

Open Letter from Prominent Community, Civil and Human Rights Organizations to President Barack Obama, Attorney General Eric Holder, Jr. and the U.S. Congress on the September 24, 2010 FBI Raids Against Activists and Subsequent Issuance of Grand Jury Subpoenas

November 19, 2010

United States President Barack Obama
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

Senator Harry Reid, Majority Leader
United States Senate
522 Hart Senate Office Bldg
Washington, DC 20510

Hon. Eric H. Holder, Jr.
United States Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Representative Nancy Pelosi, Speaker
United States House of Representatives
235 Cannon House Office Building
Washington, D.C. 20515-0508

Re: Request for Action Subsequent to the September 24, 2010 FBI Raids

Dear President Obama and Attorney General Holder:

As national, statewide and community organizations, we write collectively today to share our concern regarding the FBI raids targeting 14 peace and anti-war activists, their offices and homes, in Minneapolis and Chicago on Friday, September 24, 2010. The raids also resulted in the issuance of grand jury subpoenas served on the victims of those raids. On the same day agents also attempted to question activists in San Jose, California; Durham, North Carolina; and Milwaukee, Wisconsin.

While earlier news reports indicated the initial subpoenas served on the activists had been withdrawn, it was more recently reported that three of the subpoenas had been re-activated.

The raids come on the heels of a report by the Department of Justice Office (DOJ) of the Inspector General documenting recent examples of the FBI monitoring activists engaged in protected political speech and not criminal behavior.

Further, these raids suggest an ongoing trend of intrusive government surveillance of progressive activists in the United States. Prosecutions for protected political activity have a chilling effect, not just in the communities in which they occur, but also on the First Amendment rights of all Americans.

We call on Congress to initiate an investigation similar to the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee"), initiated in 1975, to report on FBI activities that appear to be targeting legitimate political speech and assembly.

We also call on the Department of Justice to revisit and amend the Attorney General's Guidelines and the FBI's implementing Domestic Investigations and Operations Guide (DIOG) to better respect fundamental constitutional protections.

Articles about the raids report that, according to government agents, there was no imminent threat—but that the warrants cited “material support for terrorism” as a reason for the searches. We are concerned that the material support laws are being used to harass and scare progressive activists as well as Muslim, South Asian, and Arab communities in a way that reaches beyond *Holder v. Humanitarian Law Project* and is in violation of First Amendment rights.

Law enforcement scrutiny—whether in the form of covert surveillance, raids conducted in an effort to seek information about protected political activity, or grand jury subpoenas demanding detailed information about protected political activity—discourages activists and political dissidents from exercising their legitimate and protected First Amendment freedoms of speech and assembly.

The raids targeted anti-war, Palestinian and Colombian solidarity activists and union members. The recurring nature of such targeted surveillance and policing of activists working on these particular issues conveys the impression, for many, that although the rights to free speech and assembly are constitutionally protected, certain types of speech enjoy less protection. This flies in the face of the principle behind these critical constitutional protections—that it is not the content of speech but rather the right to express it that is protected. There is a lengthy record, indeed, of grand juries being used to intimidate and harass activists, and we caution the Obama administration not to become part of that history.

The timing of these actions gives further cause for concern. These raids were conducted within a month-and-a-half of the 2010 mid-term elections. This is not the first time that such actions were taken in the run-up to an election. In the months and weeks before the 2004 Presidential election the government contacted thousands of mostly Muslim men for “voluntary interviews” with the FBI in Operation Frontline. Such programs create a severe chilling effect on the willingness of individuals from vulnerable communities to engage in protected political activity, including voting. Engaging in such surveillance and policing near an election when there is no imminent threat of danger sends a message that the government may retaliate against people exercising their First Amendment rights.

The Attorney General's Guidelines that govern FBI activities have been steadily eroded, resulting in powers that allow the FBI to identify targets for investigation based at least in part on their race, ethnicity or religion. The Guidelines allow the FBI to open “assessments” with no factual predicate (i.e., without any basis at all for the individualized suspicion constitutionally required to justify a stop or search), and eliminate many of the protections put in place to reign in FBI abuses laid bare by the Church Commission that investigated COINTELPRO. The current Guidelines, and the DIOG that implements them, harkens back to the abuses that lead to the initial restrictions imposed by the Attorney General's Guidelines in the first place.

We request that Congress initiate a robust investigation, modeled on the Church Committee, to examine FBI activities, including the practice of targeting protected political speech and

assembly. We meanwhile ask the Department of Justice to amend the FBI Guidelines and implement the DIOG to better respect fundamental constitutional norms.

The September raids are part of a larger pattern, reflecting a disturbing trend that must be stopped if our nation is to remain committed to justice and equality.

If you have any questions, please contact either Shahid Buttar at shahid@bordc.org or (413) 582-0110 or Jen Nessel at JNessel@ccrjustice.org or (212)-614-6464. Thank you.

Sincerely,

American Friends Service Committee	Philadelphia	PA
American Muslim Voice	Newark	CA
American-Arab Anti-Discrimination Committee (ADC)	Washington	DC
Arab American Association of New York	New York	NY
Arab American Institute	Washington	DC
Arab Community Center for Economic & Social Services (ACCESS)	Dearborn	MI
Arab Muslim Federation	Brooklyn	NY
Asian Law Caucus	San Francisco	CA
Bay Area Association of Muslim Lawyers	San Francisco	CA
Bill of Rights Defense Committee	Northampton	MA
Brooklyn For Peace	New York	NY
Center for Constitutional Rights	New York	NY
Civil Liberties Defense Center	Eugene	OR
Community to Community Development	Bellingham	WA
Council on American-Islamic Relations- Cincinnati Chapter	Cincinnati	OH

Council on American-Islamic Relations- Cleveland Chapter	Cleveland	OH
Council on American-Islamic Relations- Columbus Chapter	Columbus	OH
Creating a Culture of Peace Training	Robbinsdale	MN
Defending Dissent Foundation	Silver Spring	MD
DRUM- Desis Rising Up & Moving	Jackson Heights	NY
Electronic Frontier Foundation	San Francisco	CA
Filipino Advocates for Justice	Oakland	CA
Humanitarian Law Project	Los Angeles	CA
Islamic Shura Council of Southern California	Anaheim	CA
Muslim American Civil Liberties Coalition	New York	NY
Muslim Legal Fund of America	Richardson	TX
Muslimah Writers Alliance	Washington	DC
National Lawyers Guild - New York City Chapter	New York	NY
National Lawyers Guild International Committee	Vancouver	BC
National Lawyers Guild New York City Chapter Anti-Racism Committee	New York	NY
National Lawyers Guild/Los Angeles Chapter	Los Angeles	CA
National Network for Arab American Communities (NNAAC)	Dearborn	MI
NBPA International Leadership Institute	Washington	DC

Network of Arab American Professionals	Washington	DC
Nevada Desert Experience	Las Vegas	NV
Rights Working Group	Washington	DC
Satrang	Los Angeles	CA
South Asian Americans Leading Together (SAALT)	Takoma Park	MD
South Asian Bar Association of Northern California	San Francisco	CA
Standish E. Willis, Attorney At Law National Conference of Black Lawyers/Chicago	Chicago	IL
The Sikh Coalition	New York	NY
Trikone Northwest	Seattle	WA
US Campaign to End the Israeli Occupation	Washington	DC
US Palestine Community Network	San Francisco	CA
WESPAC Foundation	White Plains	NY

cc: Robert S. Mueller, III Director
FBI Headquarters
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001