

1 Southern California as far as he knew.

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

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

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

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

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

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

Plaintiff Yasser AbdelRahim

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

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

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

83. Initially, Monteilh talked with AbdelRahim and his roommates about a variety of innocuous topics — not only about Islam, but about politics, world affairs, movies, and sports. At some point, however, Monteilh began asking questions about *jihad*, again with a focus on violence. AbdelRahim found this odd, and responded that Monteilh should not concern himself with that, but instead should concentrate on developing his faith, and should talk to the imam at ICOI if he had questions about the meaning of *jihad*. However, Monteilh persisted in raising the subject. AbdelRahim eventually became worried that Monteilh had asked him several times about *jihad*, particularly when he heard 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 84. 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 85. 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 86. 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 87. 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 88. 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 Monteilh that the name
6 referenced him, since he operated under the cover of a fitness consultant. But they
7 also told Monteilh that Operation Flex was a broader surveillance program that
8 went beyond just his work.

9 89. 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 90. 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 91. 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 92. 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 93. 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 94. 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 95. Upon information and belief, Agents Allen and Armstrong caused
27 such electronic surveillance equipment to be installed at the Mission Viejo mosque
28 and used it to monitor conversations of Plaintiff Yassir Fazaga, including

1 conversations held in parts of the mosque not open to the public, including Sheikh
2 Fazaga's office.

3 96. Apart from the electronic surveillance program, Agents Armstrong
4 and Allen also directed their surveillance at people on the basis of their religion by
5 instructing Monteilh to look for and identify to them people with certain religious
6 backgrounds or traits, such as anyone who studied *fiqh* (a strand of Islamic law
7 concerning morals and etiquette), who was an imam or sheikh; who went on *Hajj*;
8 who played a leadership role at a mosque or in the Muslim community; who
9 expressed sympathies to *mujahideen*; who was a "white" Muslim; or who went to
10 an Islamic school overseas.

11 97. Even with respect to these categories of Muslims, Monteilh's handlers
12 did not tell him to limit the information he collected to those people. Agents
13 Armstrong and Allen would occasionally instruct Monteilh to spend more time
14 with or find out more about particular people he identified, but these were always
15 people Monteilh had identified to them during the course of the operation, not
16 people who had been targeted from the outset.

17 98. Agents Armstrong and Allen also instructed Monteilh to focus on
18 Muslim youth by keeping an eye out for people who tended to attract young
19 Muslims. They instructed him to identify and gather information on such people.
20 For example, Monteilh told them about a popular youth group on Tuesdays at ICOI
21 run by the imam. Students from the Muslim Student Union at the University of
22 California, Irvine ("UCI") would attend. On many occasions, Monteilh recorded
23 the youth group meetings at ICOI by leaving his possessions, including the
24 recording key fob, near where the group met in the prayer hall so that all of their
25 discussions could be recorded. Monteilh did this by going into the prayer hall
26 during their meetings to pray, and then leaving behind his possessions as if he had
27 forgotten them or just chosen to leave them there while he did other things.
28 Monteilh would go to another part of the mosque or the courtyard, and return

1 sometime later to collect his things. Monteilh told his handlers he did this in his
2 written reports. His handlers never instructed him to stop this practice, and instead
3 repeatedly discussed with him the contents of the recordings obtained in this
4 manner.

5 **The FBI's Surveillance Strategies**

6 99. The FBI agents instructed Monteilh to engage in a number of
7 surveillance strategies, all of which served to gather information on Muslims in an
8 indiscriminate manner.

9 100. After Monteilh agreed to work as a confidential informant and
10 underwent some training under the supervision Agents Armstrong and Allen,
11 Agents Armstrong and Allen instructed him to make the appointment to see the
12 imam at the ICOI. Once Monteilh had taken *shahadah* and began attending both
13 ICOI and other mosques, Agents Armstrong and Allen instructed him to gather
14 information on the Muslims at the mosques.

15 101. Agents Armstrong and Allen instructed Monteilh to obtain
16 information through various methods. They told him to take every opportunity to
17 meet people, get their contact information, meet them privately to get to know
18 them, find out their background, find out their religious and political views, and get
19 any information about them that he could to pass on to the FBI.

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

27 103. Pursuant to his handlers' instructions, Monteilh went out of his way to
28 engage all of these different groups, even when he had no natural connection to

1 them. For example, he attended religion classes given in Arabic even when he did
2 not speak Arabic, and questioned 17 and 18 year olds about religious doctrine and
3 politics, when a stranger in his forties might be expected to ask such questions of
4 adults, not youth. Similarly, Monteilh spent significant time with a group of
5 Egyptians, a group of Pakistanis and Indians, a group from Syria and Lebanon, and
6 with the younger, second-generation social groups (generally identified as
7 “Muslim Students Union,” or MSU, in reference to on-campus Muslim
8 organizations). Within each group, he spoke to large numbers of people so as to
9 probe their views on religion, politics and violence, and then report them back to
10 his handlers at the FBI.

11 104. Within these groups, Monteilh tended to focus more heavily on people
12 who were more religious; people who came to the mosque only to attend Friday
13 prayers were less likely to be recipients of his attention.

14 105. Agents Armstrong and Allen also gave Monteilh a standing order to
15 gather information on Muslims’ charitable giving. They instructed him to collect
16 any pamphlet or brochure at any mosque that concerned charitable donations, to
17 inquire of Muslims about which charities and Islamic schools to give to, and to
18 then pass on the names of the charities and Islamic schools to them.

19 106. Monteilh’s handlers also instructed him to attend Muslim fundraising
20 events, to interact with the community and gather information, to identify people
21 who attended and who they came with, and, if there were any speakers, to record
22 what those speakers said.

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

27 108. Monteilh’s handlers also instructed him to attend lectures by Muslim
28 scholars and other guest speakers. Because Monteilh’s handlers wanted to know

1 both what the lecturers said and who attended these lectures, they equipped
2 Monteilh with a video surveillance device that had a camera in a shirt button, so
3 that he could both record lectures and film attendees socializing. Monteilh also
4 collected license plate numbers from the parking lots to identify those who
5 attended.

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

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

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

28 112. Agents Armstrong and Allen also expressed interest in any Muslims

1 who followed websites that the agents believed were “jihadist,” including
2 *MissionIslam.com* and *CagePrisoners.com* (a site devoted to raising awareness
3 about the detainees at Guantanamo Bay). Agent Allen told Monteilh to encourage
4 people he spoke with to go to these websites because they could document
5 people’s visits to the website and use that either to pressure them to become
6 informants or to justify further surveillance on them.

7 113. Agents Armstrong and Allen also encouraged Monteilh to bring up in
8 conversation certain Muslim scholars and thinkers whom they believed were
9 extremist, so as to elicit people’s views on them. The scholars they instructed him
10 to discuss included a number of Islamic scholars who, at the time, were both
11 widely popular and moderate, such as Sheikh Suhaib Webb and Yusef Estes.

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

24 115. The goal of these conversations was to obtain compromising
25 information that his handlers could use to pressure the Muslims with whom
26 Monteilh interacted into providing information or becoming informants. Monteilh
27 recorded these conversations using the equipment on his key fob or cell phone.
28 This surveillance was so fruitful that Monteilh’s handlers eventually told him they

1 were seeking approval to have him open a Muslim gym.

2 116. Agents Armstrong and Allen talked repeatedly with Monteilh about
3 obtaining new informants within the Muslim community, primarily by getting
4 information on potential informants that could be used against them if they refused
5 to inform — such as immigration issues, sexual activity, business problems, or
6 crimes like drug use. Agents Armstrong and Allen instructed Monteilh to pay
7 attention to people's problems, to talk about and record them, including marital
8 problems, business problems, and petty criminal issues. Agents Armstrong and
9 Allen on several occasions talked about different individuals that they believed
10 might be susceptible to rumors about their sexual orientation, so that they could be
11 persuaded to become informants through the threat of such rumors being started.

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

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

26 119. During their regular meetings with Monteilh, Agents Armstrong and
27 Allen also showed him photographs of Muslims from the community, taken from
28 many of the methods identified above (e.g. at the gym, at fajr prayer, etc.), asked

1 him to identify the people in those photographs, and then directed him to provide
2 as much information as possible about each person, including what mosque they
3 attended, their ethnicity or country of origin, the languages they spoke, the people
4 they associated with, what kind of car they drove, their occupation or whether they
5 were a student, as well as any other information Monteilh could obtain.

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

16 121. Indeed, both Agent Armstrong and Agent Allen, as well as other
17 agents, explicitly told Monteilh that Islam was a threat to America's national
18 security.

19 **The FBI's Surveillance Tools**

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

25 123. Upon information and belief, virtually all of Monteilh's interactions
26 with Muslims in the mosques were recorded by audio, video, or both. The
27 recordings were then transcribed and reviewed by officials within the FBI. Agent
28 Allen told Monteilh that there was a team transcribing all of his recorded

1 conversations.

2 124. Agents Armstrong and Allen instructed Monteilh that because of his
3 criminal background, all information he collected would have to be recorded.
4 After about September 2006, Armstrong and Allen gave Monteilh a cell phone and
5 two key fobs (which resembled the remote controls for car locks) with audio
6 recording devices in them, and which Monteilh used to record all day, every
7 moment he worked undercover, regardless of whom he was meeting or what was
8 discussed.

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

13 126. In fact, Monteilh utilized the trick of leaving his keys around the
14 mosque to allow audio recording of conversations to take place even when he was
15 not present.

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

25 128. Monteilh's recording activity was not limited to audio. Beginning in
26 about February 2007, on numerous occasions Agents Armstrong and Allen
27 outfitted Monteilh with video surveillance equipment that recorded through a
28 camera hidden in a button in the front of his shirt, while recording audio as well.

1 Toward the end of his assignment, Agents Armstrong and Allen had equipped
2 Monteilh to use this video surveillance as often as several days per week.

3 129. Agents Armstrong and Allen instructed Monteilh to use the video
4 camera for various specific purposes, including to capture the internal layout of
5 mosques, to film basketball or soccer games to see who associated with whom, to
6 film guest lectures at mosques to see what was said and who attended, and to
7 record the interiors of people's houses. Monteilh's handlers at various times
8 instructed him to open particular doors in homes or mosques and film the room
9 behind.

10 130. Agents Armstrong and Allen also used Monteilh's activities to gather
11 telephone and cell phone numbers, email addresses, and other electronic
12 information for indiscriminate surveillance.

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

26 132. Agents Armstrong and Allen told Monteilh that they kept the numbers
27 and emails he collected in a database that could be monitored for international
28 calls, or cross-referenced against phone calls or emails to persons of interest who

1 were believed to be linked to terrorism. Monteilh's handlers also told him that the
2 emails could be used to determine if the person was visiting certain websites, and
3 with whom they were emailing. Monteilh joined email distribution lists for many
4 of the mosques he surveilled, and would forward messages from the mosques to
5 the FBI so they would be informed about events and bulletins, and so they would
6 have the email addresses of anybody else who received the message.

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

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

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

27 136. Agents Armstrong and Allen were well aware that many of the
28 surveillance tools that they had given Monteilh were being used illegally. Agent

1 Armstrong once told Monteilh that while warrants were needed to conduct most
2 surveillance for criminal investigations, “National security is different. Kevin is
3 God.” Agent Armstrong also told Monteilh more than once that they did not
4 always need warrants, and that even if they could not use the information in court
5 because they did not have a warrant, it was still useful to have the information. He
6 said that they could attribute the information to a confidential source if they needed
7 to.

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

18 **The FBI’s Oversight, Supervision, and Use of Monteilh**

19 138. Upon information and belief, FBI Agents Armstrong and Allen, as
20 well as their superiors Director Tidwell, and Agents Walls and Rose, maintained
21 extremely close oversight and supervision of Monteilh. Moreover, because they
22 made extensive use of the results of his surveillance, they knew in great detail the
23 nature and scope of the operation, including the methods of surveillance Monteilh
24 used and the criteria used to decide his targets, and continually authorized their
25 ongoing use.

26 139. From about August 2006 to October 2007, Agents Armstrong and
27 Allen met with Monteilh about twice per week for meetings to discuss their
28 assignments for him, to give him instructions, to obtain his daily notes, and to

1 either exchange his recording devices for fresh ones or upload the recordings to a
2 computer. These meetings were held in public places, outside the areas where the
3 Muslim community lived. About once per month, they met with Monteilh in a
4 room at the Anaheim Hilton Hotel, where they discussed the information he had
5 obtained and gave him instructions in greater detail.

6 140. Agents Armstrong and Allen monitored and supervised Monteilh's
7 work as an undercover informant closely. Through the daily notes they collected
8 from him and the twice-weekly meetings, Monteilh told them about virtually
9 everything he did and all the information he had obtained. They gave Monteilh
10 instructions, or "tasking orders," regularly. They gave him both standing
11 instructions on kinds of information to gather whenever possible — for example, to
12 meet and get contact information for a certain number of Muslims per day — and
13 also gave him specific instructions on information they wanted, often in response
14 to information he provided — such as, for example, instructions to get inside a
15 certain house within the week or to have lunch with a particular person two times.
16 Agents Armstrong and Allen also gave Monteilh standing orders to call one of
17 them every day, even on his days off, which Monteilh would do, apprising them on
18 the call of his day's activities.

19 141. Agents Armstrong and Allen at various times discussed with Monteilh
20 what happened to these notes. They said that their supervisors read the notes, that
21 the notes were seen in "the Beltway," that they were seen by people with "a lot of
22 authority," and that the Assistant Director in Charge of the FBI's Los Angeles field
23 office, who at that time was Stephen Tidwell, read all of Monteilh's daily notes.

24 142. During the course of the investigation, Agents Armstrong and Allen
25 discussed with Monteilh how the information he collected was actually being used.
26 They assured him that all the information he collected was retained, and that they
27 discarded none of it. They also told him that the information was used to build
28 files on individuals: that every person he contacted — whose phone number he got,

1 who he emailed, who he identified through photographs — had an individual file
2 in which the information he gathered was retained.

3 143. On about four different occasions, during the meetings between
4 Agents Armstrong and Allen and Monteilh at the hotel room, they showed him a
5 huge photo array on a large board consisting of the photos of around two hundred
6 Muslims from the Orange County/Los Angeles area. Agents Armstrong and Allen
7 used different sets of photographs for each of these meetings, so that Monteilh saw
8 hundreds of photographs over the four meetings. They instructed him to arrange
9 the photos from the most dangerous to the least based on his knowledge and
10 experience. The entire leadership of the Islamic community were in the photos —
11 sheikhs, imams, board members, prayer leaders, leaders of civic organizations, and
12 youth groups. The process took hours. Agents Armstrong and Allen also asked
13 Monteilh to assist them in organizing the photos according to categories such as
14 financial, operative, and leadership; to divide photos into possible cells according
15 to mosques and ethnicity or nationality. The first of these meetings was in about
16 March 2007, and the last was in about September 2007.

17 144. Over the course of several conversations, Agents Armstrong and
18 Allen told Monteilh that they considered the leaders in the Muslim community —
19 board members and leadership at mosques and leaders of Muslim organizations —
20 to be potential threats, and that they regularly surveilled them and maintained more
21 detailed files of information on their background and activities.

22 145. In about early spring of 2007, Agents Armstrong and Allen told
23 Monteilh that information he had provided was particularly valuable, and told him
24 he was “gold” in Los Angeles and in Washington. Agent Allen said that
25 information from the operation was followed by people “at the highest levels,”
26 and that the operation was among the ten most important intelligence
27 investigations going on in the country. In about March or April 2007, Agent Allen
28 said that he had meetings with Stephen Tidwell and one of his supervisors from

1 Washington, D.C., Joseph Billy, Jr., about the operation.³⁰ Around the same time
2 period, Agent Allen flew to Washington, D.C. with his supervisor, Pat Rose, in
3 part to meet with high-level FBI officials to get approval to open a gym for
4 Muslims that would function in part as a mosque with a prayer room. Agent Allen
5 told Monteilh that approval to open the gym had been granted.

6 146. At around that time, Agents Armstrong and Allen told Monteilh that
7 information from the operation would be shared with other agencies — that
8 information obtained on people's finances or foreign assets was shared with the
9 Treasury Department, and that information about people's immigration issues
10 would be sent to immigration officials.

11 **The End of the Monteilh Operation**

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

20 148. In about May 2007, on instructions from his handlers, Monteilh told a
21 number of individuals that he believed it was his duty as a Muslim to take violent
22 actions, and that he had access to weapons. Many members of the Muslim
23 community at ICOI then reported these statements to community leaders, including
24 Hussam Ayloush. Ayloush both called the FBI to report the statements and
25 instructed the individuals who had heard the statements to report them to the Irvine

26
27 ³⁰ Upon information and belief, Billy was at the time the FBI's Assistant Director
28 in Charge of the agency's Counterterrorism Division.

1 Police Department, which they did.

2 149. As a community, ICOI also brought an action for a restraining order
3 against Monteilh to bar him from the mosque. A California Superior Court granted
4 the restraining order in June 2007.

5 150. After the court granted the restraining order, Monteilh continued
6 going to other mosques for a month or two, but then disappeared from the Muslim
7 community.

8 151. At around the same time -- during the summer of 2007 -- Agents
9 Armstrong and Allen told Monteilh that Defendant Barbara Walls, then the
10 Assistant Special Agent in Charge of the FBI's Santa Ana office, had come to
11 distrust him and did not want him working any more. They told him there was
12 significant conflict between Agent Walls and field agents over how to handle the
13 operation, and that there had been an audit team sent from Washington, D.C., to
14 examine Agent Walls' handling of one of the leads from the operation. Because of
15 this conflict and complications surrounding the restraining order, Agents
16 Armstrong and Allen told Monteilh in about September 2007 that he would be
17 going on hiatus from undercover work in the Orange County Muslim community.

18 152. During one of their final meetings with Monteilh in about October
19 2007, Agent Allen told Monteilh that although his role was over, Operation Flex
20 and the FBI's operations in Orange County and Los Angeles would continue. He
21 said that the information Monteilh had provided was a valuable foundation for the
22 FBI's continuing work.

23 153. During one of the final meetings between Agents Armstrong and
24 Allen and Monteilh, Agent Walls was also present. She warned Monteilh to stay
25 silent about the operation.

26 154. In August 2008, Monteilh returned to Irvine and contacted the Irvine
27 Police Department to voice concerns about his safety because of his role as an
28 informant. He spoke with a detective, as well as a sergeant that he recognized as

1 someone who had once escorted him when he was undercover with his handlers.
2 The sergeant knew very specific information about individuals Monteilh had
3 surveilled who he had concerns about, and told Monteilh in this meeting that he
4 worked for JTTF. He told Monteilh that several individuals he had asked him
5 about were still under surveillance. He also specifically mentioned that
6 surveillance was ongoing at gyms and at least two mosques.

7 **Monteilh's Identity Revealed**

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

11 156. Niazi had met Monteilh at ICOI and had spent a significant amount of
12 time with him. Niazi had heard Monteilh's most direct statements about *jihad* and
13 had reported those statements to Hussam Ayloush and to the Irvine Police
14 Department.

15 157. At Niazi's bail hearing, which occurred on February 24, 2009 in
16 federal district court in Santa Ana, California, FBI Special Agent Thomas Ropel
17 testified that Niazi presented a threat to national security. Agent Ropel testified
18 that he had heard numerous recordings of conversations between Niazi and a
19 confidential informant. Agent Ropel stated that this confidential informant was the
20 man Hussam Ayloush had reported to the FBI, and that Niazi and another
21 individual had reported to the Irvine Police Department. Together, these
22 statements confirmed that the informant was Craig Monteilh, and that he had
23 recorded numerous conversations that he had while an informant.

24 158. Charges against Niazi were dismissed at the request of the United
25 States Attorney's office on about September 30, 2010.

26 159. Agent Ropel's testimony on February 24, 2009 confirmed for the first
27 time that Monteilh was a confidential informant for the FBI who had recorded
28 numerous conversations.

1 160. Prior to that testimony, Plaintiffs did not know and could not
2 reasonably have known that Monteilh was working for the FBI as an informant;
3 that the FBI and Defendants, through Monteilh, had surveilled and gathered
4 information about them from their interactions with Monteilh; and that the FBI had
5 subjected them to this surveillance because of their religion. Upon information and
6 belief, prior to February 2009, Monteilh never told anyone outside of law
7 enforcement and his immediate family that he was working as an informant for the
8 FBI.

9 161. Subsequent to Ropel's testimony, a number of different sources have
10 confirmed that Monteilh worked for the FBI, including Monteilh himself.

11 162. In news accounts of the investigation, Monteilh himself has stated to
12 reporters that the FBI paid him more than \$170,000 over fifteen months to be an
13 undercover informant in mosques in Orange County, that "he was instructed to
14 infiltrate mosques throughout Orange [County] and two neighboring counties in
15 Southern California," that he was "ordered to randomly surveil and spy on
16 Muslims to ferret out potential terrorists," and that his handlers told him that
17 "Islam is a threat to our national security."³¹

18 163. Upon information and belief, on August 20, 2007, the district attorney
19 in a state criminal case against Monteilh from 2003 moved to terminate his
20 probation early. In the proceeding, the district attorney explained the basis for the
21 termination:

22 Apparently, [Monteilh] is working with F.B.I. Agent Kevin Armstrong.
23 He has given Agent Armstrong very, very valuable information that has
24 proven to be essential in an F.B.I. prosecution. It was Agent Armstrong
25 that contacted the head deputy and the head deputy instructed us to ask

26
27 ³¹ See Jerry Markon, *Tension grows between Calif. Muslims, FBI after informant*
28 *infiltrates mosque*, WASH. POST (Dec. 5, 2010).

1 for termination.³²

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

3 164. Further confirmation comes from court documents filed in a civil
4 action that Monteilh brought against the FBI and the City of Irvine. In some of
5 those documents, the City of Irvine acknowledged that while a pending criminal
6 investigation of Monteilh was underway, members of the FBI's Orange County
7 Joint Terrorism Task Force approached members of the Irvine police force and
8 asked them to delay any action against Monteilh.³³

9 165. In discovery served by Monteilh in that same federal lawsuit, the City
10 of Irvine admitted that it and its agents "were aware that [Monteilh] was an FBI
11 informant," and that the City of Irvine "[was] informed by the FBI that [Monteilh]
12 was an FBI informant."³⁴

13 166. Correspondence in connection with that lawsuit provides yet more
14 evidence of Monteilh's work as an FBI informant. Upon information and belief,
15 on June 16, 2010, Associate General Counsel for the FBI, Henry R. Felix, sent a
16 letter to Adam Krolikowski, an attorney representing Monteilh in his civil action
17 against the FBI, in reply to a letter Krolikowski had sent the previous day. Felix's
18 June 16 letter indicated that Monteilh had signed a non-disclosure agreement with
19 the FBI on October 5, 2007. Felix noted that Krolikowski had sent previous letters,
20 but stated that his most recent letter mentioned "Operation Flex" and that this was

22 ³² Transcript of Proceedings held Aug. 20, 2007, Probation Termination, *People v.*
23 *Monteilh*, L.A. Sup. Ct. No. KA059040, filed in support of Motion to Set Aside
24 Conviction, Exh. I, *Monteilh v. Federal Bureau of Investigation*, Dkt. 89-9, Case
25 No. 10-cv-00102 JVS (RNBx) (C.D. Cal.).

26 ³³ See Answer to Complaint of City of Irvine and Ronald Carr, *Monteilh v. Federal*
27 *Bureau of Investigation*, Dkt. 23, Case No. 10-cv-00102 JVS (RNBx) (C.D. Cal.).

28 ³⁴ 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.) (excerpts
 of City of Irvine's responses to requests for admissions).

1 “the first letter in which [Krolikowski] reference[d] a particular FBI operation or
2 investigation.” A copy of this letter is attached hereto as Attachment 2.³⁵

3 167. Monteilh himself confirms many of the above-described details of his
4 work as an informant, including that he worked for the FBI to infiltrate the Muslim
5 community of Southern California from about July 2006 until October 2007; that,
6 during this time, he spent about six or seven days a week posing as a Muslim
7 convert named Farouk al-Aziz; that he conducted surveillance and other
8 information-gathering on a wide variety of individuals and organizations in the
9 Muslim community, solely because they were Muslim; and that he conducted
10 surveillance of Plaintiffs as alleged below.

11 **Monteilh’s Interactions with Sheikh Yassir Fazaga**

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

15 169. Agents Armstrong and Allen told Monteilh they believed that Plaintiff
16 Fazaga, the imam of OCIF, was a radical, for several reasons: They said that
17 Fazaga directed students on how to conduct demonstrations and encouraged them
18 to speak out. They said that when the FBI Assistant Director in Charge of the Los
19 Angeles Field Office, Stephen Tidwell, attended a meeting at an Orange County
20 mosque in about spring 2006, Fazaga openly pressed Tidwell about FBI informants
21 in mosques, and when Tidwell denied putting informants in mosques, Fazaga had
22 openly said he did not believe Tidwell. They also said that Fazaga was a person of
23 interest because he was a board member of “In Focus News,” a prominent Muslim
24 newspaper that was vocal in speaking out against U.S. government actions that
25

26 ³⁵ 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*
28 *Investigation*, Dkt. 89-4, Case No. 10-cv-00102 JVS (RNBx) (C.D. Cal.).

1 negatively affected Muslims and which Agents Armstrong and Allen believed was
2 anti-American and linked to Muslim civil rights groups.³⁶

3 170. Agents Armstrong and Allen told Monteilh that OCIF was linked to
4 ICOI, a mosque they were also interested in, because the two mosques held joint
5 events and jointly organized foreign trips, including the hajj pilgrimage to Mecca.
6 They referred to OCIF as a “definite hotspot.”

7 171. Agents Armstrong and Allen also told Monteilh that OCIF was radical
8 because it had certain religious scholars as guest speakers whom they believed
9 were radical —particularly Yusef Estes, Suhaib Webb, and a local imam, Ahmad
10 Sakr. They said that a moderate mosque would not have chosen these guest
11 speakers.

12 172. Agents Armstrong and Allen instructed Monteilh to attend the Yusef
13 Estes lecture which Sheikh Fazaga’s mosque hosted. They equipped him with
14 hidden video equipment that he used to video record the entire lecture, the
15 literature Estes had set out, and the people who attended.

16 173. Pursuant to Agent Armstrong and Allen’s instructions, Monteilh
17

18 ³⁶ Southern California *InFocus News* is the largest Muslim newspaper in
19 California, with a circulation of about 25,000 and distribution at over 350 Muslim
20 businesses and mosques throughout California, including every major mosque in
21 Los Angeles and Orange County. According to its website, the paper’s objective is
22 to provide honest, effective and professional reporting, with a focus on California
23 Muslims that both brings forth issues of concern to the California Muslim
24 communities and provides a window into the American Muslim experience for all
25 Californians. The paper has not only covered stories on local Muslim events and
26 leaders, but has examined taboo topics such as domestic violence in the Muslim
27 community and written stories to bridge community divides, such as by profiling
28 families of other religions. Like many other newspapers, *InFocus News* has at
times given news coverage or printed opinion pieces that supported or opposed
various policies of the United States government. The paper has never advocated
violence against the United States or its citizens or done anything else that would
reasonably justify characterizing it as “anti-American.”