

New York City police seek new restrictions on public protests

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The New York City Police Department has proposed changes in the rules governing parades, rallies and protests. They amount to an attempt by the administration of Mayor Rudolph Giuliani to further restrict the right of assembly and free speech.

The police department claims the new proposals are in response to complaints about double standards in the authorization of rallies and events. Police permits are needed for the use of sound amplification and for street (as opposed to sidewalk) demonstrations. Several recent lawsuits, including one filed by the AIDS advocacy group Housing Works, have exposed blatant bias and forced the city's lawyers to come up with new language to attempt to meet constitutional standards.

The latest recommendations, however, only make matters worse. The police would be allowed, for instance, to deny a permit to any protest based on the belief that the event would "be disorderly in character or tend to disturb the public peace."

The New York Civil Liberties Union (NYCLU) has pointed out that this amounts to a form of "prior restraint" such as has been repeatedly struck down by the courts in the past. The civil liberties group issued comments in the form of a letter to the Deputy Police Commissioner, in which they argue that any parade permit system must meet definite First Amendment standards of free speech. These include, among others, the necessity for any rules to be "content-neutral," and also that they not be "so vague as to confer excessive discretion upon the licensing authority."

Yet these are precisely the standards that the proposed rules do not meet. The current procedures, for instance, allow the police commissioner and mayor to automatically approve "an occasion of extraordinary public interest," a phrase that has been used by City Hall to close down parts of lower Manhattan for the

New York Yankees World Series celebration, as well as various political events, while forbidding or restricting mass protests, such as those provoked by the police killings of Amadou Diallo and Patrick Dorismond.

The new rule allegedly clarifies these standards by defining occasions of extraordinary public interest as "celebrations honoring the armed forces, sports achievements or championships, world leaders and extraordinary achievements of historic significance." The NYCLU and the National Lawyers Guild have both pointed out that this remains explicitly "content-based," and could be used to prevent rallies over issues such as the Diallo and Dorismond killings.

Yet another addition to the current rules would have the effect of stifling protest by requiring that any applicant for a rally permit would have to be a titled "officer" of a "corporation, organization, or association." On this basis, ad hoc groups responding to events on short notice could be forbidden to hold rallies.

The rules would also retain a current mandate that permit applications be submitted at least 36 hours before an event. "Such a provision allows no exception for emergent circumstances and for parades that are provoked by special and unanticipated political events," the NYCLU wrote to the police department. Indeed, there is little doubt that this is being retained precisely because the authorities want to prevent or hinder the immediate expression of outrage over events such as police shootings of unarmed workers and youth.

The Police Department policies, while significant, are not a new departure. The right of assembly has been under increasing attack by New York City authorities for more than a decade.

The police have gone back to videotaping protesters, engaging in forms of spying that hark back to the McCarthy era of nearly 50 years ago. Police barricades have been used to make it difficult for all but the most determined individual to even join a street rally or mass picket, because the protesters are “sealed off” from the public.

The police have been given a green light for crackdowns on peaceful protests. In demonstrations against the killings of Diallo and Dorismond, for instance, dozens have been arrested and jailed overnight or even longer on the flimsiest of charges. There was outrage when many marchers were brutalized by cops at a rally following the anti-gay murder of Matthew Shepard two years ago.

Blatant political bias has more and more become the norm. The latest example was the arrest of a protester in Times Square on the Saturday after Election Day. The largely middle class group of demonstrators had organized mostly via the Internet and come to Times Square to denounce the Republicans' attempt to steal the election in Florida. One man was arrested for using a bullhorn without a permit. Three others, who protested his arrest, were also taken into custody. Instead of being issued summonses and released, they were all held overnight.

While Mayor Giuliani boasts that his law-and-order crackdown has made the city attractive to tourists and visitors, its major aim has been to increase the security of the wealthy top 5 percent of the population. The latest moves to further restrict public protests are more evidence that the growing social polarization in New York City is incompatible with democratic rights.



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