

Judge orders release of New York City police spying files

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On August 6, federal Magistrate Judge James C. Francis IV ordered the New York City Police Department (NYPD) to release almost 2,000 pages of documents detailing the NYPD's spying on protest groups and individuals before the Republican National Convention (RNC) in 2004. Many of these documents are field reports from police or informants who infiltrated the meetings of these groups. Others are reports on the groups' Internet activities.

The New York Civil Liberties Union (NYCLU) has sought the documents on behalf of many of the 1,800 RNC demonstrators and bystanders who were arrested on August 31, 2004.

In dozens of lawsuits filed in Federal District Court in Manhattan, plaintiffs contend that the police often arbitrarily arrested them and wrongfully detained them for up to two days in filthy pens at a Hudson River pier.

The NYPD has said that information it gathered prior to the convention was a suitable cause for this behavior as well as the fingerprinting of all arrestees and the unusual requirement that they be arraigned instead of issued summonses.

A massive international spying operation has been uncovered, carried out by the NYPD's Intelligence Division and headed by the former CIA Director of Operations, David Cohen. In March, the *New York Times* published details of the operation, including sample documents and summaries of reports made by NYPD field and cyber-intelligence agents.

Lawyers for the protesters suing the city have asked for access to these documents. In May, Judge Francis allowed the release of 600 pages relating to police security arrangements before the RNC. (The NYCLU has posted samples of these files [here](#))

Lawyers for New York City have sought to prevent the release of the second, larger batch of files, claiming

that revealing methods of surveillance and police personnel involved in the spying would compromise ongoing police operations. Judge Francis rejected these arguments because there is little new about the Intelligence Division's methods, and material that identifies informants has been blacked out.

The NYCLU and lawyers for the plaintiffs have indicated that they are not seeking the names of individuals mentioned in the field intelligence reports. They are, however, seeking disclosure of the names of organizations, and the court has agreed to this request.

In his ruling, Francis described the information contained in field reports, or DD5s, by quoting Intelligence Commissioner Cohen: "Each [field report] 'contain[s] extremely detailed information about a particular activity including the geographic location, the premises, the time of meetings, numbers of persons present often identifying them by name, relationships between undercover and confidential informants and other contacts they may have, as well as methods of communication and the means by which information is gathered.' "

The ruling observed that Cohen was especially concerned that the reports would reveal the "size and capabilities of the NYPD undercover program," indicating that it was quite broad.

In seeking to prevent the disclosure of these documents, the NYPD appears worried that they might reveal the existence and extent of ongoing investigations.

Judge Francis noted, "Commissioner Cohen does not claim that any of the organizations mentioned in the field intelligence reports are the subject of a continuing investigation.... [T]he City does not explain how disclosure of the fact that an organization was investigated in connection with the RNC would hinder

law enforcement efforts in the future.”

In a chilling indication of the NYPD’s plans for future state repression, the ruling stated, “Commissioner Cohen does assert that the NYPD may in the future need to monitor some of the same organizations.” The first batch of files released in May revealed that the NYPD was spying on innocuous and law-abiding groups, such as church and street theater groups.

The latest documents to be released are beset by many limitations and are unlikely to reveal the full scope of NYPD spying. For example, the judge’s decision has ruled out the release of any document that does not directly pertain to protests at the RNC.

Christopher Dunn, the associate legal director of the NYCLU, told the *New York Times*: “We’re living in an era of law enforcement supremacy.... [The police] seem to start with the assumption that engaging in political protest activates a security threat.”

The breadth of illegal NYPD spying on RNC protestors is only one aspect of city agencies’ repeated attempts to introduce coercive legislation at every turn. Federal courts have abrogated long-standing agreements between police and protest groups, and the NYPD has drastically restricted the number of people who can protest without a permit.

Earlier this month, following protests by artists and filmmakers, the Mayor’s Office of Film, Theater and Broadcasting announced that it would redraft an ordinance that would force any individual filming or photographing for more than a half hour on city property, including sidewalks, to obtain a city permit and insurance of \$1 million.

Rakesh Sharma, a documentary filmmaker, was detained by police in 2005 after using a hand-held video camera in Midtown Manhattan. The police told him that he was required to have a film permit. When Sharma later attempted to obtain one, he discovered that no written guidelines existed on how permits were granted.

The NYCLU brought a lawsuit on his behalf, and in April, as a part of the settlement, the city agreed to set regulations in writing. These were used to constrain Fourth Amendment rights and attack artistic freedom.

The NYPD and other institutions operate in a city of 8 million beset by poverty and vast social inequality. New York authorities are preparing the methods,

infrastructure and preliminary databases to be used in the repression of mass protests that will inevitably be sparked by a turn in the economic or political situation.



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