



Written by [Bob Adelman](#) on March 3, 2014

Judge Throws Out Muslim Lawsuit Against NYPD

A New Jersey district judge threw out the complaint by a group of Muslims in New Jersey that claimed the surveillance program operated by the New York City police department since 9/11 was illegal and had been causing them pain, suffering, and economic loss. In a bizarre ruling, the judge concluded that there had been neither pain nor suffering nor economic loss — but even if there had been, it was the fault of the Associated Press, which first exposed the surveillance program, and not the program itself.



A New Jersey district judge [threw out the complaint](#) by a group of Muslims in New Jersey that claimed the surveillance program operated by the New York City police department since 9/11 was illegal and had been causing them pain, suffering, and economic loss. In a bizarre ruling, the judge concluded that there had been neither pain nor suffering nor economic loss — but even if there had been, it was the fault of the Associated Press, which first exposed the surveillance program, and not the program itself. [Wrote the judge:](#)

None of the Plaintiff's injuries arose until after the Associated Press released redacted, confidential NYPD documents and articles expressing its own interpretation of those documents. Nowhere in the Complaint do Plaintiffs allege they suffered harm prior to the unauthorized release of the documents by the Associated Press. This confirms that Plaintiff's alleged injuries flow from the Associated Press's unauthorized disclosure of the documents.

Baher Azmy, legal director for the Center for Constitutional Rights (CCR) that represented the plaintiffs, called the ruling "preposterous": "It's like arguing that you suffer no harm if your spouse is cheating on you as long as you know nothing about it, and that the blame lies with the messenger for telling you about it."

In a series of articles beginning in August 2011, the AP revealed that NYPD's secret intelligence operations included sending undercover officers, known as "mosque crawlers," into Muslim services to monitor sermons and conversations with worshippers. The department installed surveillance cameras outside mosques and photographed license plates of cars parked nearby. The AP learned that the CIA was involved as well, even though the program never turned up a scintilla of criminal or terrorist activity in 10 years of operation. The police subjected entire neighborhoods to "surveillance and scrutiny, often because of the ethnicity of the residents [and] not because of any accusations of crimes." Hundreds of mosques and Muslim student groups were investigated and dozens were infiltrated by agents.

In its own synopsis of the case, CCR stated,

The NYPD established a sprawling and secretive human mapping and surveillance program that targeted Muslim American communities in New York, New Jersey, and beyond, exclusively on the



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basis of their religious affiliation. The NYPD monitored and/or infiltrated almost every aspect of Muslim life, from mosques and student associations, to halaal butcher shops, restaurants, and private citizens.

Internal NYPD documents confirm that the surveillance program was not tied to suspicion of criminality. And unsurprisingly, after more than a decade in operation, the surveillance program produced no leads to terrorist activity.

In his opinion, District Judge William Martini claimed that the plaintiffs failed to satisfy the “constitutional minimum of standing” to bring the suit: 1) they must have suffered a provable injury — an “injury in fact”; and 2) they must show a “causal connection” between the injury sustained and the activity protested, neither of which the plaintiffs did, he said. In addition, since the plaintiffs did not proclaim invasion of rights under the First or Fourteenth Amendments, that issue wasn’t even addressed.

Martini concluded that the NYPD was within its rights to conduct surveillance, even outside the boundaries of the city — that it was justified in its “desire to locate budding terrorist conspiracies.” He admitted that the program did have some “adverse effects” on the Muslim community in New Jersey, but said that the police were pure in their motives:

While this surveillance program may have had adverse effects upon the Muslim community after the Associated Press published its articles, the motive for the Program was not solely to discriminate against Muslims, but rather to find Muslim terrorists hiding among ordinary, law-abiding Muslims.

In other words, the fishing expedition that has taken place since 2002 is somehow justified by the expectation that it might turn up a tainted fish, despite the fact that not one has been caught so far.

The plaintiffs plan to appeal Martini’s decision. The ACLU has also gotten involved, having filed a similar suit last summer, but basing its complaint in the previous case upon violations of the First and Fourteenth Amendments which were missing in the present case. In its 33-page complaint the ACLU and its New York affiliate, the NYCLU, have listed 160 separate invasions of privacy by the NYPD, including using paid informants to monitor, track, follow, and report on activities of Muslims. The ACLU is bringing suit claiming discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment as well as violations of the Free Exercise Clause of the First Amendment.

As Azmy of CCR explained, last week’s ruling “gives legal sanction to the targeted discrimination of Muslims anywhere and everywhere in this country, without limitation, for no other reason than their religion.”

He could have mentioned that, left to stand, the ruling would allow police in every part of the country to conduct surveillance on every individual American citizen, for any reason whatsoever.

The surveillance of Muslims isn’t just a Muslim problem. It’s everyone’s problem. It is hoped that on appeal, a higher court will abstain from such bizarre reasoning as Judge Martini’s and recognize that the limitations guaranteed in the Bill of Rights are, and must remain, serious impediments to the indiscriminate surveillance of anyone.

A graduate of Cornell University and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at www.LightFromTheRight.com, primarily on economics



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