

1330

HEADQUARTERS

An individual named "MALCOLM X" and other persons were attempting to set up a bar for the evening of 27 September 1960.

UNCLASSIFIED  
9803 ARD/CLW  
11-23-79

SEARCHED [redacted] INDEXED [redacted]  
SERIALIZED [redacted] FILED [redacted]  
FEB 11 1960  
FBI - CHICAGO

Activist Wins  
Faster Access  
To FBI Data



SURVEILLANCE LOG PAGE 5 OF 5

TIME	INITIALS	OBSERVATION
		Photos attempted by SA [redacted]
3:12 pm		White male came out of 930 E. 1st

# FOIA BASICS FOR ACTIVISTS

murder... day won a round in his effort to prove his arrest was based on a campaign organized by the Federal Bureau of Investigation to discredit activists. Herman Ferguson was granted a request in Manhattan federal court to speed up the release of thousands of pages of Federal Bureau of Investigation documents he claims prove his innocence.

## CASE STUDY

The documents have been sought by Mr. Ferguson to challenge his New York City arrest. The FBI claimed Mr. Ferguson sued the FBI in U.S. District Court.

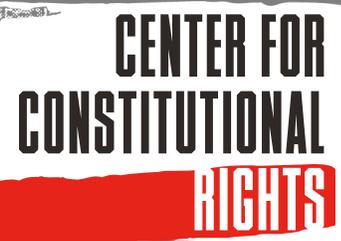
(b) (6)

From: (b) (6)  
Sent: Wednesday, March 22, 2011  
To: (b) (6)  
Cc: (b) (6)  
Subject: (U//LES) Draft Race Paper  
Attachments: Race DT IA\_1st level third level  
Follow Up Flag: Follow up  
Flag Status: Flagged

### Watch on AIDS Group During

in civil rights cases. The bureau also said that there were small files on organizations like Gay Men's Health Crisis and the Center for Immigration Rights, Mr. Deutsch said, and may also have files on Riverside Church.

Federal agency kept files on Act Up and other organizations.



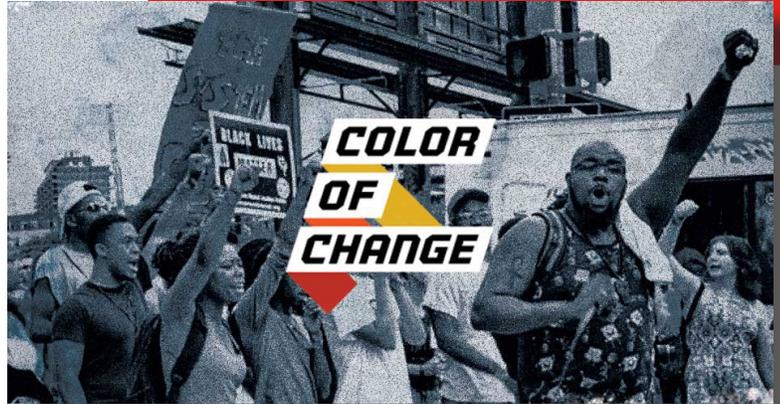
## COLOR OF CHANGE FOIA REQUEST, LITIGATION, AND ADVOCACY

I attached the latest version of the race paper. We addressed drivers and indicators.

# INTRODUCTION

In 2014, the murder of Michael Brown, Eric Garner, and many other Black people by law enforcement bring about widespread protest in cities across the country. Almost immediately, reports arose of increased surveillance of Black-led organizing and activism.

In early 2016, the organization Color of Change (COC), approached Center for Constitutional Rights for assistance with a FOIA request. COC was directly connected to individuals and organizations that suspected they were being surveilled. The request would be directed to Department of Homeland Security and FBI regarding the surveillance of groups affiliated with the Movement for Black Lives who engaged in First Amendment-protected activities.



## **JULY 5, 2016: FOIA Request as Advocacy Tool**

COC and Center for Constitutional Rights file a joint FOIA Request seeking “policies and actions involving the monitoring and surveillance of public protests surrounding police violence, policing reform, racial justice, and the Black Lives Matter movement.”

The request itself cited both first-hand accounts of protesters along with numerous media coverage concerning protests and surveillance. It not only demanded information, but told a story of how activists and communities were being surveilled.

## **SUMMER 2016: FOIA Administration Process**

✓ **July 5, 2016:** FOIA Request sent to DHS and FBI.

### **DHS Response Timeline**

✓ **July 18, 2016:** DHS sends letter to COC and Center for Constitutional Rights acknowledging the request. The letter denied our request for expedited processing, and conditionally granted our request for a fee waiver. DHS also requested a 10-day extension for making a determination on our request. DHS referred the request to four sub-components of DHS: the Federal Emergency Management Agency (FEMA), Federal Law Enforcement Training Center (FLETC), Office of Intelligence and Analysis (I&A), and National Protection and Programs Directorate (NPPD).

✓ **August 23, 2016:** COC and Center for Constitutional Rights administratively appeal DHS’s denial of expedited processing, and also DHS’s refusal to grant a full fee waiver.



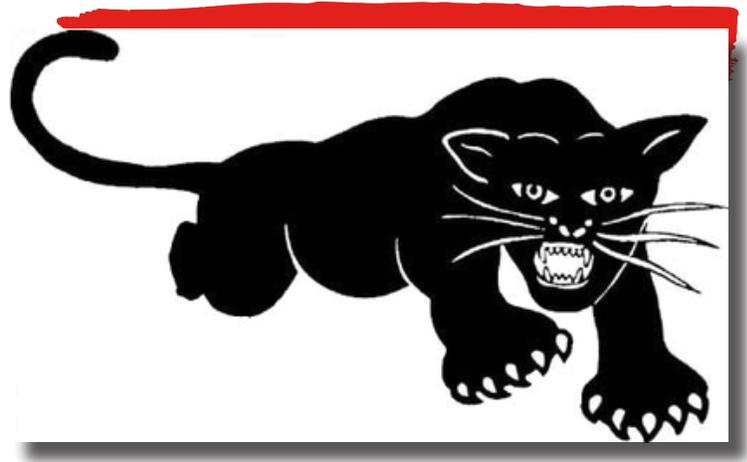
- ✓ **September 27, 2016:** The DHS Office of Intelligence and Analysis responded to requesters, informing us they had done a search and found no records.
- ✓ **October 10, 2016:** COC and Center for Constitutional Rights administratively appeal the response from the Office of Intelligence and Analysis.

### FBI Response Timeline

- ✓ **July 28, 2016:** The FBI sends a letter acknowledging the request, and granting expedited processing.
- ✓ **September 20, 2016:** Having heard no further response from the FBI since July, COC and Center for Constitutional Rights send letter to FBI asking for an update on their response.

### OCTOBER 20, 2016: Lawsuit Filed With Coordinated Advocacy

After receiving nothing from the FBI or DHS within the timeframe mandated by law, Color of Change and Center for Constitutional Rights file a lawsuit demanding documents. The filing coincided with the 50th anniversary of the founding of the Black Panther Party, showing the connection between past and present forms of government surveillance of Black activism and protest.



### SPRING 2017: Judge Orders Government to Produce Documents

After several weeks of negotiations with government lawyers, COC and Center for Constitutional Rights went before a New York federal court judge and requested the agencies produce documents on a rolling basis. The judge granted our request and issued an order that FBI and DHS produce 1,000 pages of documents each month.

Over the spring and summer, review of documents is done in accordance with the goals of COC's campaign – prioritizing publication and advocacy around anything regarding the surveillance of Black protest and activism.

### FALL 2017: Publication of Key Documents

Review of the documents revealed some significant findings. Key documents showing not only surveillance but the criminalization of Black First Amendment-protected activity are published in Al-Jazeera and elsewhere.

### LATE 2017: FBI and DHS Finished Their Document Productions

COC and Center for Constitutional Rights reviewed the remaining documents and found several emails referencing a DHS memo titled the "Race Paper." The memo itself was entirely redacted. COC and Center for Constitutional Rights decided to target litigation around challenging DHS's redactions on the "Race Paper"



to reveal more about the memo, especially in light of the leaked FBI memo on supposed “Black Identity Extremists” to the magazine *Foreign Policy*.

## SPRING 2018: COC and Center for Constitutional Rights Go to Court to Uncover the “Race Paper” Memo

In March 2018, COC and Center for Constitutional Rights filed court papers asking the court to un-redact the “Race Paper.” At the same time, COC did broad media and advocacy work to create public pressure around the release of the memo. Media attention and advocacy continued through the next few months, especially when the court issued an opinion that they would do an “in-camera review” of the memo. This means the judge gets to review an unredacted version of the memo before making his decision whether or not to release it.

## JULY 2018: Race Paper Not Released, Legal Case Ends

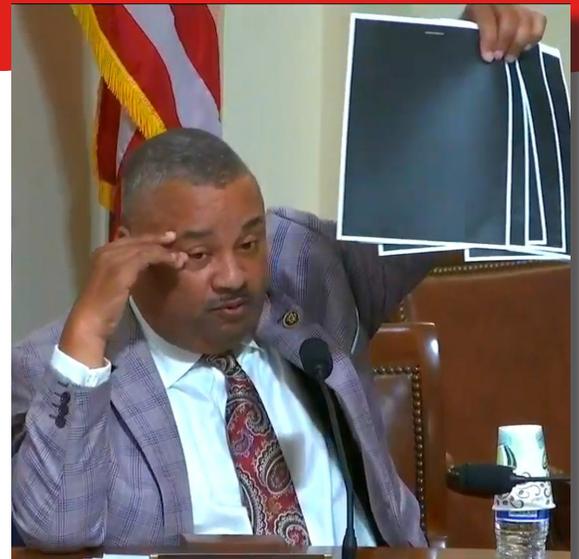
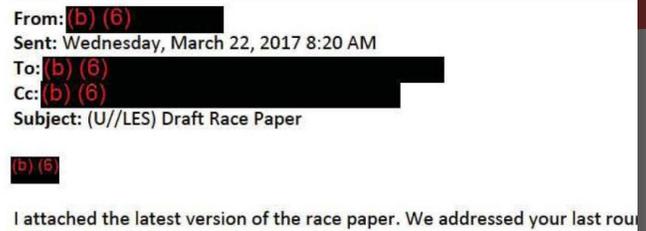
The judge issues a decision not to release any part of the “Race Paper,” ruling that it is a draft document and therefore protected under FOIA’s b(5) exemption, which allows the government to redact “deliberative” information. The legal case technically ends in late fall of 2018. However, this does not stop Color of Change, other organizations, and journalists to push for the release of the memo.

## EARLY 2019: Congress Inquires About “Race Paper”

With a newly elected group of representatives, the House convenes several hearings on domestic terrorism and surveillance. The advocacy and media exposure of our FOIA yields results as both Rep. Donald Payne and Rep. Ayanna Pressley ask administration officials about the “Race Paper” in public hearings.

## KEY OUTCOMES

- ✓ Documents were revealed that showed the surveillance of Black activists by DHS and the FBI, and reinforced a law enforcement narrative that broadly criminalizes Black protestors.
- ✓ While COC and CCR did not get the final legal “win,” our advocacy created broad media coverage which influenced public discourse on the surveillance and targeting of Black activism
- ✓ Contributed to the organizing against surveillance of Black activists and communities by FBI and DHS
- ✓ Congress took notice and brought up the “Race Paper” in multiple hearings



# JUSTICE TAKES A FIGHT.™

Center for Constitutional Rights  
666 Broadway, 7th Floor  
New York, NY 10012  
[www.ccrjustice.org](http://www.ccrjustice.org)

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