

# Judge upholds New York police ban on anti-war march

**Bill Vann**

**11 February 2003**

A federal judge Monday sided with the New York City Police Department (NYPD) in its efforts to drastically curtail a planned February 15 protest against the impending US war against Iraq.

US District Court Judge Barbara Jones issued a 26-page decision rejecting the request of the demonstration's organizers for an injunction barring the city administration and police department from denying them a permit to march on Saturday.

Citing alleged security concerns, the NYPD and the city's billionaire Republican Mayor Michael Bloomberg refused any negotiations with the protest organizers. Instead, they insisted that the demonstration be confined to a stationary rally at 49th Street and 1st Avenue, an area two blocks north of the United Nations building on Manhattan's East Side.

The protest's organizers had insisted that a march past the UN was a critical component of the action, aimed at expressing popular disagreement with the case for war made there last week by US Secretary of State Colin Powell.

"The court will not second guess or substitute its judgment for that of the NYPD," Judge Jones wrote in her decision. She claimed that the city had proven its case that "it cannot responsibly undertake the facilitation of this march without great risk to the participants themselves, the public and its own officers."

Arguments presented in court last week made clear that the so-called security concerns were a pretext. The real aim of the city is to stifle political opposition to the Bush administration and US aggression in the Middle East.

It emerged at the hearing that the march ban for Saturday's anti-war protest is part of a broader assault on the constitutionally protected rights of free speech

and assembly. The New York City Police Department has proscribed any protest march in Midtown or Lower Manhattan since the terror attacks of September 11, 2001.

At a press conference called by the demonstration's organizers, the New York Civil Liberties Union (NYCLU) announced that it had already filed papers to appeal Judge Jones's ruling to a higher federal court. "The city of New York has imposed an outright ban on one of the most fundamental forms of protest, the right to march," said Donna Lieberman, executive director of the NYCLU.

The civil liberties lawyer said that the argument presented by the NYPD and city attorneys was "full of holes." She said that one high-ranking police commander testified in the course of the hearing that the NYPD does not anticipate any violence from protesters or any terrorist attack coming from within the demonstration.

As for its claim that any march consisting of tens of thousands of people poses an unacceptable security risk, she noted that the Saint Patrick's Day parade, which regularly draws more than 100,000 people, will march up Fifth Avenue only weeks after the February 15 protest.

New York Civil Liberties Union lawyers said NYPD Assistant Chief Michael Esposito, the commanding officer of the Manhattan South patrol division, revealed in a deposition that the NYPD had since September 11, 2001 imposed a blanket ban on protest marches anywhere in Manhattan south of 59th Street. The attorneys said that Esposito testified that not a single permit has been issued for a protest in that area of the city since the terrorist attacks more than 16 months ago.

Esposito also testified, according to lawyers for the protest organizers, that he had offered an alternative

march route, but had been overruled by higher-ups in the administration, who opposed any negotiations and refused to allow a march under any circumstances.

In arguing against the demonstrators' right to march, city and police officials cited the announcement by US Attorney General John Ashcroft last week that the administration had raised its terrorist alert to "code orange." This underscores the collusion between the Bush administration and local authorities in using supposed terrorist threats—none of which are substantiated or specified—as a pretext for suppressing public expressions of opposition to the US war drive.

This was made explicit by the appearance at the court hearing of a representative of the US Attorney for the Southern District of New York, who issued a statement "reminding" the court that the city has the responsibility of ensuring the security of the United Nations building.

The joint effort of the Bush administration and City Hall to block a march represents an escalation in a protracted crackdown on civil liberties in New York City dating back well before the September 11 attacks. For more than a decade, particularly under right-wing Republican Mayor Rudolph Giuliani, city administrations have waged a concerted attack on the right of assembly and freedom of speech, while building up the size and power of the police force to unprecedented levels.

The aim of the stepped-up policing, conducted in the guise of "quality-of-life" and "zero-tolerance" enforcement campaigns, has been to increase the security of the wealthy elite that is centered in Manhattan against the city's majority of working poor. As the gap between these two social layers has grown ever wider, democratic rights have been steadily abridged.

In response to protests, arbitrary arrests for alleged offenses—such as using a bullhorn without a permit—have been combined with the systematic use of barricades to seal off demonstrations, divide crowds and make it as difficult as possible for the public to join in. At the same time, the NYPD has revived the practices of the old "red squad," videotaping demonstrators and infiltrating undercover cops among protesters.

Donna Lieberman of the NYCLU recalled the near-riot unleashed by the police against the "Million Youth

March" organized by black nationalist elements in Harlem several years ago. On that occasion, police used barricades to make it nearly impossible for people to arrive at the rally site and then brought in low-flying helicopters to intimidate the crowd and drown out speakers. She warned against a repeat of such repressive action on February 15.

While city attorneys insisted that there was no political motive in denying the permit for the march, the *New York Sun*, a recently launched daily whose politics are in sync with the Republican national and city administrations, gave a more frank assessment in its February 6 editorial.

Praising Bloomberg and the NYPD, the *Sun* editorialized: "The longer they delay in granting the protesters a permit, the less time the organizers have to get their turnout organized and the smaller the crowd is likely to be. And ... the smaller the crowd, the more likely that President Bush will proceed with his plans to liberate Iraq." The paper added that the police should send "witnesses" to the protest to gather evidence for "an eventual treason prosecution" of those opposing war.

Also speaking at Monday's press conference to denounce Judge Jones's decision were two prominent supporters of the demonstration, actor Danny Glover and South Africa's Bishop Desmond Tutu.

"If we were marching in support of war or in celebration of Saint Patrick's Day or some other celebration, we would have been granted a permit immediately," said Glover. "It is tragic that this city, which prides itself on leading the world as a cultural center, would not allow a march at this time."

Tutu said that the ban reminded him of apartheid rule in South Africa, when the regime imposed a state of emergency and "even to hold a funeral we needed a police permit." New York, he said, "will probably be the only city in the world on February 15 that will not be permitting its citizens and others to express a differing point of view."



To contact the WSWWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](http://wsws.org/contact)**