pressed him on his views about religious
21 matters and certain religious scholars (particularly Egyptian ones) in order to get
22 him to say something that might be incriminating or provide a way to pressure him
23 to provide information to the FBI. AbdelRahim told Monteilh that there was more
24 to Islam than *jihad*: that *jihad* is a personal struggle, and that to the extent that
25 there is such thing as a fighting *jihad*, the Quran places very strict rules that
26 prohibit harming plants or trees, infants, elderly or women, and that terrorists who
27 say they are engaged in *jihad* are committing murder. When Monteilh brought up
28 religious scholars Agents Armstrong and Allen had instructed him to mention, like

1 Hassan al-Banna and Sayid Qutb, AbdelRahim said that he did not agree with
2 them, but thought that the Egyptian government should not have executed them.

3 209. When Monteilh was reported to the FBI by Muslim community
4 members, AbdelRahim was contacted by FBI agents and met with them to offer
5 information about Monteilh and his extremist rhetoric. Upon information and
6 belief, one of these agents was Defendant Paul Allen.

7 210. A few months later, AbdelRahim unexpectedly met the same FBI
8 agents, who were waiting for him outside the office of his chiropractor. He was
9 surprised to see them there as he had scheduled an appointment with the
10 chiropractor just an hour or so prior. They went to a coffee shop and showed him a
11 search warrant and told him that his storage unit was searched by the FBI. Two
12 days later, they met again with AbdelRahim and asked him if he knew of any
13 person engaged in any suspicious activity at the mosque or elsewhere. They asked
14 AbdelRahim if he minded contacting the agents if he came across any information
15 of anyone doing anything. AbdelRahim understood that they were asking him to
16 be an informant, and he refused. The FBI agents asked not to mention the offer to
17 anyone.

18 211. Since he had contact with Monteilh, AbdelRahim has also been
19 subjected to extensive secondary questioning and searches most of the times he has
20 returned to the U.S. from trips abroad. These interrogations and the fear that he
21 will be subjected to them when he travels have caused AbdelRahim severe anxiety
22 and emotional distress.

23 212. Since discovering the FBI surveilled him and the mosque he attended,
24 AbdelRahim believes that any of his communications in the mosque and over
25 telephones or email may be monitored, and indeed that he may be under
26 surveillance at any time. He also suspects that any newcomer to a mosque may be
27 an FBI informant, and has refused to be as welcoming to newcomers as he believes
28 his religion requires. This constant fear of being under surveillance because of

1 Defendants' acts has caused AbdelRahim severe and ongoing anxiety and
2 emotional distress.

3 213. Since these incidents, AbdelRahim's confidence in the mosque as a
4 sanctuary has been ruined. He significantly decreased his attendance to mosque
5 services for fear of surveillance, and as such his donations to mosque institutions
6 also decreased. This interference with his religious practice has caused
7 AbdelRahim severe and ongoing anxiety and emotional distress.

8 CLASS ALLEGATIONS

9 214. Plaintiffs, as class representatives, bring claims for injunctive relief on
10 behalf of themselves and all similarly situated persons pursuant to Rule 23(a) and
11 (b)(2).

12 215. Plaintiffs, as class representatives, bring this action on their own
13 behalf and on behalf of the following class:

14 All individuals targeted by Defendants for surveillance or
15 information-gathering through Monteilh and Operation Flex, on
16 account of their religion, and about whom the FBI thereby gathered
17 personally identifiable information.

18 216. *Numerosity.* The size of the class makes a class action both necessary
19 and efficient. Plaintiffs estimate that the class consist of hundreds if not
20 thousands of current and former residents of Southern California. Members of the
21 class are ascertainable through a review of Defendants' files on Operation Flex, but
22 so numerous that joinder is impracticable.

23 217. *Typicality.* The claims of the Plaintiffs are typical of the claims of the
24 class as a whole. Each of the Plaintiffs was subjected to surveillance by
25 Defendants during the relevant period. As a result of Defendants' practices,
26 Defendants have discriminated against each of Plaintiffs on the basis of their
27 religion and religious practices, in violation of law. The unlawful policies and
28 practices that have operated to discriminate against the Plaintiffs are typical of the

1 unlawful practices that operated to discriminate against other class members so as
2 to unlawfully target them for surveillance because of their religion and religious
3 practices.

4 218. *Common Questions of Law and Fact.* This case poses common
5 questions of law and fact affecting the rights of all members of the class, including,
6 but not limited to:

- 7 a. Whether Defendants engaged in a program of conducting
8 surveillance of mosques in Orange County, and the Plaintiffs
9 and class members who attended those mosques;
- 10 b. Whether Defendants targeted Plaintiffs and class members for
11 surveillance through Monteilh because they were Muslims or
12 because of their practice of Islam;
- 13 c. Whether Defendants' practice of targeting Plaintiffs and class
14 members for surveillance because they were Muslim or because
15 of their practice of Islam constitutes impermissible religious
16 discrimination under the First Amendment;
- 17 d. Whether Defendants' practice of targeting Plaintiffs and class
18 members for surveillance because they were Muslim or because
19 of their practice of Islam violates the guarantee of equal
20 protection of the laws under the Fifth Amendment;
- 21 e. Whether Defendants' practice of targeting Plaintiffs and class
22 members for surveillance because they were Muslim or because
23 of their practice of Islam places a substantial burden on the
24 religious exercise of Plaintiffs and class members under the
25 First Amendment;
- 26 f. Whether Defendant FBI maintains records on Plaintiffs and
27 class members, arising out of the investigation at issue,
28 describing how they exercise rights guaranteed by the First
Amendment;
- g. Whether the maintenance by Defendant FBI of records on
Plaintiffs and class members describing how they exercise
rights guaranteed by the First Amendment is pertinent to and
within the scope of lawful, authorized law enforcement activity;

1 religion of Islam. This scheme discriminates against Muslims, in violation of the
2 Establishment Clause of the First Amendment to the United States Constitution.

3 **Second Cause of Action**

4 **Violation of the First Amendment Establishment Clause**

5 **Claim under 42 U.S.C. § 1985(3); 28 U.S.C. § 1343**

6 **(Against All Defendants by all Plaintiffs.)**

7 224. Plaintiffs incorporate Paragraphs 1- 223 as if fully set forth herein.

8 225. As set forth above, Defendants engaged in a scheme to target
9 Plaintiffs for surveillance because of Plaintiffs' adherence to and practice of the
10 religion of Islam. This scheme discriminates against Muslims, in violation of the
11 Establishment Clause of the First Amendment to the United States Constitution.

12 226. Through their scheme, Defendants conspired, and conspired to go in
13 disguise on the premises of another, for the purpose of depriving Plaintiffs, directly
14 or indirectly, of the equal protection of the laws, and of equal privileges and
15 immunities under the laws, because of their adherence to and practice of Islam.
16 Defendants performed these acts with discriminatory animus against Muslims.

17 **Third Cause of Action**

18 **Violation of the First Amendment Free Exercise Clause**

19 **Claim under Bivens; 28 U.S.C. § 1331**

20 **(Against All Defendants by all Plaintiffs.)**

21 227. Plaintiffs incorporate Paragraphs 1-226 as if fully set forth herein.

22 228. As set forth above, Defendants engaged in a scheme to target
23 Plaintiffs for surveillance because of Plaintiffs' adherence to and practice of the
24 religion of Islam. This scheme discriminates against Muslims, in violation of the
25 Free Exercise of the First Amendment to the United States Constitution.

26 229. As set forth above, Defendants' surveillance placed a substantial
27 burden on Plaintiffs' religious exercise in their practice of Islam and is justified by
28 no legitimate government interest.

Fourth Cause of Action

Violation of the First Amendment Free Exercise Clause

Claim under 42 U.S.C. § 1985(3); 28 U.S.C. § 1343

(Against All Defendants by all Plaintiffs.)

230. Plaintiffs incorporate Paragraphs 1-229 as if fully set forth herein.

231. As set forth above, Defendants engaged in a scheme to target Plaintiffs for surveillance because of Plaintiffs' adherence to and practice of the religion of Islam. This scheme discriminates against Muslims, in violation of the Free Exercise of the First Amendment to the United States Constitution.

232. As set forth above, Defendants' surveillance placed a substantial burden on Plaintiffs' religious exercise in their practice of Islam and is justified by no legitimate government interest.

233. Defendants have conspired, and conspired to go in disguise on the premises of another, for the purpose of depriving Plaintiffs, directly or indirectly, of the equal protection of the laws, and of equal privileges and immunities under the laws, because of their adherence to and practice of Islam. Defendants performed these acts with discriminatory animus against Muslims.

Fifth Cause of Action

Violation of Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1

(Against All Defendants by all Plaintiffs.)

234. Plaintiffs incorporate Paragraphs 1-233 as if fully set forth herein.

235. The actions of Defendants substantially burdened Plaintiffs' exercise of religion, and are neither in furtherance of a compelling governmental interest nor the least restrictive means of furthering any compelling governmental interest.

Sixth Cause of Action

Violation of Fifth Amendment Equal Protection Clause

Claim under Bivens; 28 U.S.C. § 1331

(Against All Defendants by all Plaintiffs.)

236. Plaintiffs incorporate Paragraphs 1- 235 as if fully set forth herein.

237. As set forth above, Defendants have engaged in a scheme to target Plaintiffs for surveillance because of Plaintiffs' adherence to and practice of the religion of Islam. This scheme discriminates against Muslims, in violation of the Equal Protection Clause of the Fifth Amendment to the United States Constitution.

Seventh Cause of Action

Violation of the Equal Protection Clause

Claim under 42 U.S.C. § 1985(3); 28 U.S.C. § 1343

(Against All Defendants by all Plaintiffs.)

238. Plaintiffs incorporate Paragraphs 1-237 as if fully set forth herein.

239. As set forth above, Defendants have engaged in a scheme to target Plaintiffs for surveillance because of Plaintiffs' adherence to and practice of the religion of Islam. This scheme discriminates against Muslims, in violation of the Equal Protection Clause of the Fifth Amendment to the United States Constitution.

240. Defendants have conspired, and conspired to go in disguise on the premises of another, for the purpose of depriving Plaintiffs, directly or indirectly, of the equal protection of the laws, and of equal privileges and immunities under the laws, because of their adherence to and practice of Islam. Defendants performed these acts with discriminatory animus against Muslims.

Eighth Cause of Action

Violation of the Privacy Act, 5 U.S.C. § 552a(e)(7), (g)(1)(D)

(Against Defendant FBI by all Plaintiffs.)

241. Plaintiffs incorporate Paragraphs 1-240 as if fully set forth herein.

242. Defendant FBI, through Monteilh, collected and maintained records

1 describing how Plaintiffs exercise their rights to free speech and free exercise of
2 religion guaranteed by the First Amendment. The maintenance of these records is
3 neither pertinent to nor within the scope of any legitimate, authorized law
4 enforcement activity.

5 243. The collection and maintenance of these records, in violation of 5
6 U.S.C. § 552a, and has had an adverse effect on Plaintiffs.

7 **Ninth Cause of Action**

8 **Violation of the Fourth Amendment**

9 **Claim under Bivens; 28 U.S.C. § 1331.**

10 **(Against All Defendants by all Plaintiffs.)**

11 244. Plaintiffs incorporate Paragraphs 1-243 as if fully set forth herein.

12 245. Defendants' actions as set forth above constitute unreasonable
13 searches in violation of the Fourth Amendment to the United States Constitution,
14 including but not limited to Defendants' actions in audio recording Plaintiffs'
15 communications without a warrant and where no party to the communication
16 consented to the recording; video recording in homes and other places where
17 Plaintiffs had a reasonable expectation of privacy against video recording; and
18 entering and planting electronic listening devices in mosques without a warrant.

19 **Tenth Cause of Action**

20 **Violation of the Foreign Intelligence Surveillance Act, 50 U.S.C. § 1810**

21 **(Against All Defendants by all Plaintiffs.)**

22 246. Plaintiffs incorporate Paragraphs 1- 245 as if fully set forth herein.

23 247. Defendants, under color of law, acting through Monteilh, used
24 electronic, mechanical, and/or other surveillance devices, without a warrant, to
25 monitor Plaintiffs and their communications and/or activities, and to acquire
26 information under circumstances in which Plaintiffs had a reasonable expectation
27 of privacy and a warrant would be required for law enforcement purposes.

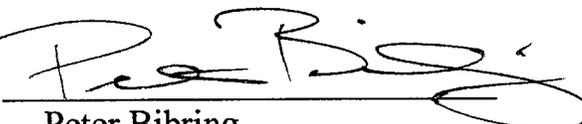
PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that the Court grant the following relief:

- a. Certify a Class under Rule 23(b)(2), as described above;
- b. Injunctive relief on behalf of Plaintiffs and all other putative class members ordering Defendants to destroy or return any information gathered through the unlawful surveillance program by Monteilh and/or Operation Flex described above, and any information derived from that unlawfully obtained information;
- c. Compensatory and punitive damages for violations of the laws of the United States and California, in an amount to be proven at trial;
- d. Liquidated damages in an amount to be proven at trial pursuant to 50 U.S.C. §§ 1810(a), 1828(a);
- e. Reasonable attorneys' fees and costs;
- f. Any other relief as this Court deems proper and just.

Dated: February 22, 2011

Respectfully Submitted,
 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
 COUNCIL ON AMERICAN-ISLAMIC RELATIONS, CALIFORNIA
 HADSELL STORMER KEENY RICHARDSON & RENICK LLP

By: 
 Peter Bibring
 Attorneys for Plaintiffs

ATTACHMENT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - WEST COVINA BRANCH
DEPARTMENT 8 HON. ABRAHAM KHAN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF,
VS.
CRAIG F. MONTEILH,
DEFENDANT.

NO. KA059040
PROBATION TERMINATION

WEST COVINA, CALIFORNIA; AUGUST 20, 2008
2:40 P.M.

UPON THE ABOVE DATE, THE DEFENDANT NOT
BEING PRESENT IN COURT AND NOT REPRESENTED BY
COUNSEL; THE PEOPLE BEING REPRESENTED BY LINDA
CHILSTROM, DEPUTY DISTRICT ATTORNEY OF
LOS ANGELES COUNTY, THE FOLLOWING PROCEEDINGS
WERE HELD:

(DIANA WHITESEL, CSR #6287, OFFICIAL REPORTER.)

1 CASE NUMBER: KA059040
2 CASE NAME: PEOPLE OF THE STATE OF CALIFORNIA
3 VS. CRAIG MONTEILH
4 WEST COVINA, CALIFORNIA AUGUST 20, 2007
5 DEPARTMENT NO. 8 HON. ABRAHAM KHAN, JUDGE
6 REPORTER: DIANA WHITESEL, CSR NO. 6287
7 TIME: 2:40 P.M.

8 APPEARANCES:

9 (LINDA CHILSTROM, DEPUTY DISTRICT ATTORNEY
10 OF LOS ANGELES COUNTY.)

11 -000-

12
13 THE CLERK: PEOPLE ARE GOING TO MOVE TO MAKE A MOTION TO
14 TERMINATE PROBATION.

15 THE COURT: CRAIG F. MONTEILH. KA059040.

16 MS. CHILSTROM: YOUR HONOR, I HAVE BEEN INFORMED BY
17 MR. SATO OF MY OFFICE THAT HEAD DEPUTY SCOTT CARBAUGH HAS
18 REQUESTED THAT THIS CASE -- THAT THE PROBATION IN THIS MATTER BE
19 TERMINATED.

20 THE COURT: CAN YOU GIVE ME A REASON?

21 MS. CHILSTROM: I DON'T KNOW A REASON. I WAS JUST TOLD IT
22 WAS UPON THE REQUEST OF THE HEAD DEPUTY.

23 THE COURT: I'M GOING TO CONTINUE THIS UNTIL TOMORROW
24 UNTIL YOU CAN GIVE ME A REASON. I USUALLY DON'T TERMINATE
25 PROBATION UNLESS THERE IS SOMETHING I CAN RELY ON.

26 MS. CHILSTROM: NOT A PROBLEM.

27 I TAKE IT, WE'RE WAITING FOR MR. LINDARS.

28 MAY I MAKE A QUICK CALL?

1 (PAUSE IN PROCEEDINGS.)

2
3 MS. CHILSTROM: YOUR HONOR, COULD THE COURT RECALL THE
4 LAST CASE?

5 THE COURT: OKAY. WE'RE STILL ON THE RECORD IN CRAIG F.
6 MONTEILH.

7 MS. CHILSTROM: YOUR HONOR, I JUST SPOKE WITH MR. SATO.
8 INITIALLY I WAS JUST TOLD THAT THE HEAD DEPUTY WANTED THE
9 PROBATION TERMINATED.

10 APPARENTLY THE DEFENDANT IS WORKING WITH F.B.I. AGENT
11 KEVIN ARMSTRONG. HE HAS GIVEN AGENT ARMSTRONG VERY, VERY
12 VALUABLE INFORMATION THAT HAS PROVEN TO BE ESSENTIAL IN AN F.B.I.
13 PROSECUTION. IT WAS AGENT ARMSTRONG THAT CONTACTED THE HEAD
14 DEPUTY AND THE HEAD DEPUTY INSTRUCTED US TO ASK FOR TERMINATION.

15 THE COURT: WELL, OKAY. I KNOW THE DEFENDANT HIMSELF WAS
16 HERE IN APRIL AND HAD REQUESTED EARLY TERMINATION. AND I BELIEVE
17 ON RECOMMENDATION OF THE DISTRICT ATTORNEY, I DENIED HIS REQUEST.
18 AND THAT WAS BACK IN APRIL. THAT'S WHY I WANTED TO FIND OUT WHAT
19 THE REASONS WHY WERE AT THIS TIME BECAUSE IT'S ONLY BEEN FOUR
20 MONTHS AFTER.

21 BUT OTHERWISE HE'S PAID HIS FINANCIAL OBLIGATION AND
22 HE'S OTHERWISE BEEN ON PROBATION -- HOW LONG HAS HE BEEN ON?
23 IT'S KA059040. IS THAT '03?

24 MS. CHILSTROM: IT IS '03, YOUR HONOR.

25 THE CLERK: YES, YOUR HONOR, SINCE MAY 5, '03.

26 THE COURT: ALL RIGHT. APPARENTLY HE'S HAD PROBATION
27 EXTENDED. IT MAY HAVE BEEN BECAUSE OF A WARRANT THAT HAD BEEN
28 ISSUED WHICH IT WOULD OTHERWISE TOLL THE RUNNING OF HIS PERIOD.

1 I'LL GRANT THE REQUEST FOR THE REASONS STATED.

2 MS. CHILSTROM: THANK YOU.

3
4 (THE PROCEEDINGS IN THE ABOVE-ENTITLED
5 MATTER WERE ADJOURNED.)

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ATTACHMENT

2



U.S. Department of Justice
Federal Bureau of Investigation

Washington, D. C. 20535-0001

June 16, 2010

Adam J. Krolikowski, Esq.
Woods & Krolikowski
1200 Main Street, Suite H
Irvine, CA 92614

RE: Craig Montielh [Confidential Communication]
Compliance with NDA Notice Requirement

Dear Mr. Krolikowski:

This office is in receipt of your letter to Steven Kramer dated June 15, 2010. In your letter you state that Mr. Montielh has "been asked to review and sign declarations prepared by the ACLU for a lawsuit they will be filing concerning civil rights violations by the FBI within the Islamic Community during the time period of Operation Flex." I am aware that you have sent previous letters to the FBI concerning the Non-Disclosure Agreement that Mr. Montielh signed on October 5, 2007, however, this is the first letter in which you reference a particular FBI operation or investigation. In advance of June 17, 2010, please provide us with any information that you intend to include in these declarations that is/or may be covered by the Non-Disclosure Agreement. The FBI maintains that all the obligations created under the Non-Disclosure Agreement remain in effect. Notification by Mr. Montielh that he intends to disclose information covered by this agreement does not limit or nullify the obligations that he accepted by signing this agreement.

Sincerely,

Henry R. Felix
Associate General Counsel
Civil Litigation Unit II
Office of the General Counsel
Federal Bureau of Investigation
PA 400
935 Pennsylvania Ave., NW
Washington, D.C. 20535
Phone: 202-220-9328
Fax: 202-220-9355

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): Islamic Shura Council of Southern California, et al. v. Federal Bureau of Investigation, et al., 07-cv-01088-CJC-(ANx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): [Signature] Date February 22, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

ATTACHMENT TO CIVIL COVER SHEET

I(a). Additional Plaintiff's Attorneys:

Ameena Mirza Qazi (SBN 250404)
COUNCIL ON AMERICAN-ISLAMIC RELATIONS, CALIFORNIA
2180 W. Crescent Avenue, Suite F
Anaheim, California 92801

Dan Stormer (SBN 101967)
Joshua Piovia-Scott (SBN 22364)
Reem Salahi (SBN 259711)
HADSELL STORMER KEENY RICHARDSON & RENICK, LLP
128 N. Fair Oaks Avenue, Suite 204
Pasadena, California 91103

I(a). Defendants continued:

ROBERT MUELLER, DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, in his official capacity; STEVEN M. MARTINEZ, ASSISTANT DIRECTOR IN CHARGE, FEDERAL BUREAU OF INVESTIGATION'S LOS ANGELES DIVISION, in his official capacity; J. STEPHEN TIDWELL; BARBARA WALLS; PAT ROSE; KEVIN ARMSTRONG; PAUL ALLEN;

VI. Cause of Action:

Bivens v. Six Unknown Agents, 403 U.S. 388 (1971); 42 U.S.C. § 1985: Religious Discrimination in violation of First and Fifth Amendments. Unreasonable Search in violation of Fourth Amendment. Privacy Act, 5 U.S.C. § 552a: Unlawful Maintenance of Records of First Amendment activity. Foreign Intelligence Surveillance Act, 50 U.S.C. § 1810: Unlawful Electronic Surveillance.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Josephine Tucker and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

SACV11- 301 JST (VBKx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address: Peter Bibring, Jennie Pasquarella, Ahilan Arulanantham, ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1313 West Eighth St., Los Angeles, California 90017
continued on Attachment

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

YASSIR FAZAGA, ALI UDDIN MALIK, YASSER ABDELRAHIM,

PLAINTIFF(S)

v.

FEDERAL BUREAU OF INVESTIGATION;

continued on Attachment

DEFENDANT(S).

CASE NUMBER

SACV11-00301 JST (VBK)

SUMMONS

TO: DEFENDANT(S): FEDERAL BUREAU OF INVESTIGATION; continued on Attachment

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Peter Bibring, whose address is ACLU Foundation of Southern California, 1313 West Eighth St., Los Angeles, CA 90017. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

FEB 22 2011

Dated: _____

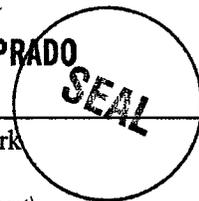
Clerk, U.S. District Court

JULIE PRADO

By: _____

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

ATTACHMENT TO SUMMONS

Additional Plaintiff's Attorneys:

Ameena Mirza Qazi (SBN 250404)
COUNCIL ON AMERICAN-ISLAMIC RELATIONS, CALIFORNIA
2180 W. Crescent Avenue, Suite F
Anaheim, California 92801

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Reem Salah (SBN 259711)
HADSELL STORMER KEENY RICHARDSON & RENICK, LLP
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Defendants continued:

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