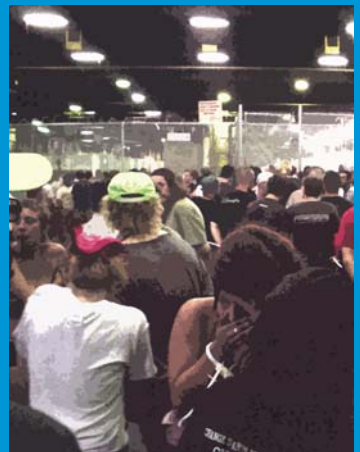


# Rights and Wrongs at the RNC

A Special Report about Police  
and Protest at the Republican  
National Convention





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## Message from the Executive Director

**T**he New York Civil Liberties Union has produced this report to document and assess police practices involving protest at the Republican National Convention in New York City during the summer of 2004. The historical account provided by *Rights & Wrongs at the RNC* is particularly important in light of the fact that the New York City Police Department has defended all of its actions during the Convention and has insisted that it made no mistakes.

The NYCLU had a unique perspective on protest activities around the RNC. Well over a year before the Convention, we launched a major Protecting Protest campaign to ensure that New York would be as welcoming to those who came to protest as to the delegates themselves. The NYCLU's long history and legal expertise defending free speech rights enabled us to develop a broad campaign that included litigation, negotiations, public education, and advocacy. We negotiated with the New York Police Department on behalf of nearly every group that sought to demonstrate at the Convention. NYCLU lawsuits enjoined some of the most abusive police tactics that had been used at past demonstrations. We trained demonstrators to "Know Your Rights" and distributed tens of thousands of informational pamphlets and flyers. And, from our Protecting Protest Storefront just blocks from the Convention site, we operated a police monitoring program that deployed scores of easily identified NYCLU observers at nearly every demonstration.

The record of the NYPD's performance during the RNC is a decidedly mixed one. Hundreds of thousands of people were able to make their voices heard over the course of the week, and the police department displayed the necessary flexibility to allow many demonstrations to take place without major incident. But the right to protest was severely undermined by the mass arrests of hundreds of peaceful demonstrators and bystanders, the pervasive surveillance of lawful demonstrators, and the illegal fingerprinting and prolonged detention (in a filthy bus depot) of nearly 1,500 people charged with the most minor of offenses.

Included in the report is a chapter describing first-hand eyewitness accounts of police misconduct from over 200 people who filed complaints with the NYCLU. At the end of the report, the NYCLU makes a series of recommendations that, if implemented, will avoid a repeat of the problems that plagued the Convention. The NYCLU will continue to advocate for these and other measures for protecting protest so that all voices can be heard, whatever the issue, whatever the point of view. That's what democracy is all about.



Donna Lieberman  
New York Civil Liberties Union



# Executive Summary

**T**he arrival of the Republican National Convention in New York City at the end of August 2004 marked an important moment in our nation’s civil-liberties history. Coming three years after the September 11, 2001 terrorist attacks that fundamentally altered the balance between security and civil liberties, in the midst of a war that had divided much of the country and was opposed by many New Yorkers, and in a city with a long history of fervent protest activity, the Convention presented a crucial test of our commitment to the right to free speech and dissent.

As expected, hundreds of thousands of people participated in peaceful Convention protests, with an antiwar march the day before the Convention opened being the largest protest to take place at a presidential nominating convention. Despite dire predictions — some emanating from law-enforcement authorities — that the Convention would be the target of violence or even terrorism, the demonstrations were peaceful. Nonetheless, police arrested more than 1,800 people — protesters, observers, members of the media, and bystanders — the largest number of arrests to take place at a national political convention.

As President George W. Bush flew out of New York City just before midnight on Thursday, September 2, and the final demonstration drew to a close, the focus shifted from the politics inside and the protests outside Madison Square Garden to assessing the actions of law enforcement agencies, in particular that of the New York City Police Department (NYPD). Because the New York Civil Liberties Union (NYCLU) represented the organizers of virtually every major Convention demonstration, the NYCLU was deeply involved in permit negotiations. It also successfully sued the NYPD over demonstration policing tactics and ran a major project monitoring the NYPD’s policing of Convention protests. As a result, the NYCLU has a unique and comprehensive perspective on how the government handled the Convention protests.

In this report the NYCLU documents the important events leading up to the Convention, the swirl of activity surrounding the Convention, and its considerable aftermath. Focusing primarily on the NYPD, the NYCLU concludes that the Department performed many of its duties well during the Convention while respecting the right to free speech, and the NYCLU commends the Department for those actions. At the same time, this report documents many troubling NYPD actions and makes a series of specific recommendations for changes in NYPD practices to assure that similar problems do not arise at future large-scale demonstrations.

The high point of the NYPD’s actions was the department’s handling of the United for Peace and Justice (UFPJ) antiwar march on Sunday, August 29, when as many as half a million people peacefully marched past Madison Square Garden, largely without incident, and with generally good cooperation. Low points included the long delays in processing permit applications, the closing of Central Park to political rallies, the mass arrests of hundreds of people lawfully gathered on City sidewalks, the lengthy detention and illegal fingerprinting of people charged with minor offenses, the use of a filthy bus depot



as a holding facility, and the pervasive videotaping of lawful protest activity.

## Events Leading up to the Convention

The January 2003 announcement that New York City had been selected as the site of the August 2004 Republican National Convention marked the beginning of an intense 18 months of organizing by police and protesters, negotiations over permits, and legal challenges to anticipated police demonstration tactics. Other developments not specifically related to the Convention also were unfolding and would have a major impact on Convention policing.

Just months before the January 2003 announcement, New York City had asked a federal court to eliminate restrictions on its ability to conduct surveillance of political activity. The City had agreed to these restrictions in 1985 to settle a 1971 lawsuit — brought by the NYCLU and other civil rights organizations — that arose out of unlawful NYPD surveillance and infiltration of political groups in the late 1960's but now was contending that the 9/11 attacks justified scrapping restrictions on its spying power.

While this request was pending in court, a substantial controversy erupted over a large demonstration scheduled for February 15, 2003, by the group United for Peace and Justice (UFPJ) to protest the looming American invasion of Iraq. After the NYPD refused to allow the group to conduct a peace march in Manhattan — a decision upheld by the federal courts in litigation brought



by the NYCLU — a stationary rally took place on First Avenue north of the United Nations. As documented in the NYCLU report *Arresting Protest*, that bitterly cold day was marred by serious problems, with tens of thousands of people never reaching First Avenue because the NYPD had closed streets and sidewalks leading to the event, with thousands of people facing mounted police officers who rode into crowds packed onto sidewalks and streets with no possibility of retreating, and with those protesters who made it to First Avenue being herded into NYPD “pens” made of interlocking metal barricades. Hundreds of people were arrested, and New York City was heavily criticized for its handling of the event by the press, by lawyers’ groups, and by City Council members.

Six weeks later the NYCLU learned that the NYPD had secretly interrogated those arrested at the February rally about their political affiliations and about past protest activity. The Department’s Intelligence Division was compiling this information on a “Demonstrator Debriefing Form” — which also bore the emblem of a federal law-enforcement agency — and entering it in a computer database. When the NYCLU exposed this program, the Department quickly abandoned it amidst widespread public outrage.

With this as background, groups started to apply for permits for Convention demonstrations. In June 2003 UFPJ applied to have a 250,000-person rally on the Great Lawn of Central Park the day before the start of the Convention, and in November the NYCLU notified the Department of two other large demonstrations for which organizers were seeking permits.

At this point, the NYPD had not agreed to any meetings, despite numerous requests from the NYCLU going back to January 2003. Concerned about a repeat of the February 2003 rally fiasco, the NYCLU in November 2003

filed three federal lawsuits against the NYPD, challenging restrictions on access to demonstrations, the use of mounted officers to disperse crowds, the use of pens at demonstrations, and blanket searching of protesters seeking to attend public demonstrations. Through these three cases, the NYCLU sought to block NYPD use of these tactics at protests expected at the Convention.

In December 2003 the NYPD met with the NYCLU for the first time to discuss two planned Convention demonstrations. At that time, however, the Department said it was unable to make any decisions about permits and could make no commitment as to when permit decisions would be made.

It was not until two months later that permit meetings resumed. A serious controversy arose immediately when the City denied the UFPJ application for a rally Central Park, and insisted it take place on the West Side Highway. The City did agree, however, to allow UFPJ to march directly in front of Madison Square Garden and — after substantial delays that prompted objections from the NYCLU and other advocates — began approving permits for a wide range of other events.

Eventually, the City issued permits for virtually every demonstration with the NYCLU securing permits for 11 large events. The major exception was the UFPJ Central Park application, which ultimately led to last-minute litigation that was rejected by the courts, which in turn prompted UFPJ to cancel its rally and limit its event to a march past the Garden.

In late June the NYPD announced that large demonstrations near Madison Square Garden would be allowed to take place on Eighth Avenue in an area extending south of 30th Street to 23rd Street but only at that location. (The Garden is bounded by Seventh Avenue and Eighth Avenue to the east and west, respectively, and by 31st Street and 33rd Street to the south and north, respectively.) At the same time, the Department announced that most sidewalks in the vicinity of the Garden would remain open during the Convention.

As permit negotiations were winding down, the NYCLU's three federal lawsuits challenging the NYPD's demonstration-policing tactics went to trial. In mid-July, United States District Court Judge Robert W. Sweet issued a decision finding that the Department had unconstitutionally restricted access to demonstrations, had unlawfully used





pens to confine demonstrators, and had unlawfully searched people seeking to attend demonstrations. Judge Sweet subsequently barred the use of these practices at Convention demonstrations.

Meanwhile, in the months leading up to August 2004, the media were full of reports — many of which seemed to emanate from the NYPD and other law-enforcement agencies — of potential terrorist attacks on the Convention and of “anarchists” planning on disrupting the City through violent means. These reports, combined with a widespread belief on the part of protest organizers and the NYPD that hundreds of thousands of demonstrators would be flooding the streets of Manhattan during the Convention, created an atmosphere of tension and genuine fear about what would happen once the Convention opened.

## The Convention Protests and Conflicts

Between Thursday, August 26 and Thursday, September 2, scores of demonstrations took place all over New York City. Most were peaceful and took place without incident, but many were marred by arrests and police conflict, most notably on Tuesday, August 31, when the NYPD arrested nearly 1,200 people. Throughout the protests, the police presence was massive, and police officials — using hand-held cameras, cameras mounted on buildings and street poles, and even a blimp — appeared to be videotaping all protest activity.

The first major demonstration took place on Friday, August 27, two days before the official start of the Convention, when nearly 5,000 people on bicycles gathered at Union Square Park for the monthly Critical Mass bike ride in which cyclists traditionally have taken to the streets and ridden spontaneous routes in an effort to draw attention to the need for transportation alternatives and improved safety for cyclists. In the days leading up to the ride, the NYPD had attempted to discourage cyclists from participating and threatened to enforce the traffic laws strictly. Nevertheless, the Department permitted the group to leave the park, and the ride continued for nearly an hour and a half before the police seemingly lost patience, pulled nets across Seventh Avenue to halt the ride and made mass arrests of riders without any warnings to disperse. Ultimately, over 250 people were arrested and had their bikes confiscated and held for weeks.

The following day, pro-choice groups led a march across the Brooklyn Bridge to a rally near City Hall that published reports estimated at 25,000 participants. This event took place without incident and with the cooperation





of the NYPD. Farther uptown, the Green Party staged a political festival in Washington Square Park that went equally smoothly.

Sunday, August 29, was the day of the UFPI march, the largest Convention demonstration. Hundreds of thousands of people marched past Madison Square Garden largely without incident. Later that evening, however, even as thousands gathered in Central Park without challenge from the police, the NYPD used nets, horses and officers on scooters to corral and arrest groups of people walking on sidewalks in Times Square.

On Monday, August 30, the opening day of the Convention, a coalition of AIDS groups marched from Union Square across 15th Street and up Eighth Avenue to 30th Street, the designated rally area for large groups near the Garden. Later that day, thousands of people assembled in Dag Hammarskjöld Plaza near the United Nations, planning to march to the same rally area even though organizers had not obtained a march permit. Following negotiations on the scene, police officials agreed to allow the group to march, and the procession moved down Second Avenue to 23rd Street, across 23rd Street, and up Eighth Avenue to the designated rally site. Problems arose when police officers at 29th Street attempted to pull barricades through the group, protesters began to panic, and plainclothes police officers then drove their scooters into the crowd.

Tuesday, August 31 was designated by protest organizers as “direct action” day — a day of nonviolent civil disobedience — and police officials were geared up to clamp down on protesters. When hundreds gathered near the World Trade Center for a march that was to end with some participating in a “die-in” near Madison Square Garden, police officials agreed to allow the group to march along sidewalks even though no formal permit had been issued. The march had not moved one full block, however, before an NYPD chief ordered the arrest of over 200 people, with everyone being surrounded by nets, handcuffed, and loaded onto buses for processing. This marked the beginning of a series of confrontations around the City that resulted in nearly 1,100 people — protesters, legal observers, members of the press, and innocent bystanders — being arrested in a four-hour period in locations around New York City. Most of them then were taken to Pier 57, a bus depot the NYPD had converted into a holding facility, a choice that was to mushroom into a major controversy.



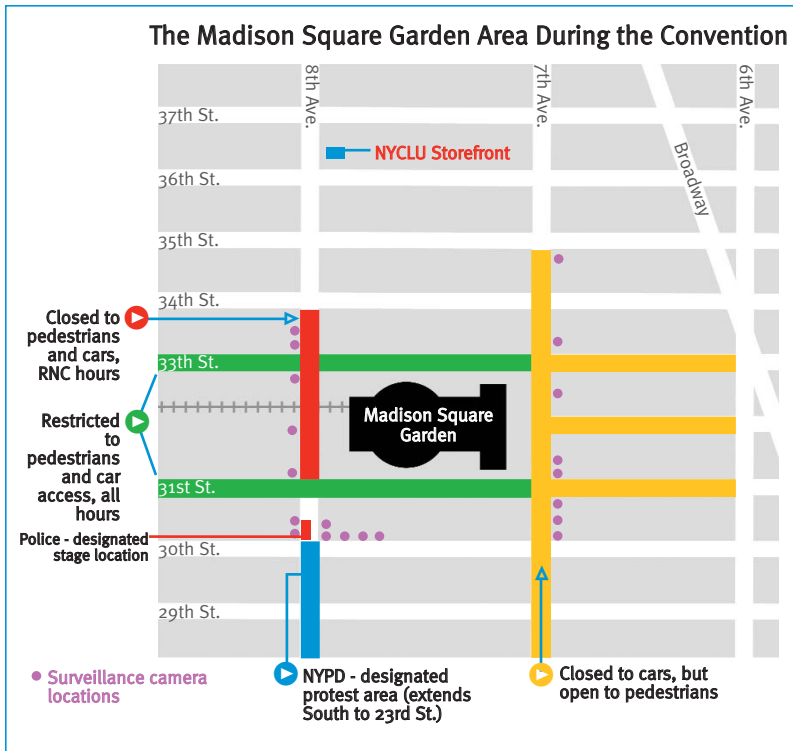


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The next day was a relatively quiet one on the streets, with the largest events being a rally by organized labor at the designated demonstration area on Eighth Avenue, a sidewalk protest stretching from Wall Street to the Garden called “The Line,” and an evening women’s rights rally in the East Meadow of Central Park. Of greater significance, however, was the fact that many of those arrested the previous day were still being held by the police, although they had been charged only with minor offenses that did not qualify as crimes. Late that night the Legal Aid Society and then the Lawyers’ Guild went to court and obtained court orders requiring the City to release the protesters. When hundreds remained in custody on Thursday morning, a New York State judge found the City in contempt.

Thursday was the last day of the Convention and the day President Bush was scheduled to appear at Madison Square Garden to accept the nomination. Security around the City was particularly tight, and only a few significant demonstrations were scheduled. That evening, however, thousands of people gathered in Union Square and sought to march to the Garden, though the NYPD had not issued a permit. After negotiations with the NYCLU, police officials on the scene agreed to allow the crowd to march across 15th Street and up Eighth Avenue to the designated rally site, where they were met by a large contingent of police officers in helmets and riot shields under the command of Chief of Department Joseph Esposito. The spirited crowd remained in the streets until nearly midnight, by which time point President Bush had departed and the Convention had officially ended.

Though the demonstrations had concluded, the controversy surrounding the NYPD’s detention of protesters was coming to a boil. With the long-delayed release of arrestees on Thursday and Friday came disturbing reports of unhealthy and perhaps dangerous conditions at Pier 57. On top of the fact that hundreds of people were held far longer than the 24 hours permitted under state law, the NYPD was accused of intentionally delaying the release of protesters to keep them from participating in demonstrations taking place while the President was in the city. Those released from detention also told of being denied medical care, of spending many painful hours in too-tight plastic handcuffs, of not being given any *Miranda* warnings, and of generally being mistreated while in detention. There were also reports of police harassment of protesters carrying signs, and there was a report of at least one police officer citing his own political opinions as justification for threatening to arrest a demonstrator who was



wearing an anti-Bush tee-shirt during the convention week.

## The Convention Aftermath

Controversy over the Convention continued long after the delegates left town. Of particular concern to the NYCLU and others were the illegality of many of the Convention arrests, the length and conditions of detention, and the fingerprinting of people arrested for minor offenses. These became the focus of post-Convention advocacy, lawsuits, and City Council hearings.

During the Convention week, NYCLU monitors witnessed or received accounts of many unlawful arrests, and the NYCLU immediately contacted the Manhattan District Attorney's Office about getting cases dismissed. We were particularly concerned about the arrest of 227 people at the August 31 World Trade Center sidewalk march, and shortly after the Convention the

NYCLU met with the Manhattan District Attorney and delivered a videotape depicting the entire sequence of events surrounding these arrests; on October 6, the DA's office dismissed all 227 cases. And of the approximately 1,500 arrests for which criminal proceedings had been completed as of July 2005, over 90% of the cases had been dismissed, conditionally dismissed, or had ended in acquittals.

Meanwhile, the NYCLU had learned that every person arrested during the Convention had been fingerprinted,



with the prints being sent to state authorities in Albany and then in many instances to the FBI. Because New York law does not allow the police to take the fingerprints of people charged with minor offenses except in special circumstances (such as the lack of valid identification), the NYCLU in early October wrote to NYPD Commissioner Raymond Kelly and called on him to destroy the fingerprints. Two weeks later — after the NYCLU filed a lawsuit — the City agreed to do just that.

NYPD actions prompted the filing of two sets of major federal lawsuits. On October 7 the NYCLU filed two cases arising out of mass arrests at the World Trade Center and Union Square, challenging NYPD mass-arrest tactics, the length and conditions of detention, and the fingerprinting of those arrested. On November 22 a group of lawyers and advocates led by the National Lawyers Guild filed a class-action lawsuit claiming that the NYPD had carried out mass arrests in order to suppress protest activity and also challenging the length and conditions of detention of those arrested. Since then, over a dozen additional lawsuits have been filed (with many more expected), and, as of June 2005, 569 people had filed notices that they intended to sue the City, seeking damages totaling \$859,014,421.

After the Convention, the City Council held two oversight hearings into the NYPD's policing of the protests. At the first hearing, on September 15, the City declined to appear, and the bulk of the hearing was devoted to advocate testimony about the treatment of those arrested and the unlawful nature of many of the arrests. A second hearing on October 27 featured testimony from the NYPD chief in charge of Pier 57, who asserted that conditions at the holding facility were unobjectionable and posed no health risk to those being detained there. He also disclosed that the blanket fingerprinting of demonstrators was a special practice put in place for the Convention to address terrorism concerns.

## Conclusions and Recommendations

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Given legitimate concerns about terrorism after 9/11, the Republican National Convention posed a substantial challenge to the NYPD and other law enforcement authorities. In many respects the NYPD handled the Convention protests well, and important lessons are to be drawn from that. Too often, however, in an effort to maintain tight control over protest activity, the NYPD lost sight of the distinction between lawful and unlawful conduct.

In the sections that follow, the NYCLU provides a detailed chronology of events leading up to and during the Convention, an analysis of NYPD tactics and actions during the Convention, a description of 271 individual complaints received by the NYCLU following the Convention, a description of NYCLU's "Protecting Protest" campaign, and a series of specific recommendations for changes in NYPD practices. ■



# Chronology of Major Events Leading Up to Convention

**9/11/01:** Terrorist attack destroys World Trade Center and damages Pentagon. 2,749 people die at World Trade Center.

**9/25/02:** New York City asks a federal court to eliminate restrictions on the ability of NYPD to conduct surveillance on lawful political activity.

**1/06/03:** The Republican National Committee announces selection of New York City as site of the August 2004 Republican National Convention.

**2/15/03:** United for Peace and Justice (UFPJ) anti-war rally attended by more than 100,000 people but is marred by NYPD closing of streets and sidewalks leading to the event, the use of pens to confine demonstrators, the use of police horses against peaceful crowds packed on public streets and sidewalks trying to get to the event, and hundreds of arrests.

**4/06/03:** NYCLU discloses that NYPD used a “Demonstrator Debriefing Form” to interrogate people arrested at the February 15, 2003, antiwar rally about their political activities and associations and was using the information to build a database. NYPD agrees to discontinue the use of forms and questioning about political affiliation and to destroy database.

**4/07/03:** A federal court grants City’s request to loosen restrictions on NYPD’s ability to monitor political activity.

**11/19/03:** NYCLU files three federal lawsuits arising out of the February 2003 anti-war demonstration and challenging NYPD demonstration practices expected to be used at the Convention, including the closing of streets and sidewalks leading to demonstration sites, the use of pens to confine demonstrators, the use of mounted officers to disperse peaceful crowds, and the blanket searching of people seeking to attend demonstrations.

**12/23/03:** First NYPD meeting about planned demonstrations takes place when NYPD meets with NYCLU to discuss demonstrations planned by Not in Our Name and the Still We Rise Coalition.

**1/04-4/04:** NYPD meets on several occasions with UFPJ, NYCLU, and

Center for Constitutional Rights (CCR) about the planned UFPJ march past Madison Square Garden and rally on Great Lawn of Central Park.

**4/26/04:** Parks Department formally denies UFPJ application for Great Lawn.

**5/27/04:** NYPD informs NYCLU that it will allow UFPJ to march on 7th Avenue past Madison Square Garden.

**6/09/04:** NYPD starts series of meetings with NYCLU and various groups seeking permits for Convention demonstrations.

**6/26/04:** NYPD designates Eighth Avenue south of 30th Street as place where large rallies near Madison Square Garden will take place.

**6/28/04:** The New York City Council, by a vote of 44-5, passes a resolution calling on government officials to protect and uphold First Amendment rights at the Convention.

**6/04-7/04:** NYPD agrees to issue permits for virtually all protest events.

**7/19/04:** Federal Judge Robert Sweet issues decision finding NYPD restrictions on access to demonstrations, use of pens, and searching of demonstrators unconstitutional. He later bans the use of these tactics at the Convention.

**7/26-29/04:** The Democratic National Convention takes place in Boston. Demonstrations are small, but substantial controversy arises over police-mandated frozen zones and designation of a “protest area.”

**7/29/04:** NYCLU opens its Protecting Protest Storefront at 520 Eighth Avenue, three blocks north of Madison Square Garden.

**8/18/04:** CCR and NYCLU file suit on behalf of UFPJ against the City over denial of permits for Central Park.

**8/25/04:** New York court rejects the UFPJ challenge to the Parks Department denial of a permit for use of the Great Lawn on August 29. UFPJ announces it will have no rally, only a march.

# Chronology of Major Events Surrounding Convention

**8/25/04:** First significant Convention demonstration takes place as AIDS activists strip naked, baring political messages and blocking traffic on Eighth Avenue near Madison Square Garden.

**8/26/04:** Protesters walking from the Democratic National Convention to the Republican National Convention arrive at Columbus Circle and march down Broadway to Union Square accompanied by local political activists.

**8/27/04:** The monthly Critical Mass bike ride draws approximately 5,000 participants who ride through Manhattan streets for approximately 90 minutes before NYPD cracks down on the event, stretches orange netting across Seventh Avenue to block riders, and arrests over 250 people.

The Christian Defense Coalition holds candlelight vigil at Madison Square Garden.

**8/28/04:** Planned Parenthood, NYCLU, and other women's rights groups lead a march of as many as 25,000 across the Brooklyn Bridge to a rally at City Hall Park, without problems.

The Green Party holds political festival in Washington Square Park without incident.

**8/29/04:** Not In Our Name holds a rally in Union Square Park before the UFPJ march.

The UFPJ march draws as many as 500,000 people, who march past Madison Square Garden, across 34th Street to Fifth Avenue, down Fifth Avenue to Broadway, and down Broadway to Union Square Park. The event takes place largely without police interference.

After UFPJ march, thousands casually gather in Central Park without interference from the NYPD.

That evening NYPD uses nets and motor scooters to surround and arrest scores of people on public sidewalks in and near Times Square.

**8/30/04:** Still We Rise Coalition, in an event co-sponsored by NYCLU, marches from Union Square to the designated demonstration area at 30th Street for a rally.

Thousands gather at Dag Hammarskjöld Plaza near the United Nations to participate in a march for which no permit has been issued. High-level police officials negotiate with organizers and NYCLU and agree to allow group to march to 8th Avenue demonstration area. As group approaches rally area, police officers without warning run line of barricades across 8th Avenue at 29th Street, sparking panic amongst marchers. As people start pushing against

barricades, police officers storm into crowd and strike people with batons and plainclothes officers on unmarked scooters ride into crowd. One officer is pulled from his scooter and assaulted.

**8/31/04:** Designated day of "direct action." NYPD arrests nearly 1,200 people in four-hours, almost all of whom are charged with minor offenses such as disorderly conduct or parading without a permit. At World Trade Center, officers arrest 227 at War Resisters' League March after telling them they could march on a sidewalk. At New York Public Library, scores are arrested for standing on building steps. At Union Square, police officers use mesh nets to seal entire blocks and to arrest hundreds, including bystanders. Sole protester at demonstration scheduled at a Hummer dealership is arrested for blocking a sidewalk.

**9/01/04:** "The Line" takes place without incident.

NYCLU first contacts the District Attorney's Office seeking dismissal of charges against 227 people arrested at World Trade Center.

Reports start surfacing that people arrested by NYPD are being held in filthy former bus depot on Hudson River known as Pier 57.

Protest outside Pier 57 over NYPD detention of people at the facility.

Central Labor Council holds large rally in the designated demonstration area on 8th Avenue.

NOW-NYC rally takes place in Central Park's East Meadow without incident.

President Bush arrives in New York City and participates in an event in Queens.

Legal Aid Society files lawsuit to force release of hundreds of people who were arrested on August 31 and are still being held. National Lawyer's Guild follows with a similar suit. A state court judge orders the City to release certain prisoners.

**9/02/04:** The Legal Aid Society and National Lawyers Guild seek and obtain a contempt order against City for its failure to comply with the court order to release arrestees.

ANSWER holds a rally attended by several thousand in designated demonstration area on 8th Avenue. NYPD uses four-sided pens that substantially impair movement at demonstration.

Thousands gather in Union Square and spontaneously decide they wish to march to 8th Avenue rally site. NYCLU negotiates with NYPD, which agrees to allow the march.

The Convention ends and President Bush leaves New York

# Law Enforcement Convention Tactics

During the Republican National Convention the NYPD deployed a number of tactics that raise serious concerns and in some instances were unlawful. Most seriously, the NYPD used indiscriminate-arrest tactics that resulted in the unlawful arrests of hundreds of protesters, legal observers, members of the media, and passersby; it held arrestees charged with only minor offenses for lengthy periods of time in hazardous conditions; fingerprinted everyone arrested during the Convention; and engaged in pervasive and indiscriminate videotaping of lawful and peaceful protest activity. Also of concern was the improper use of plastic handcuffs, the Department's encouragement of inflammatory pre-Convention reports in the press, its use of plainclothes officers on unmarked motor scooters, its use of metal barricades for crowd control, and its overwhelming show of force at all demonstrations. Some of these tactics were unveiled by the NYPD especially for the Convention.

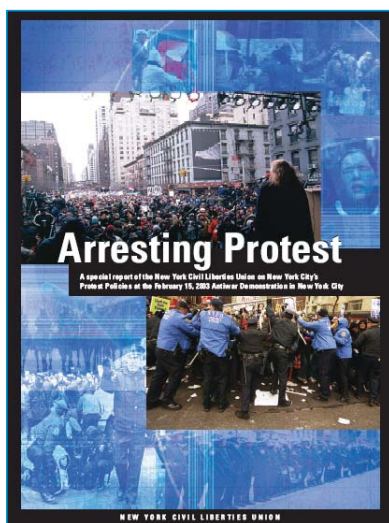
## Background

Over the last ten years the NYPD has developed a comprehensive approach to the policing of demonstrations. This model of policing is based on the "broken windows" theory, which says that serious crime can be controlled by eliminating minor public disorders through a variety of zero-tolerance policing tactics.<sup>1</sup> Beginning in earnest in 1998, the NYPD has used this approach at almost all demonstrations, large and small. This "command and control" model utilizes large numbers of officers, numerous barricades and protest pens, limited access to

demonstration areas, and in extreme cases, the willingness to use force against non-violent demonstrators for minor violations of the law. The term "command and control" captures the degree to which this new approach is highly structured, hierarchical, and relies on direct regulation and micro management of all aspects of demonstrations.<sup>2</sup> The most egregious instance of this model was seen on February 15, 2003, when hundreds of thousands of demonstrators were denied the right to march, held involuntarily in protest pens, or prevented from entering the event because of overly restrictive access plans; in some cases they were subjected to police batons, pepper spray, and mounted police charges while standing in the street or on sidewalks while attempting to gain access to the rally.<sup>3</sup>

Since then the NYCLU has attempted to highlight the problems of this approach. In April 2003 we issued the report *Arresting Protest*, which documented the problems that arose at the February demonstration and made specific recommendations to address those problems. In November 2003, the NYCLU filed federal lawsuits that successfully challenged various NYPD demonstration policing tactics.

American Civil Liberties Union offices across the country have been monitoring an increased use of heavy-handed demonstration-policing tactics in other cities where large demonstrations have taken place in the past several years. Much of the justification for these kinds of restrictive and preemptive tactics comes from the assessed failure of the Seattle Police Department to adequately handle the large and disruptive protests during





the World Trade Organization (WTO) meetings in 1999.<sup>4</sup> During the WTO, demonstrators succeeded in preventing delegates from reaching the convention site by the systematic blockading of surrounding streets through non-violent civil disobedience. In addition, some small groups broke windows at a few targeted locations. The police responded by indiscriminately attacking demonstrators whether or not they were engaged in illegal or destructive activity with pepper spray, rubber bullets, and baton charges. In the process a state of emergency was declared, effectively shutting down large parts of central Seattle and contributing to the WTO meetings being adjourned early.<sup>5</sup>



Since then, police departments have come to view high levels of police infiltration and surveillance, the deployment of huge numbers of officers with a variety of high tech “less lethal” weaponry, and preemptive arrests and detentions as the model for controlling similar large protests.<sup>6</sup> This approach is sometimes referred to as the “Miami Model” after the widespread use of these tactics during the Free Trade Area of the Americas demonstrations in November of 2003.<sup>7</sup> Similar approaches were used by police during the 2000 Republican National Convention in Philadelphia and the IMF/World Bank Meetings in Washington D.C. in 2000.

Unfortunately, the NYPD seems to have adopted aspects of this approach in its handling of large demonstrations here in New York City. Some of these tactics were particularly prevalent during the Convention.

## 12 Indiscriminate Mass Arrests

Approximately 1800 were arrested at Convention-related protests between Thursday, August 26 and Thursday, September 2. Hundreds were swept up in mass arrests and there were at least four incidents at which the NYPD arrested more than 100 people at a single event.

In each instance of mass arrests, large numbers of people were peacefully assembled on public streets or sidewalks, and the police failed to provide any meaningful order or opportunity for people to disperse before arresting them. In each instance, as well as on many other occasions during the week, the NYPD used orange mesh netting to surround groups and then arrest everyone inside.

The most egregious example of unlawful mass arrests was the NYPD’s arrest of 227 people on Fulton Street near Ground Zero during the August 31 demonstration by the War Resisters League. The group had notified police of their intention to march on the sidewalk from Ground Zero to Madison Square Garden, where some would engage in non-violent civil disobedience. Negotiations were undertaken with police as the group gathered. The police agreed to allow a sidewalk march east across Fulton Street to Broadway and then north on Broadway to Union Square. From there protesters would proceed toward the Garden. These negotiations were witnessed by City Council Member Bill Perkins and NYCLU monitors. Demonstrators were informed that they would be allowed to march as long as they did not block pedestrian or vehicular traffic. Police attempted to communicate this to those assembled, though their hand-held bullhorns were not adequate. Nonetheless, demonstrators complied with the

### According to press reports, arrests by day were as follows:

<b>Aug. 26:</b>	<b>22 arrests</b>
<b>Aug. 27:</b>	<b>264 arrests</b>
<b>Aug. 28:</b>	<b>10 arrests</b>
<b>Aug. 29:</b>	<b>253 arrests</b>
<b>Aug. 30:</b>	<b>13 arrests</b>
<b>Aug. 31:</b>	<b>1,187 arrests</b>
<b>Sept. 1:</b>	<b>21 arrests</b>
<b>Sept. 2:</b>	<b>29 arrests</b>



police order and proceeded east on Fulton as instructed. Halfway down the block Chief Terence Monahan, the commanding officer at the event, claimed that demonstrators were blocking the sidewalk, shouted that people should disperse, and almost immediately ordered that they all be arrested, with officers surrounding everyone on the sidewalk with netting.

The NYPD also used mesh netting to make indiscriminate mass arrests at the August 27 Critical Mass ride, where it pulled netting across Seventh Avenue at two locations and arrested everyone on the block; on East 16th Street near

Union Square, where on August 31 it used netting to seal both ends of the block before arresting everyone trapped in between; and at the Public Library, again on August 31, where it corralled an entire crowd of people standing on the steps and arrested them.

Not surprisingly, reliance on this tactic resulted in large numbers of wrongful arrests. While some individuals caught in the nets may have been engaging in unlawful activity, the nets snared hundreds of demonstrators who were acting entirely lawfully, people who were simply watching the demonstrators, and even passers-by who had nothing to do with the protests but were simply in the wrong place at the wrong time. In each case the police made no effort to distinguish between those allegedly engaged in unlawful activity and those simply caught up in the nets.

Hacer Dinler, a dancer who is a plaintiff in one of the NYCLU's post-Convention lawsuits, was walking across East 16th Street on her way to work the evening of August 31 when the NYPD sealed both ends of the block with netting to block a protest march. After being trapped for several hours and watching the police arrest hundreds of people around her, Ms. Dinler collapsed and suffered convulsions as police officers moved in to arrest her. A videotape shows her writhing on the ground before being strapped to a gurney and taken to a hospital, where she experienced further seizures. The NYCLU received dozens of additional reports of the arrests of people with no connection to the demonstration, including foreign tourists and people on their way to work.

The nets also captured scores of clearly identified legal observers and a large number of members of the media. In some instances the NYCLU was able to secure the release of reporters, but the Department refused to release any legal observers, and many of them spent lengthy time in NYPD custody. According to the National Lawyer's Guild, approximately 20 individuals were arrested while acting as legal observers.

The NYCLU recognizes that nets allow the police to surround large numbers of people quickly with less use of force. While this reduction in force is laudable and might be appropriate for certain crowd-control situations, the use of netting to make mass arrests virtually assures that many people will be





wrongly arrested, as happened during the Convention.

## Prolonged Detention of Protesters

Of the approximately 1,800 people arrested during the Convention, nearly 1,500 were charged with minor offenses such as parading without a permit or disorderly conduct. Under New York law, these offenses are not even considered crimes but instead are known as “violations.”

Under standard NYPD procedure, people charged with violations generally are not held for arraignment before a judge but instead are given what is known as a desk appearance ticket or a summons. Under either procedure, the person under arrest usually is released in a few hours. When someone is to be arraigned, the person is supposed to be presented to a judge within 24 hours of arrest.

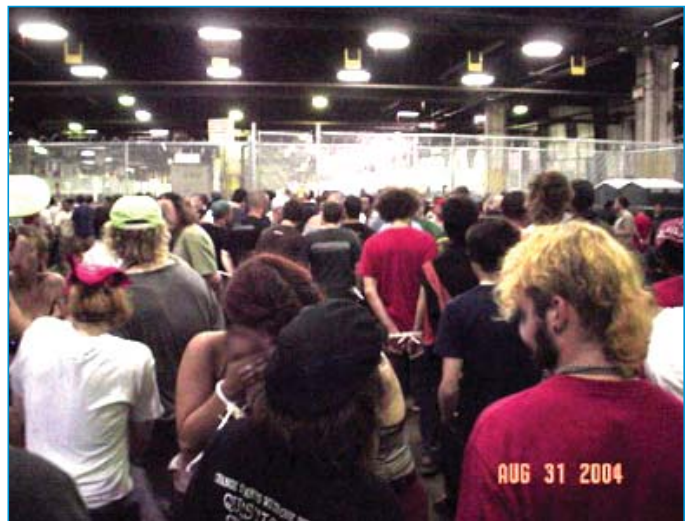
The NYPD’s handling of those arrested during the Convention diverged from these standards in two important respects. First, virtually all of those arrested were held for arraignment, a process that results in considerably longer detention. Second, Convention arrestees were not arraigned in a timely manner, with some people being held for as long as three days. This problem was most acute with the nearly 1,200 people arrested on Tuesday, August 31. When hundreds of them were still in custody 24 hours later, the Legal Aid Society and then the National Lawyers Guild sued in court and obtained orders requiring the release of protesters. When the City failed to comply, the court held it in contempt on Friday, September 2.

As is detailed later in this report (see page 34), the NYCLU received reports from 169 people about how long they were held after being arrested. Two-thirds of them reported having been detained for more than 24 hours and nearly 40% of them reported being held for 36 hours or more.

The explanation for the long delays in arraignment during the Convention is in dispute. The NYPD has claimed that it was overwhelmed by the numbers of arrests on August 31 and that arraignments were delayed because of lags in the fingerprinting process. New York State officials, however, claim that fingerprints sent to it by the NYPD were turned around quickly, and court officials say that judges and lawyers were sitting around waiting for arraignments but that the NYPD was not producing people for arraignment. Some advocates have alleged that the NYPD intentionally delayed the release of protesters to prevent them from reappearing while President Bush was still in the City, a charge the NYPD vehemently denies.

## Detention of Protesters in Hazardous Conditions

Beyond the issue of the length of time people charged with minor offenses were held is that of the conditions in which people were held. Most significantly, many concerns have been raised about the detention of hundreds of demonstrators at a facility on the Hudson River at 15th Street.





That facility is a bus depot known as “Pier 57.” In preparation for the Convention, the NYPD had constructed large holding cells topped with razor wire inside the depot. As one would expect for an active bus depot, the concrete floors were covered with grime, soot, and other substances. It apparently was unheated.

By all accounts, there was inadequate seating in the holding cells at Pier 57, which forced people to sit or lie on the bare concrete floors covered with soot and grease. Though hundreds of people were held at Pier 57 for extended periods of time and in many instances overnight, they had no access to running water or blankets. The only bathroom facilities were portable toilets, which quickly became disgusting; many detainees reported people relieving themselves in the open out of desperation.

Many people emerged from police custody with accounts of respiratory ailments, rashes, and other medical conditions reportedly caused by these conditions. Some advocates have alleged that conditions inside Pier 57 posed serious health hazards to detainees and police officers. The conditions of detention are now the subject of several lawsuits against the City.

## Fingerprinting of People Charged with Minor Offenses

Soon after the Convention concluded, the NYCLU started to receive reports that everyone arrested during the Convention had been fingerprinted by the NYPD. We further learned that all of these fingerprints had been sent to Albany and that several hundred may have been forwarded to the Federal Bureau of Investigation.

Concerned about the prospect that law-enforcement agencies were using arrests for minor offenses as a means of collecting the fingerprints of hundreds of political activists, the NYCLU examined New York State laws governing fingerprint collection and learned that the law did not allow the NYPD to fingerprint people charged with minor offenses except in narrow circumstances. Since we believed that the NYPD had in fact fingerprinted every single person arrested during the Convention, we wrote to Commissioner Raymond Kelly on October 4 alerting him to the legal restrictions on fingerprinting and asking that the Department assure that all unlawfully obtained fingerprints be destroyed and expunged from any computer databases.

Three days later the NYCLU filed two federal lawsuits against the Department, which included a legal challenge to the fingerprinting of those arrested at the Convention. Two weeks later, following negotiations with the NYCLU, the NYPD announced it had destroyed the fingerprints.

One week later, at the October 27, 2004 hearing before the Government Operations Committee of the City Council, the NYPD deputy chief who was in charge of Pier 57 testified that the fingerprinting of the demonstrators was pursuant to a special policy because the Convention was a national security event. When confronted with the New York State law provisions governing fingerprinting, he declined to explain how the Department’s blanket fingerprinting of demonstrators was lawful.



## Plastic Handcuffs

By all accounts, virtually every person arrested during the Convention was restrained using plastic handcuffs known as “flex-cuffs.” Despite their benign-sounding name, flexcuffs can cause considerable discomfort and even pain or injury when not used properly. Flexcuffs pose a serious risk when applied too tightly or when left on for extended periods of time.



The NYCLU has received many complaints about improper use of flexcuffs by the NYPD at demonstrations in recent years, but the Convention generated the most serious complaints to date. As is discussed in the next section, some of these complaints suggest that officers used flexcuffs in a deliberately sadistic way, tightening them to the point of cutting off circulation, in retaliation for complaints about police treatment of those under arrest.

## Surveillance and Videotaping

Troubling NYPD practices were not limited to the Department's arrest and arrest-processing tactics. One of the most disturbing was the Department's pervasive videotaping — with hand-held cameras, cameras mounted on poles and vehicles, even a blimp — of people engaged in lawful protest activity. In addition, reports received by the NYCLU and media stories suggest that the Department was engaging in surveillance of protest groups and organizers throughout the Convention.

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In February 2003, the month after it was announced that the Republican National Convention would take place in New York City, a federal judge ruled that he would grant the City's request to relax a 1985 consent decree that had substantially restricted the NYPD's ability to videotape people participating in protest activity, to conduct surveillance of political groups, and to retain information about such activity.<sup>8</sup> The new restrictions, which were based on guidelines adopted by the FBI in May 2002, allowed surveillance when "information... indicated the possibility of criminal activity."<sup>9</sup> Though the new guidelines lowered the standard for conducting surveillance and eliminated many of the information-retention restrictions of the original consent decree, most people were unprepared for the dramatic change in NYPD surveillance practice that surfaced during the Convention.



Most significantly, the NYPD engaged in blanket videotaping of lawful protest activity. Countless numbers of police officers with video cameras filmed tens of thousands of people who were engaged in wholly lawful and peaceful activity. An NYCLU survey of the designated demonstration site on Eighth Avenue near Madison Square Garden revealed a tripling of the number of surveillance cameras in the area, with at least seven new cameras being operated by the NYPD. A blimp used by the NYPD for the duration of the Convention reportedly had the ability to



photograph individual license plates.<sup>10</sup>

The NYCLU also received reports indicating that the NYPD may have spied on people who were organizing legally permitted demonstrations in which there was no reasonable threat of even minor illegal activity. The organizer of the August 30 Still We Rise Coalition march and rally, while visiting her parents in New Jersey shortly before the event, was followed by a vehicle containing what appeared to be law-enforcement personnel. When she returned home to Brooklyn late that night, a different vehicle with two men and a computer screen remained in front of her building through the night.

Press reports also indicate that police attended political events and organizing meetings without identifying themselves.<sup>11</sup>

## Protest Pens and Access

Concerns about NYPD restrictions on access to demonstrations and its use of “pens” made of interlocking metal barricades had been building in New York City for years and finally boiled over at the February 2003 anti-war demonstration. In anticipation of similar problems at the Convention, the NYCLU obtained a court order prohibiting the NYPD from closing streets and sidewalks to demonstrations without informing the public of alternative routes of access and requiring the Department to ensure that people could move freely in and out of any pens set up by the police.

As it turned out, most of the demonstrations did not involve the type of large, stationary rallies on city streets where access and pens have been of greatest concern. Rather, many of the bigger Convention protests were marches. The larger stationary rallies that took place in the designated protest area on Eighth Avenue were mostly preceded by marches through which participants freely entered the protest area. Moreover, the Department had agreed even before the Convention started not to use four-sided pens.

Nonetheless, problems surfaced. Most significantly, on three occasions (the Still We Rise March the afternoon on August 30, the March for Our Lives the evening of August 30, and the march from Union Square during Bush’s acceptance speech on September 2), as groups marched up Eighth Avenue, the police, without warning, rushed a line of interlocked metal barricades through the crowd to segment it and create three-sided pens. This tactic caused considerable confusion among demonstrators, and in one instance (the March for Our Lives march) prompted a melee between officers and protesters who thought they were being arrested en masse. The confrontation in turn prompted riot police to strike members of the crowd with batons while about a dozen plainclothes officers dangerously rode their scooters into the crowd, leading to a confrontation in which one police officer was pulled off his scooter and assaulted.

Problems of access were most noticeable at the Central Labor Council rally on September 1 and the ANSWER rally on September 2. Both took place at the Eighth Avenue protest area, and neither was preceded by a march,



but in both instances streets and sidewalks leading to the demonstration area from Seventh and Ninth Avenues were blocked and police officers gave inaccurate or no information about how people could get into the rally site, often directing people as far south as 23rd Street.

## Pre-Convention Publicity

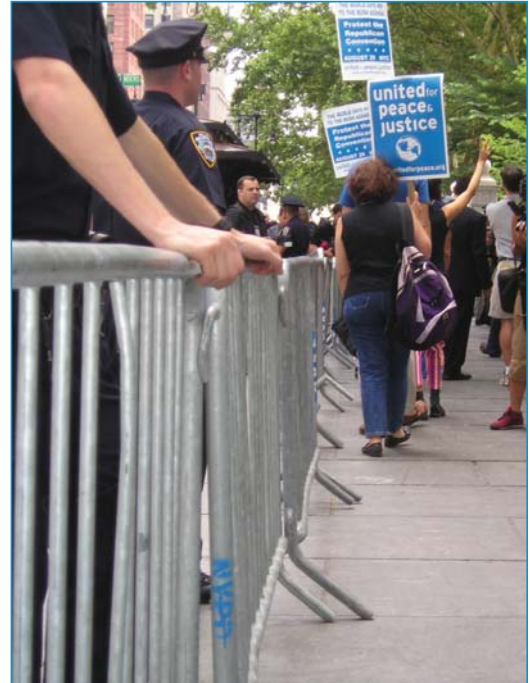
Before the Convention even began, numerous media reports suggested that demonstrations might involve violence by protesters. Similar reports preceded major demonstrations in other cities, including Washington D.C. (2000), Philadelphia (2000), St. Louis (2003), and Miami (2003), New York prior to the World Economic Forum in 2001 and the anti-Iraq war demonstration on February 15, 2003.<sup>12</sup> Happily, the demonstrations were peaceful. However, the NYPD's apparent involvement in some of this reporting raises concerns about the extent to which the Department may have been trying to discourage people from attending demonstrations or may have been using the press preemptively to justify excessive policing at Convention demonstrations.

In general, on-the-record police statements about potential problems at demonstrations were reasonable and balanced. Police Commissioner Raymond Kelly and Deputy Commissioner for Public Information Paul Browne both said on a number of occasions that they expected the vast majority of demonstrators to be law-abiding (*Daily News* 8/19/04, *Newsday* 8/20/04). Unfortunately, other statements were made both officially and unofficially and actions taken that served to “poison the well” of police-demonstrator relations in the weeks leading up to the protests.

Most troubling, perhaps, was the Department's conduct of a series of training drills on August 19 at Floyd Bennett Field with the press present. The drills were designed to show that the NYPD was prepared for a variety of both protester and terrorist tactics. One mock protest action included people locking their arms together inside metal pipes and storming a bus full of RNC delegates. The police also showed off new bullet-proof armored vehicles and sound devices capable of communicating with crowds over long distances. The clear suggestion was that confrontational protests were expected and that the Department was prepared to use overwhelming numbers of officers to control any type of protest activity.

Other disturbing reports preceded this event. On July 12 the *Daily News* reported that “fringe elements are hoping to spark major disruptions at the Republican National Convention with a series of sneaky tricks — including fooling bomb sniffing dogs on trains bound for Penn Station... decoying specially trained Labrador retrievers with gunpowder or ammonium nitrate laced tablets... and throwing marbles under the hooves of police horses.”<sup>13</sup> While the *Daily News* claimed to have obtained this information from anonymous Internet chat rooms, Commissioner Kelly gave credence to these threats and added to their impact by making his own inflammatory statements: “Where is the legitimate protest in trying to endanger the public...? These hardcore groups are looking to take us on...They have increased their level of sophistication and violence.”

In a similar vein, starting with an August 13 story in *Newsday*, several media reports cited police sources to support stories about the NYPD tracking “anarchists” bent on creating chaos at the Convention.<sup>14</sup> On August 20 *The New York Times* reported that police officials had “identified about 60 people as militants, some of whom were arrested for violent acts at past protests.”<sup>15</sup> This rather innocuous statement indicated that the police had developed lists of demonstrators they considered a threat and were sharing this information with the press. More



details were released by *The New York Post* on August 23, which quoted “a top level source” with knowledge of police intelligence gathering as saying “These people are trained in kidnapping techniques, bomb making and building improvised munitions.”<sup>16</sup> On August 26, *The Daily News* ran a report that seemed to be based on similar police intelligence. Quoting “police intelligence sources,” “a high-ranking police source,” and “NYPD intelligence reports,” they describe the threat posed by numerous specific individuals and organizations being tracked by the police as potentially violent protesters. Some of the individuals and organizations profiled were accused of being “violent fanatics,” with a history of violent actions and with plans of “hurling bricks followed by Molotov cocktails through the widows of military recruiting stations” and “vandalizing McDonald’s and Starbucks.”<sup>17</sup>

Finally, FBI sources apparently played a similar role in some pre-Convention reporting. For instance, in an August 19 *Daily News* article, FBI Counterterrorism Chief Gary Bald and other “senior federal law enforcement officials” expressed fears that some demonstrators were “plotting bloody confrontations during the Republican National Convention.”<sup>18</sup>

## Searches

Consistent with the court order obtained by the NYCLU prior to the Convention, the NYPD did not conduct blanket searches of persons seeking to participate in Convention demonstrations. We did learn of a small number of individual searches, most of which involved people taking photographs or videotaping in the vicinity of Madison Square.

## Plainclothes Officers and Motor Scooters

Plainclothes officers were deployed on foot, motor scooter and bicycle during the Convention. Typically, these officers are used to look for signs of illegal activity — such as rock throwing — from within otherwise legal demonstrations. This allows the officers to notify uniformed police of the problem and to identify specific individuals engaged in illegal activity. For reasons of officer safety and to avoid confrontations within a crowd, these officers rarely take direct enforcement action, leaving that to uniformed teams. When they do engage in enforcement action, NYPD policy requires them to identify themselves by displaying their shield with badge number on the outside of their clothing. Unfortunately, many of these procedures were not followed during the Convention.

The most troubling practice was the use of plainclothes officers on motor scooters. This new tactic utilized approximately a dozen officers working together to control crowds. During the August 27 Critical Mass ride they

rode within the event and assisted in making arrests by driving their scooters into moving bicyclists and by blocking the path of cyclists. On Sunday, August 29 there were numerous incidents of these officers harassing bicyclists riding in the vicinity of the United for Peace and Justice march. These officers rode into and knocked over bicyclists on several occasions. On the morning of August 30 scooter officers following the permitted Still We Rise march from Union Square to Madison Square Garden rode on the heels of the rear of the march, heightening tensions and causing the NYCLU to intervene with the ranking officer at the scene to have them removed.





These officers were also used later in the day at the March for Our Lives demonstration on Eighth Avenue to charge a crowd during an altercation with the police. They rode into a large demonstration without identifying themselves as police officers in an effort to disperse a crowd that was enclosed within a protest pen that had few exit points, creating a dangerous situation for both the officers and the demonstrators. In the resulting confusion, several demonstrators were struck by officers, and one officer was pulled from his scooter and seriously injured.

The use of plainclothes officers in these situations created considerable confusion among demonstrators, who on several occasions were

physically confronted by people on motor scooters they had no reason to believe were police officers. On one occasion senior NYCLU personnel observed uniformed officers attempting to cut off the plainclothes unit, apparently not realizing they were law enforcement personnel. One high-ranking official told the NYCLU that his task force was completely confused by the motor scooter unit, as they had no idea they were fellow officers.

Finally, the NYCLU was deeply troubled to learn that one of the members of the NYPD's plainclothes scooter unit had stenciled on his helmet, "Loud Wives, Lose Lives." To the extent the Department thought this type of offensive message would allow the officer to appear to be a protester, that offers a disturbing insight into the NYPD's view of those engaged in protest activity.



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## Use of Force

Excessive use of force against non-violent demonstrators was the most troubling aspect of the NYPD's handling of the February 2003 demonstration. Fortunately, there was little replay of that problem during the Convention.

There were, however, some problems. Several people participating in the August 27 Critical Mass bike ride reported that they were pulled from their bicycles while moving and without warning, causing a variety of minor injuries. On August 29 in Times Square, mounted police officers rode their horses into a crowd on the sidewalk. On August 30, videotape shows police officers striking protesters with batons in a chaotic scene prompted by officers suddenly pulling a line of barricades across Eighth Avenue near Madison Square Garden. Finally, there were reports of pepper spray used on demonstrators and a legal observer on August 27 and 31. ■



## Eyewitness Accounts of Police Misconduct

**D**uring and after the week of the Convention, the NYCLU invited people to share their experiences while protesting, observing protests, or simply moving around the City during the Convention. A questionnaire was posted on the NYCLU website and e-mailed to several NYCLU lists. At the NYCLU Storefront near Madison Square Garden NYCLU staff and volunteers conducted legal intake interviews in person and over the phone. In addition, the NYCLU received reports from a number of advocacy organizations.

As of March 25, 2005, the NYCLU had received 271 accounts of people's experiences and observations during the Convention,<sup>19</sup> with 202 of the accounts coming from people who had been arrested. These reports recount a wide range of experiences raising serious concerns, paralleling those discussed in the previous section. Specifically, these accounts complained of mass and indiscriminate arrests of protesters and bystanders, the misuse of plastic handcuffs, the prolonged detention of arrestees, the detention of arrestees in inappropriate and potentially dangerous conditions at Pier 57, a lack of medical services, and aggressive actions directed at people documenting police actions. The NYCLU also received reports about the targeting of demonstrators and about the mistreatment of the media and of legal observers.

### UNLAWFUL ARRESTS

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The NYCLU received 163 accounts from people who reported that they were falsely arrested, arrested en masse, or both.

#### A. Mass Arrests

The NYCLU received many accounts from people who were swept up in mass arrests. In many instances, those arrested were fully complying with police directions, raising troubling questions about whether the Department was targeting protesters for arrest. In other instances, police gave no directions but simply arrested people without warning. In most instances the NYPD used mesh nets to effect indiscriminate arrests of groups of people.



#### War Resisters' League March Near World Trade Center (Tuesday August 31)

The most egregious instance of people being arrested after following police directions was the War Resisters League march, at which 227 people were arrested. The NYCLU



received 42 reports (all but one from arrestees) concerning this incident. The accounts that follow are all from arrestees.

The War Resisters League had planned a march from the World Trade Center site to Madison Square Garden for the afternoon of August 31. Some marchers reportedly planned to engage in civil disobedience at 28th Street and Broadway, but the march itself was meant to be law-abiding and peaceful. While no permit had been obtained for the march, the march organizers and the commanding officer on the scene reached an agreement whereby the group could march without a permit as long as it remained on the sidewalk, walked no more than two abreast, and obeyed all traffic signals. [R. 71.]<sup>20</sup>

With this agreement in place, people felt free to march. A 55-year-old man from upstate New York stated that “[he] had not been aware that there was no permit but felt safe from [from] arrest when the police said we could proceed.” [R. 82.] He also conveyed his impression that “[t]he overwhelming majority of people arrested with me had not planned to be arrested. They were there to voice their opposition to the war.” [R. 82.] A 50-year-old labor lawyer from Philadelphia, at the march with his 17-year-old son, asked a legal observer if the police were going to arrest people. He was told that people would be subject to arrest only if they tried to get close to Madison Square Garden. [R. 266.] Since he and his son were planning to leave the march to see a play at Union Square, a mile away from Madison Square Garden, he “thought we had nothing to worry about.” [R. 266.]

The police announced the rules of the agreement with a bullhorn. A tourist from California at the site to take pictures and a woman from Nyack, New York, there with a friend who has emphysema, heard the police tell them to “have a nice march.” [R. 112, R. 161.] The march began, with the first marchers crossing Church Street at about 4 p.m. The lawyer and his son followed the rules, but, along with everyone else on the block were arrested nonetheless:

When the pedestrian crossing light changed to red, we waited. When it changed to white, we crossed. After we traveled about twenty feet on the sidewalk, pedestrian traffic stopped. The police surrounded us with their bicycles. I looked for a way out. There was no escape. The commanding officer placed police at the end of the block so there was no way to cross back over Church Street. A fellow traveler jumped over the fence into the Trinity Church cemetery only to be immediately captured by three bicycle police. None of the police would tell us what was going on or what we had done. The crowds [sic] chant to

“let us disperse” were ignored. So was the chant to “give the cops a raise.” In a few minutes, the orange mesh nets were unraveled. [R. 266.]

Almost every account the NYCLU received specifically mentions that the protesters never heard any order to disperse and that the march had not broken any of the conditions set out only minutes before. A 42-year-old from Brooklyn reports an Officer Shea’s response to the question of why the police never warned the marchers or ordered them to disperse: “If I caught someone robbing a bank, would I allow him to disperse? You all wanted to be arrested anyway, so I just sped things up for you.” [R. 127.] The woman from Nyack overheard comments by officers while she was in custody that illustrated this police mentality as well: “‘You were going to MSG, you came here to start trouble.’ ‘No point in rushing the process, they’ll just be back tomorrow.’ ‘What did you think would happen walking there [near ground zero] today?’” [R. 161. ]

Reports received by the NYCLU indicate the indiscriminate nature of the arrests. The Philadelphia lawyer and his son were assembled into a group of five with “a political science professor, a father from Madison Wisconsin who just dropped his daughter off at Pratt Institute and a toll collector from the Port Authority who had just bought a new camera and decided to come into the city to photograph some of his port authority police friends who told him they’d be working security at the WTC Station.” [R. 266.] At Pier 57, one woman met “tourists who were picked up and who spoke no English, people coming out of book stores, Wall St. financiers going home, on lookers [sic] who were swept up, art professors, reporters, lawyers, NLG [National Lawyers Guild] observers, even the children of cops on duty, healthcare workers, and minors who were arrested with me and kept for as long.” [R. 242. ]

## Union Square March across 17th Street, Tuesday (August 31)

A second particularly troubling example of people being arrested after trying to comply in good faith with police directives occurred later in the evening of Tuesday, August 31 on East 17th Street near Union Square. The NYCLU received 10 reports about this incident, all but one from arrestees. The cited accounts are all from arrestees.

Between 8 and 8:30 p.m., a group of 40 to 70 people left Union Square with the intention of marching to the NYPD-designated protest area at Seventh Avenue and West 32nd Street. They walked single file. [R. 91.] At Broadway and East 17th Street/Union Square North, the police stopped them. At that point, according to a 27-year-old man from Brooklyn, “[s]everal people informed the police of our intention to walk in a single file line to the legal protest area. An officer told us to walk down 17th Street and then go up 8th Ave., instead of walking up Broadway as we had planned.” [R. 88.]

This man then stated that the group “went West on 17th and were blocked off at the next intersection [Fifth Avenue] by line [sic] of police officers. As soon as they saw us they stood up behind the metal barricades that had already been in place, and quickly stretched orange netting across the street.” [R. 88.] One member of the group began to negotiate with the police. An officer in a white shirt said “‘it should be fine’” and that the group should “‘just wait for a minute.’” [R. 88.] A 23-year-old woman from Seattle states that the police told the group “to hold on and that they would find us the best path to get to the garden [Madison Square Garden] and that they would escort us there.” [R. 234.]

Ten minutes later, however, more police officers arrived. [R. 234] The group was “told to line up in the street” and “at least a dozen police on mopeds drove up behind the police line. Within 5 minutes the line was opened up on the North side of the street and the mopeds rushed in and boxed us all in against the South sidewalk. We were told to stand on the sidewalk, then told to turn around and put our hands on the wall. We were all cuffed and about 45 minutes later put on city buses.” [R. 88. ]





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People did not know why they were being held on the sidewalk and the police did not provide them with any answers. A 22-year-old woman from New Paltz, New York reports: “We asked [the police] what was wrong. They wouldn’t tell us. They stood about five feet away from us. We were all very scared. No one cursed or yelled at them. I asked them if we were being arrested. They said no. I asked them if we were free to leave. They said no. I asked them if we were being detained. They said no. I asked again if we could leave. They said no. Someone tried to leave and they restrained him. After awhile they started to cuff us working from one end of the line to the other. I asked what we did wrong. My arresting officer didn’t know.” [R. 186.] Later, according to the woman, an officer told her that the arrests of the people in this group were “bullshit” and apologized. [R. 186.]

### East 16th Street (Tuesday, August 31)

Another egregious example of indiscriminate mass arrests on August 31st occurred early in the evening when the police closed off both ends of East 16th Street between Union Square East and Irving Place and arrested everyone who happened to be on the block. The NYCLU received 41 accounts concerning the East 16th Street arrests, of which 39 came from arrestees and 2 from witnesses.

At around 7 p.m. that evening a group of musicians set off north on Union Square East with a substantial crowd of people, many of whom were walking on the sidewalks. Police officers prevented the crowd from proceeding north on Union Square East and diverted them onto East 16th Street. When the group reached Irving Place, they found that the police had blocked it off.

A Brooklyn resident, who along with his girlfriend (a journalism student at Brooklyn College working on a school assignment) was arrested, reported that at Irving Place the police instructed people to walk back towards Union Square East in order to leave the area. [R. 89.] Those who reached Union Square East, however, found that this end of the block was also blocked off. [R. 89.] When people asked to leave, they “were told that ‘the time for questions is over, step the fuck back!’” [R. 89.] The police gave no orders to disperse and did not give people an opportunity to leave the block once they had blocked it off. [R. 89.] Instead, a 42-year-old Manhattan arrestee reports, they surrounded everyone on the block. [R. 30.]

Another arrestee was a freelance photographer working on a photo documentary about Union Square. She reported that “[the cops] wouldn’t let you in or out.” [R. 17.] A video producer documenting the Convention who was arrested reports that the police used orange mesh netting to prevent people from leaving. [R. 45.] A 23-year-old demonstrator who was arrested states that the police “blocked any possible exits with police officers on mopeds.” [R. 36.] The Brooklyn man with his girlfriend indicates that the police presence on this block was high: “Police were also positioned on rooftops and fire-escapes, as well as blocking the entrance to buildings on that block.” [R. 89.]

After blocking any means of egress, “[a] line of officers advanced, pushing us forward into a crowd, but since they were also pushing us from the opposite side, there was no place to go. I was grabbed by captain [sic] . . . who took my bike and threw it aside. . . .” [R. 30.] Similarly, the Brooklyn man states: “They then formed strategic lines and pushed pedestrians and demonstrators onto the sidewalk with their clubs, forcing us into several groups compacted and immobile.” [R. 89.] One man, who followed the marching musicians after leaving Petco, a pet supply store on Union Square East, was arrested and reported that the police themselves formed a wall penning people in. [R. 93.] A woman stopping off in New York on her way home to Philadelphia from vacation states that the police grabbed instruments from the marching musicians and threw them into the street. [R. 209.] A 22-year-old from the Hudson Valley reports that later, “an officer told everyone to sit down and announced that everyone on the block would be arrested for marching without a permit.” [R. 192.]

While trapped on the block, the Philadelphia woman noticed the actions of one police officer in particular: “[He] yelled at us violently and angrily that we had brought this upon ourselves. He was walking past us on the sidewalk and he yelled and screamed; and this was the moment when I became seriously afraid. . . . I was afraid that he would grab me and hurt me: I was very scared.” [R. 209.]

## New York Public Library (Tuesday, August 31)

The NYCLU also received 10 accounts from people who were arrested Tuesday, August 31 at the main branch of the New York Public Library where they had gathered for a march to Madison Square Garden scheduled to start at 7 p.m. The accounts are strikingly similar and document the arrest of law-abiding protesters who asked for and followed specific police instructions, thinking they would be allowed to protest lawfully. Instead, the police directed these demonstrators, along with bystanders and legal observers, into makeshift barricades of orange mesh netting, where they were arrested.

A freelance photographer from Colorado came to New York during the Convention to develop his portfolio for a prospective employer. He went to the library to cover a planned march to Madison Square Garden but surmised, “with the entire show of force of police that was there,” that there was “most likely not going to be any march . . . so [he] stayed to cover what would happen instead.” [R. 42.]

According to a 44-year-old woman from Oakland, California, who came to the library from a demonstration in front of Fox News, people were initially on the steps of the library, which was a “gathering point”. [R. 72.] Believing that there had been no arrests at the Fox News event, she “expected the same at the Library, but the mood was completely different. The police were gruff and hostile . . .” [R. 72.]

Some people were arrested on the library steps without warning. Others left the steps and the area immediately in front after the police ordered them to do so, and were arrested elsewhere. The Oakland woman followed orders from the police to leave the library steps and the adjacent sidewalk, but was arrested soon thereafter:

When the cops said, “Everybody off the stairs” I got off the stairs. When they said, “Off the



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sidewalk” I asked, “Where would you like us to go?” He said, “Keep moving.” When I asked where to, he said, “Around the building.” So I walked with others around the building. When I was almost three-fourths of the way around, someone screamed, “They’re dropping the nets!” (Bait and Switch). There was a stampede away from the front of the building, which was halted abruptly by a line of tactical cops. The people behind me came to a dead stop, too. We were caught. Nobody ever gave an order to disperse. [R. 72.]

The freelance photographer from Colorado also followed police orders to leave the steps and the area on Fifth Avenue in front of the library. Proceeding towards 42nd Street, he saw a small rally on the side steps of the library, facing 42nd Street, and went up to photograph it. The rally ended in ten or fifteen minutes and people began to leave. The photographer states: “They proceeded west off of the library property onto the sidewalk of 42nd Street heading towards 6th Avenue . . . I continued shooting [photographing] this young man who had led the small rally, and around us was only a half dozen others or more all together walking towards Sixth.” Before the group reached Sixth Avenue, it turned into Bryant Park and started up a set of stairs there, and soon the photographer was arrested:

A couple steps up the steps they were met by a white shirted police officer telling them that they could not cut through there, and would have to stay on the sidewalk. The small group complied without a word and headed back to the sidewalk, as soon as they were [on the sidewalk], they and all and everyone else [sic] who just happened to be on the sidewalk also [including the photographer], were corralled in by officers brandishing this orange netting from the west and then from the east, pinning us all together right immediately in front of a newsstand.” [R. 42.]

Another person who reported being arrested after following police orders was a 31-year-old woman from Brooklyn who went to the library after work to join a peaceful rally. [R. 220.] After the demonstration on the library steps was stopped, she left and walked west on the sidewalk on 42nd Street. There, she “encoun-



tered a line of police who advised the people who had just left the library that they could not go any further and told them to leave. People attempted to comply, but the police blocked all exits. We were not given an official order of dispersal. As some people tried to leave the area by crossing to the north side of 42nd Street, one of the officers called out to another group of police who were moving into position to block that exit, ‘Don’t let ‘em cross!’ Once we had been completely contained, the police [ ] surrounded us with orange netting and told [us] to sit down. Shortly thereafter, we were taken out one by one and arrested.” [R. 220.]

A 24-year-old arrestee from Manhattan writes of a conversation between officers scripting a story after the protesters had been penned in: “I overheard some officers making up our charges as we were arrested. They said something to the effect of ‘the story at the library is they did not disperse when we asked them to, and then sat down to refuse arrest.’ In reality we did everything they told us to. They pinned us in with the orange nets, leaving us nowhere to go.” [R. 201.]

### Critical Mass Bike Ride (Friday August 27)

The NYCLU received 25 reports concerning the RNC Critical Mass bike ride, at which more than 250 people were arrested; 22 of the reports came from arrestees. Critical Mass is a monthly bicycle ride that has been taking place in New York City since 1994. Cyclists assemble on the last Friday of each month at Union Square Park and ride a spontaneous route through the city. Some cyclists regard the ride as a demonstration, others do not.

On Friday, August 27 — three days before the start of the Convention — an unusually large number of riders assembled at Union Square Park in the midst of a substantial police presence. A 44-year-old man from Brooklyn on his first Critical Mass ride reported that press and cyclists assembled at Union Square Park were “concerned about threatened arrests by the NYPD.” However, he “paid little attention to these remarks as I am not the type to do anything that would warrant arrest.” He further stated that cyclists followed police instructions: “At all times I had obeyed and continued to obey all directions all instructions [sic] or demands given to me by New York Police Officers. As far as I could tell, all cyclists were obeying the instructions of the

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Police.” [R. 106.]

One first-time rider from Manhattan reports that 90% of the people he spoke with on the ride that night were, like him, first-time Critical Mass participants. He had heard that on the previous month’s ride there had been a police “escort” on 34th Street between Ninth and Tenth Avenues across from the Loews movie theater and thought that Critical Mass was a “lawful, sanctioned ride.” He reports that he never would have ridden a \$1500 bicycle had he thought he would be “susceptible to arrest,” and believes that most riders shared his belief that the ride was sanctioned. [R. 131.]

One man joined the ride “on a whim.” He had a comforter he had just purchased at Bed, Bath, and Beyond tied to his bike. [R. 155.] A 16-year-old boy who had never heard of Critical Mass before August 27 and did not own a bicycle was “invited to go bike riding for pleasure” with someone he had met on an exchange trip. This person told him that “we would be cycling around the streets for about an hour and ending up at Chelsea Piers.” He borrowed a bicycle and met his friends at Union Square. He states: “We were cycling for exercise & enjoyment. I was not there to protest, nor did I know there would be protesting.” [R. 257.]

As the first-time rider from Brooklyn reports, the group of 5,000 to 7,000 cyclists left Union Square heading south on Broadway: “Police were present all along the way and in many instances were blocking traffic in order to facilitate the ride.” [R. 106.] The 16-year-old states that people were following traffic laws, and that he was told “there [wa]s a larger group than normal.” [R. 257.]

The cyclists turned west onto Houston Street, then proceeded north on Sixth Avenue. At 30th Street “the police began to split the ride into smaller groups.” R. 106. At this point, he was in a smaller group of about 1,500 cyclists. They went “[a]cross 30th Street, up Madison Avenue, back across 53rd Street and down 7th Avenue, all the while following the path the police would allow and stopping when we were told by the police.” [R. 106.]

[A]t 35th Street and 7th Avenue the festive atmosphere began to change. At that corner it was obvious that we would not be allowed to cross past 34th Street and I mistakenly assumed that they simply did not want us near Madison Square Garden (actually, arrests were being made at that corner). Therefore, we, now numbering about 700 cyclists, took the only route available and headed west on 35th Street. . . . At Dyer Avenue (midway between 8th and 9th). I noticed many police vehicles. As I approached 9th Avenue about 25 policemen with bicycles suddenly ran out to block our path. I stopped and other [sic]

stopped, a police [sic] yelled, “You can’t come through here” and I responded, “Where do you want us to go”. There was no response. We headed back towards Dyer Avenue but I already knew we had been trapped. [R. 106.]<sup>21</sup>

The police gave no warnings to disperse. [R. 134, R. 106.] Nor did they tell the cyclists whether they were under arrest, or why. [R. 106.] A 28-year-old man from Manhattan reports that the cyclists were handcuffed and left to sit on 35th Street for several hours before being taken to Pier 57. [R. 96.]

Cyclists who made it to the end of the ride at St. Mark’s Church on Second Avenue faced a police crack-down there as well. Following police orders to “Move along,” the cyclist with the strapped-on comforter walked his bicycle on Second Avenue towards 9th Street, away from the church. After an officer told him to move, he “asked him if [he] should go up on the sidewalk or [if he] could proceed along the street.” The officer responded “This way,” and then “led [him] into the arms of nearby cops who pulled [his] wrists behind [him] and snapped plastic handcuffs around them.” He was told that he was under arrest and ordered to sit down, and an officer “forced [him] onto the asphalt where [he] knelt with other handcuffed people.” The arrestees’ bicycles were “thrown onto a pile, [his] with the comforter still tied to it.” [R. 155.]

## Times Square (Sunday, August 29)

The NYCLU received 16 reports concerning events in the area of Times Square on the afternoon of August 29, of which 15 came from arrestees. People came to Times Square that afternoon to voice their political opinions in front of Broadway theaters where Republican delegates were attending matinees. In attempting to contain people, the police brought out their orange mesh netting and swept up, along with the peaceful protesters, many who were not even demonstrating. This happened in several places in the Times Square area.

At 46th and Broadway at around 5:00 p.m., about 50 people were arrested as they tried to get closer to the “Kiss-In” sponsored by the group Queer Fist. [R. 29.] The group was not given an order to disperse. Instead, they were ordered to get on the sidewalk, off the street, and after they complied, “the orange net all of a sudden came out and we were cordoned off.” [R. 29.] A Brooklyn woman at that corner reports that the police did not answer questions about what was happening or tell the group what they were being charged

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with. [R. 146.]

Fifteen minutes later, a woman who had just arrived at the corner of 7th Avenue and 45th Street was surrounded by orange netting, as was everyone else on that corner. [R. 121.] At about 5:20 p.m., a man in town from San Francisco was arrested while crossing the street at Broadway and 43rd Street. While he was waiting for the light to change at that corner, about 15 members of the group Queer Fist walked up to where he was standing, with a cop “trailing them. As they crossed the street, cops barricaded them in.” [R. 10.] At about 5:30 p.m., a man in town from Ohio was walking on 7th Avenue near 46th Street with a friend when he spotted a paddy wagon and many arrestees. The police suddenly surrounded the immediate area, put up orange netting, and arrested everyone there. The Ohio man reports that although the police released people who had RNC press passes, they did not release people who were with Indymedia (the Independent Media Center), a network of collectively-run media outlets. [R. 20.]

Also at about 5:30 p.m., over at 46th Street and 8th Avenue, a Vassar College student was arrested with about 65 other members of Queer Fist. She reports that as several members of the group moved forward to try to pull street medics away from the police, the police “rode horses onto the traffic island [where the Queer Fist members were standing] in some sort of intimidatory [sic] gesture of ‘crowd control.’” She also reports that the group was surrounded by police officers and ordered three times to get down on their knees. The police then put flexcuffs on the arrestees, who were not told why they were being arrested or read their rights. [R. 230.]

## B. Bystanders

By blocking off entire blocks and making mass arrests, the police swept up and arrested people who were simply bystanders. Of the 202 accounts the NYCLU received from people who were arrested, 40 came from people who were not demonstrating.

On the afternoon of August 29 in Times Square, a man visiting from Ohio was walking on Seventh Avenue



with a friend when he spotted a paddy wagon and many arrestees. Although he was not demonstrating outside the Broadway theaters that afternoon, he was surrounded by orange netting and arrested. [R. 20.]

A woman who works for the American-Scandinavian Foundation was near Bryant Park, behind the library, on the afternoon of August 31. She states:

I did not even know I was in the demonstration minutes before the arrest. I was asking around, to find out what was happening. The number of protesters on the sidewalk increased in a matter of minutes when I heard shouts and could barely make out the word “disperse.” There was nowhere to go however, there [sic] were people all around me and instinctively I kept still, backing into a newsstand behind me. I did what I was told to do: sat down on the sidewalk. After which followed the arrest.

. . . I believe it was assumed that I belonged to a crowd of political protesters. [R. 44.]

Of the 38 accounts the NYCLU received from arrestees at East 16th Street the night of August 31, 10 were from bystanders. A Sarah Lawrence College student was arrested while watching the “parade” from the sidewalk. She states that “[the police] simply blocked off the block and arrested anyone there.” [R. 28.] A 44-year-old woman from Manhattan was arrested standing on the sidewalk with her bicycle watching the demonstration. [R. 30.]<sup>22</sup> A dance instructor on her way to teach a class was not permitted to leave the block and was later arrested. After the police refused to let her leave, the dance instructor began to experience a panic attack. As her temperature and pulse rose, she informed a police officer that she did not feel well. She was ignored. She then fainted and was taken to the hospital [R. 83.] A woman simply trying to make her way home tried to explain to the police that she was not a protester. She and others were told “we were in the wrong place at the wrong time with the wrong people and now we have to pay the price.” [R. 212.]

At about 9 p.m., a high school senior on her way to the movies with a friend was arrested on West 35th Street between 5th and 6th Avenues. She was not a protester and has no idea why she was arrested and then held for 46 hours. With college applications to submit in the fall, she was concerned about the implications of her arrest. [R. 208.]

Finally, a 19-year-old woman from Long Island, New York recounts how, around 9:40 pm. on August 31, she was walking on 35th Street when she encountered a group of people engaged in civil disobedience at Herald Square. After arresting those in the group, police put up barricades blocking westward movement on 35th Street. Since she could not move west, she went east.

Unfortunately we found our path blocked by a line of police with motorcycles. Then, a group of police came up from behind, effectively blocking us in. They split the group into two, crowding people onto the north and south sidewalks and beating people in the middle. . . . I asked about 5 times from the time I first arrived at the police barricade if and when I could leave. I was told that as soon as they ‘regained control’ I would be able to leave. Each officer approximated 5 minutes or so. R. 69.

Instead of being allowed to leave, she was arrested. The group she was with was never told to disperse. R. 69.

## C. Targeting

The NYCLU received a number of reports indicating that people had been targeted for arrest for engaging in lawful activity associated with protests. These reports came from protesters, videographers, legal



observers, and street medics.

### Protesters

One of the most troubling reports came from a person who sought to participate in a demonstration at the Hummer dealership in Manhattan the afternoon of August 31. When the protester — wearing a costume that included a sign reading “Bummer” — arrived at the dealership shortly after 4 p.m., expecting to join a planned protest, she discovered that she was the only protester there. After answering questions from several journalists, she approached the showroom and spoke with someone working there. She then left the showroom and stood on the edge of the sidewalk. A white-shirted police captain approached with about 10 police officers and read from a sheet of paper, stating that she was obstructing traffic and that if she did not disperse she would be arrested. The woman replied that she was neither obstructing traffic nor doing anything wrong. The captain then directed one of the officers to arrest and handcuff her. [R. 268.]

Earlier that day, a six-person theater group had boarded an uptown 6 train at Union Square. Their faces were painted white to represent those killed in the Iraq war, and they wore signs around their necks saying “War Dead.” [R. 74.] The group was followed by several uniformed and plainclothes police officers. [R. 74.] When the group attempted to switch to the downtown 6 train at the 125th Street station, they were arrested on the subway platform. [R. 75.]



### Videographers

Ten independent videographers reported being targeted by police for videotaping. Seven were arrested, and of these three had their cameras and video equipment held as arrest evidence, even after their release. [R. 17, R. 42, R. 95.] One arrestee reported that the arresting officer smashed his video camera. [R. 233.]

A woman from West Virginia who was arrested while videotaping the War Resisters League demonstration reports that “[w]hile [I was] cuffed and moving towards the bus an officer asked: ‘What were you doing here? Why were you videotaping?’ When I answered *because ... I want to hear what people have to say* he said something to the effect of ‘well, that’s what you get’ or ‘see what happens.’” [R. 49.]

Why were you videotaping?’ When I answered *because ... I want to hear what people have to say* he said something to the effect of ‘well, that’s what you get’ or ‘see what happens.’” [R. 49.]





One videographer, a 34-year-old from Brooklyn, reported that the police taped over a portion of his videotape of the August 27 Critical Mass ride. [R. 9.] On September 1, an organizer for Picture the Homeless who was filming near Madison Square Garden was grabbed by a police officer and dragged across the street, where a police captain told him that he was not allowed to film the police check point outside the post office and threatened to delete anything from the organizer’s video camera that he did not like. [R.275] The organizer had sought to document the problems faced by recipients of public assistance who needed to pick up their benefit checks at the main post office, across from Madison Square Garden. A Secret Service agent took the organizer’s cell phone and identification, placed a phone call to determine if he was “legitimate,” and informed him that the Secret Service would visit in the next few weeks. [R.275.]<sup>23</sup>

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### **Legal Observers**

The NYCLU received four reports from National Lawyers Guild (NLG) legal observers, three of whom had been arrested. Legal observers have two main tasks: to observe police activity and to obtain arrestees’ names so that they can be tracked. NLG legal observers are readily identified by their bright green NLG baseball caps.

One legal observer arrested at Union Square reports that: “One officer pointed out to me, [sic] that my NLG i-witness hat and badge made me a target. He said, ‘We hate you people.’” [R. 174.] Another observer was arrested that day, while videotaping an act of civil disobedience at the intersection of Beaver and South Michael Streets, in lower Manhattan. Although she informed officers that she was a Guild observer, and her hat was clearly visible, she was arrested. [R. 142.]

### **Street Medics**

The NYCLU received three reports from street medics who were arrested. Two medics felt targeted because they were medics. Both were arrested between 5:30 and 6:00 p.m. on Sunday, August 29 on Eighth Avenue near 44th Street.

The street medics were readily identifiable: “I was . . . wearing a vest which clearly distinguished me as a nationally-registered EMT-Basic (national registry patch, red duct tape cross, plastic placard with the star of life and ‘Emergency Medical Technician’).” [R. 190.] The two medics who filed reports had responded, along with two other medics, to two calls on the medic radio net: the first, that police had used pepper spray on an asthmatic on Eighth Avenue at 44th Street, and the second that police had taken an insulin-dependent dia-

betic into custody. [R. 190, R. 111.] A fifth medic, a volunteer nurse, was negotiating with the police over the two cases when, according to one of the arrested medics, suddenly the police “grabbed us [the medics] and said ‘you, you, you. Up against the wall.’” [R. 190.] The arrested medics informed the officers that they were EMTs functioning as street medics. When they asked why they were being arrested, they were told, “They’ll tell you what you’re charged with later.” [R. 190, R. 111.] That was not the case: “During processing at pier 57 myself and the other 3 individuals arrested with me were told by our arresting officer ‘I don’t know why you were arrested, my CO just said to “pop those people.”’ I absolutely believe that myself and the others were targeted because we were volunteering and identified as marked medics.” [R. 190.]

A participant in the Kiss-In at 46th Street and Eighth Avenue, who was later arrested, observed a negative interaction between the police and street medics: “The cops were drawing near, so street medics put on their goggles (which is standard street medic procedure in preparation for having to tend to people against possible police violence). The cops perhaps thought the medics were putting on masks, and jumped on them + threw them to the ground.” [R. 230.]

## MISTREATMENT OF PEOPLE ARRESTED BY THE NYPD

The NYCLU received many accounts from people that raise serious concerns, including about the length of time people arrested for minor offenses were held, the prolonged and injurious use of plastic handcuffs, the conditions at Pier 57, and the mistreatment of people with medical needs.

### A. Length of Detention

The NYCLU received 202 reports from arrestees, 169 of whom reported how long they had been detained. One hundred and eleven (65.7%) of those were held for more than 24 hours. Of the 58 arrests that resulted in detentions of more than 40 hours, 54 of them occurred on August 31. <sup>24</sup>

Hours In	Number of Reports
0-4	2
5-9	1
10-14	11
15-19	12
20-24	32
25-29	28
30-34	17
35-39	8
40-44	13
45-49	38
50+	7

### B. Use of Plastic Handcuffs (“Flexcuffs”)

The NYCLU received 50 reports complaining about the misuse of plastic handcuffs, known as “flexcuffs.” These fall into three categories: extended periods of confinement in flexcuffs, denials of requests for re-cuffing or loosening of cuffs, and injuries.

Nine reports claimed that people were held for four, five and, in two instances, as long as eight hours in cuffs that were too tight. [R. 226, R. 238, R. 235, R. 28, R. 89, R. 202, R. 246, R. 209, R. 248.] Of those held in flexcuffs for over four hours, most complained of bruises on the wrists and pain in the shoulders. [R. 202, R. 235, R. 246.] One person who was in flexcuffs for four or five hours had visible bruising from the flexcuffs two weeks after being released. [R. 248.]

Two reports concerned denials of requests for re-cuffing or cuff loosening. A 61-year-old woman from the Hudson Valley area of New York focused on a specific officer, whom she found particularly callous:

Although most of the officers were very kind to us, especially our arresting officer, Anderson, we did run into a particularly nasty one, Carmody, at the Pier. He was re-handcuffing people (for transport to Central) very tightly. Several women ahead of me were crying out in pain, a few were actually crying. When he cuffed me too tightly, I complained. He



then yanked the cuffs tighter. One of the officers standing in the vicinity said, “He’s been doing that all day. We’ve told him to stop.” This officer (we didn’t get his name) cut the cuffs off my friend who has an arthritic wrist and was in intense pain. The cuffs were so tight, he had a difficult time getting them off. Because we were being rushed to the bus for Centre Street, there was not time to remove cuffs from others of us who were in pain. Those of us cuffed by Carmody had the circulation to our hands cut off and experienced numbness. The cuffs were cutting into our wrists, causing swelling, bruising and chafing. My wrists still bore some of the marks and still felt raw for a week. [R. 176.]

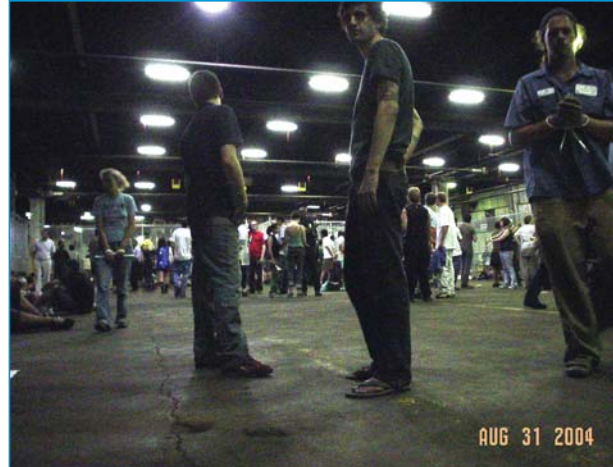
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A woman arrested on August 31 after calling attention to the use of force against a man at the corner of Park Avenue and 26th Street described the treatment of an arrestee on the transport bus with her:

As we are about to board the bus we hear a lady named Tonya who is screaming that her wrists hurt & to not touch her like that. She was apparently trying to loosen her cuffs because she is hypoglycemic. She asked for her cuffs to be loosened & instead had them tightened & said that she was kicked. She was put into solitary confinement section of the correction bus. All of the ladies on the bus pleaded with the driver/officer whom Tonya said was named Zach to please loosen her cuffs at the very least. We were completely ignored. We all then screamed “medical emergency” and were again completely ignored. The officer then drives as fast as possible with a police escort to Center St. trying to scare us and causing several cars to slam to a halt. R. 58.

Sixteen reports came from people who sustained injuries as a result of being in flexcuffs. One woman, arrested while acting as a National Lawyers Guild legal observer, requested that her cuffs be loosened when she started to lose feeling in her right hand. Instead of loosening the cuffs, someone she believed to be a lieutenant twisted her right arm, causing her immense pain. After being released, she went to the emergency room of a New York University hospital, where doctors placed her right arm in a splint and prescribed painkillers. Her diagnosis was abrasion of the wrists and impingement of the radial nerve. [R. 142.]





### C. Conditions of Detention

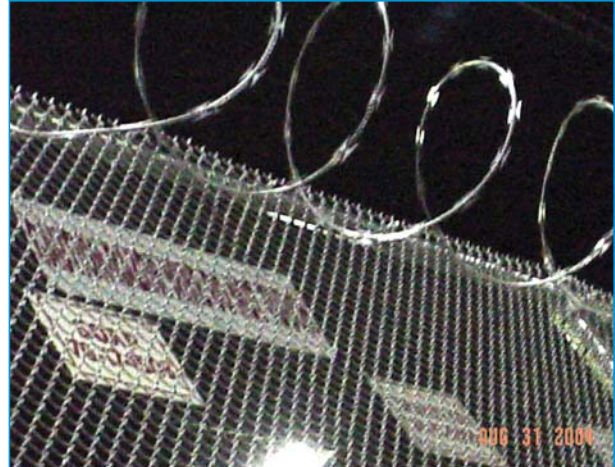
The NYCLU received 82 complaints about the conditions of detention. Of these 82 accounts, 15 were from people who were not demonstrating when they were arrested.

#### Pens at Pier 57

A 37-year-old man from Hollywood arrested on August 31 reports that he was held “with about 500 guys in a big fenced pen with razor wire.” [R. 7.] A Brooklyn man who was arrested on East 16th Street on August 31 saw signs that read “‘hazardous chemical storage’ and ‘protective eyewear & clothing must be worn’ . . . hanging all around.” [R. 89.]<sup>25</sup> A photographer from Colorado was placed into two types of pens: one, 20-25 feet by 30-35 feet, “with 15’ tall chain link fence with razor wire all about the top, and a couple wooden benches, and a water cooler in the corner,” and another, “a 50-75 yard by 50-75 yard pen that they put all of the male occupants in[to] in the morning, that number, in the hundreds, five hundred at least easily.” [R. 42.] A 29-year-old Brooklyn man arrested on August 29 while biking to his elderly aunts’ apartment, was placed in a pen that was “extremely overcrowded with up to 70 people in a space no more than 250 square feet.” [R. 81.]

Two women, both arrested at Union Square on August 31, reported that inside the pens the floors were oily and

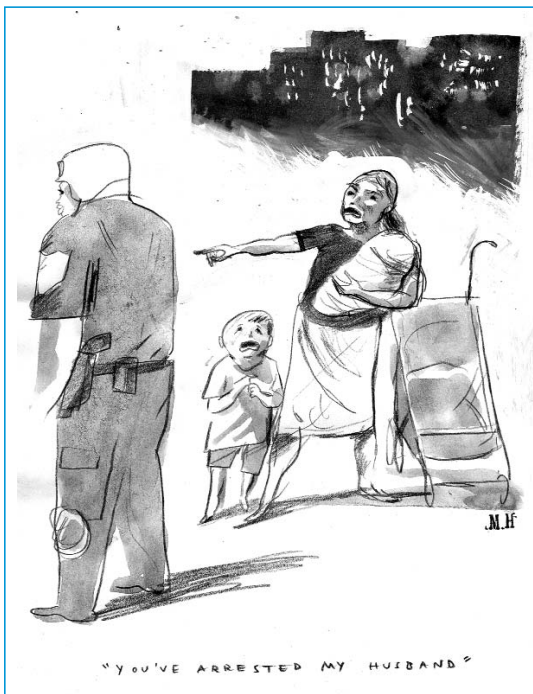




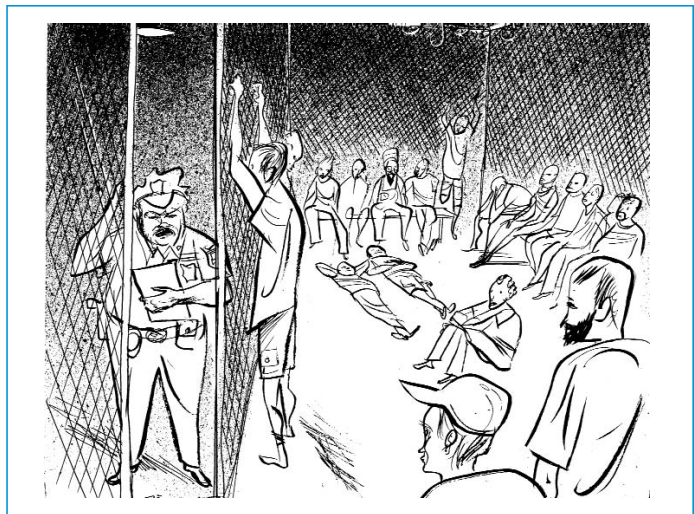
there was often nothing to sit on, especially in the larger pens. [R. 181, R. 186.] When there was seating, usually in the smaller pens, there was not enough for everyone. [R. 181, R. 186.] A 44-year-old Brooklyn man arrested on August 27 while participating in his first Critical Mass ride reports that in his pen, which contained 65 people and was “quite crowded,” there were only three benches, each about six feet long. [R. 106.]

A 36-year-old woman arrested by the public library on August 31 was held overnight in a pen that had urine and cockroaches on the floor. She likened the pen floors to “being under a car.” [R. 92.] A Sarah Lawrence College student said the pen floor was “[s]o grimy, if one lightly touched a fingertip to it, your skin would be blackened by the grease and dirt.” [R. 28.] A Brooklyn woman, age 25, arrested on East 16th Street on August 31 stated that “[a]ny part of my body or clothing that touched it turned black.” [R. 36; see also R. 106.] The man from Hollywood reported that “most guys in there came out with their clothes covered in oil,” [R. 7]. The Critical Mass first-timer states that even the ceiling of the pens was “black with the soot of some 50 years of bus exhaust.” [R. 106.] A 26-year-old Brooklyn man, arrested on East 17th Street on August 31, was in a pen “littered with trash” and containing “pudles of drying, rotting milk” after cereal and milk was provided. [R. 88.]

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The 25-year-old Brooklyn woman reports that because they were given nothing to sleep on, arrestees had to sleep directly on the floors of their pens, and only some people found cardboard boxes or plastic bags to sleep on. [R. 36.] A woman arrested on East 17th Street on August 31 reported that “it was





hard to sleep on the floor because of the smell coming off of it.” [R. 186.]

### **Bathrooms at Pier 57**

The man from Hollywood reports that there were usually two “Porto-Sans” per pen, which “got pretty disgusting pretty quickly.” [R. 7.] Overnight, an East 17th arrestee states, these facilities became “completely full and repugnant.” [R. 88.] The public library arrestee states that after 18 hours, the Port-o-Potties were filthy and overflowing because they had not been cleaned in that time. [R. 92.] The East 17th Street arrestee states that at one point, bathrooms were not immediately available and several women urinated in a corner, which was “never cleaned up.” [R. 88.]

One woman reports having to wait six hours before she was allowed to use the bathroom for the first time; this caused her a significant amount of pain. [R. 36.] Two August 31 arrestees, a 19-year-old woman from Long Island arrested in Herald Square and a 22-year-old woman from New Paltz arrested on East 17th Street, were held in pens with hundreds of people and waited an hour and a half in the bathroom line. [R. 69, R. 186.] A 41-year-old Manhattan woman arrested at the War Resisters League event on August 31 stated that because of the long waits, some women urinated on the floor. [R. 202.]

### **Medical Services Provided to Those Under Arrest**

The NYCLU received 29 accounts from individuals arrested during the RNC who complained of their lack of access to medication or medical care while in police custody at Pier 57 and Central Booking. Of the accounts received, 12 individuals reported that officers discouraged them from obtaining medical attention and 8 people complained that their requests for medical attention were ignored or denied. The NYCLU was also informed of 2 complaints of police officers or Department of Corrections personnel directing detainees to publicly disclose their HIV status.

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The majority of accounts the NYCLU received were from individuals who reported that officers threatened them with longer detentions in response to their requests for medication. For example, an NYU medical school professor informed police officers that he needed his pain medication after he was arrested at the War Resister’s League demonstration. He reported that “their first response was to put the cuffs on extra tight.” Subsequently, “whenever (at least 5 times during detention) I told the police I needed medication, I was told that if I insisted, I would be brought to a hospital and detained for an extra two days.” [R.53.]

Similarly, a woman who was arrested on Tuesday, August 31, 2004 at the Union Square demonstration reported that she told police officers to loosen her flexcuffs or else she would need to be taken to the hospital. She had recently had surgery on her hand and had broken her shoulder a few years ago. At one point, an officer told her “fine, you can go to the hospital but then you will not be released until late Friday night.” [R. 212]

Another arrestee recounted that he needed to take his prescription medications “but was told repeatedly throughout [his 26-hour] detention that requests for medical attention would be processed at St. Vincent’s Hospital, and time spent at St. Vincent’s would not be counted as time ‘under arrest’ and detainees at St. Vincent’s would lose their place in the processing queue and go to the end of the queue when they returned from the hospital.” At Central Booking, he was advised “not to go to St. Vincent’s and to remain at Centre Street to keep my place in the processing queue.” [R.80]

Since those arrested during the RNC were subject to prolonged detentions at Pier 57 and Central Booking, the threat of being held even longer discouraged people from seeking medical care. As a result, according to 9 reports received by the NYCLU, individuals were unable to take their prescription medications or obtain treatment for conditions they developed during the arrest and detention process.

An arrestee reported, for example, that when she asked about the prescription medication she needed to take she was “highly recommended to not go to the hospital. I was threatened with being held for a longer





period of time.” As a result, “by the time I was brought in front of the judge I had been without my antidepressant medication for two days. I was so nauseous that I have little memory of the proceeding.” [R.250]

A witness observed a fellow detainee at Central Booking “debating whether or not to go to the doctor because she’s having heavy irritation in her eyes (they’re all red) from the pier, but she’s really worried that it will delay her processing. *While he’s standing right underneath a sign that explains that by law people being treated for medical conditions will not have their processing and arraignment delayed, one of the officers advises that she shouldn’t see the doctor because it will take her longer to get out of here. We point out the sign right above his head and he smiles and says: ‘I’m only being honest with you.’*” [R.236., italics in original]

Those individuals who eventually were taken to the hospital described harrowing experiences in which police and Department of Corrections officers made it extremely difficult and uncomfortable for them to obtain necessary medical treatment.

For example, a man who had a corneal ulcer and was in need of his prescribed regimen of antibiotics and steroids relayed that approximately 23 hours after he had been arrested, “I was allowed to see the EMT. . . [who] determined that I must go to the hospital for treatment.” Two hours later, “my feet were shackled together, hands bound with metal handcuffs, . . . and my arresting officer took me aside and told me that I was ‘fucking yourself, fucking me, fucking everybody by going to the hospital.’ He then indicated that I would have been out in two hours had I not asked to go to the hospital, but now I would be here for another 48 hours.” Despite instructions from the emergency room physician that his processing be expedited, he was released more than 20 hours after he returned from the hospital to Central Booking. [R.278.]

Twelve hours after her arrest, a woman recounted: “[A]n officer gave us a speech in which he covertly advised us to avoid mentioning any medical problems unless it was critical, as it would probably delay our release significantly. I am on a daily dose of medication for a depression/anxiety order, and although I can go [sic] skip a dose without too much risk, I make a gamble about my chances of being arraigned in time to get home to get my meds, or risk a serious panic attack. When interviewed by the medic, I told him I took daily medication but was not in immediate crisis. . . . After waiting again for some time, we were chained back together and a female officer asked again if anyone in our group used medication. I said yes, and they separated [me] from the group and took me to a special cellblock reserved for people who are a possible danger to the general population. I was held in a tiny, filthy, roach-infested cell there until 7:30 the next night. At 7:30 p.m., I was taken from my cell again, and told that they would need to take my fingerprints again, as the first set had been lost.”

At this point, the arrestee reported that she “began to panic as I saw that I might be staying another full night in the cell. . . . I then insisted that I needed to see a doctor.” Several hours later, after seeing a medic at Central Booking, she was finally taken to Bellevue. Contrary to what she had been told, she was immedi-

ately arraigned upon her return to Central Booking. [R.30.]

The NYCLU also received complaints describing instances in which the police simply ignored or refused individuals' requests for medication or treatment for conditions they developed during the arrest and detention process.

A young woman who was held at Pier 57 for approximately 24 hours related: "I experienced shortness of breath, tightness [in my] chest and a bad cough for about the last 4 hours of my stay at the pier. I also developed some small rashes and my eyes stung. I was denied medical attention. I pleaded for it for 1 hour and then every 15 minutes for 4 hours. They [police officers] barely turned their cheeks." [R.234.]

A man with kidney stones who takes prescribed pain medication reported that he "asked several different officers for my medication for pain should kidney stones begin to pass. I was refused my medication at all times." [R.75.]

Some of the most abusive behavior reported to the NYCLU is as follows:

A witness recounted that a police officer "not only denied a girl on my bus medical attention when she alerted him that she had a heart condition and her handcuffs were too tight, he tightened her cuffs, kicked her into the solitary cage, and refused to give his name and badge number." [R.28.]

A woman with a prosthetic leg reported that an officer at Central Booking "threatened to 'lose my papers' if I didn't stop questioning and demanding medical attention. . . . I requested medical attention to no avail. . . meanwhile, my leg was beginning to swell, I had developed a rash on my face from conditions at Pier 57, respiratory problems, and had major edema at the wrists from the cuffs." She further reported that she was subjected to "an uncomfortably intimate search. . . and when it was noted that I was a 'crip' I . . . was dragged away from the rest of my group in a 'special' area in the basement of 100 Centre Street. . . . If this 'special' area was supposed to be particular for those who truly needed medical attention it seems an abysmal lie. The cops here were the cruelest and most imbecilic of all. . . ." [R. 277.]

An AIDS advocacy organization informed the NYCLU of reports it received that officers at Central Booking asked people to publicly disclose their HIV-positive status in order to remove them from the general population. An observer stated: "I witnessed the segregation of people that admitted to being HIV positive, the blatant disregard of their right to confidentiality of their HIV status, the deplorable filthy conditions of Central Booking and especially the 'special population' section (i.e., the folks with compromised immune systems being housed in the most extraordinarily unhygienic area) . . . ." [R.255.]

## **Food**

A Brooklyn man arrested on East 16th Street August 31 reports that, after being arrested at 8 p.m. on August 31, he did not receive any food until 6 a.m. the following morning. [R. 89.] A 24-year-old Manhattan woman arrested at the public library on August 31 also had to wait 10 hours for any food at all. [R. 201.] Another Brooklyn man reports receiving no food for the 20 hours he was in police custody. [R. 81] When people did receive food, it was often in inadequate amounts: a Philadelphia woman arrested at Union Square on August 31 received an apple and two sandwiches in 14 hours. [R. 209.] An East 16th street arrestee reports that they were "very underfed. In my pen, there were 100 women, and for breakfast we were given 28 sandwiches of government cheese on white bread. It wasn't until lunch when we were given sufficient food for the number of people in the pen — rice crispies and milk and we had already been in the system for 12 hours at that point." [R. 36.]

## **Access to lawyers**

A Sarah Lawrence College student reports that one policewoman refused to allow arrestees to make legal calls from the holding pens at 100 Centre Street; she allowed only personal calls. [R. 28.] A man arrested on

East 16th Street reports that he was not allowed to make a phone call “until after being incarcerated for 17 hours.” [R. 89.] Another Brooklyn man arrested that night, on East 17th Street, reports that he was not permitted to make any phone calls at all. [R. 91.]

A Manhattan man who had been looking for the police-designated protest area by Madison Square Garden when he was misdirected by the police and then arrested reports being told “repeatedly . . . by various NYPD staff that we had no legal right to see our lawyers.” R. 48. A woman arrested at the War Resisters League “die-in” and a Florida woman arrested in Herald Square on August 31 for sitting in a crosswalk never saw lawyers, despite their repeated requests to speak to one. [R. 202, R. 237.]

Of the 202 people who were arrested, 63 indicated that they had not been read their Miranda rights, and 42 indicated that they had not been told the charges against them. Thirty people fell into both categories.

## D. Property Issues

The NYCLU received 22 reports that the police failed to return arrestees’ property promptly after their release. Three people complained of two- to seven-hour waits at the property-retrieval center; five reports complained that their property had been classified as “arrest evidence”<sup>26</sup> and not returned, and two reports were from people who received no documentation of the property taken from them and who encountered substantial obstacles when they tried to retrieve their belongings. A street vendor whose political T-shirts were seized when he was detained did not get his property back for four months, and then only after intervention by the NYCLU. [R. 211.]

## POLICE INTIMIDATION OF PEOPLE ENGAGING IN EXPRESSIVE ACTIVITY

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Twelve people (none of whom was arrested) reported instances of the police interfering with leafleting activities or sign-carrying. Ten reports came people recounting their own experiences; the remaining two were from witnesses.

On September 1, a man stood on the corner of 34th Street and Seventh Avenue distributing leaflets. Neither a crowd nor an audience was surrounding him, and he was not blocking the sidewalk. A police officer told him to leave the area and to move on. When the leafleter questioned the officer, the officer replied that the man could leave or be arrested. [ R. 101.] That same day, in Bryant Park a man distributed flyers with





photos of prisoners held at Abu Ghraib. An officer told him to leave the park. He insisted that he could remain because Bryant Park is a public park. The officer responded, “Not today, it isn’t.” The man was then surrounded by approximately ten officers. [R. 102.]

Four people reported the police denying them access to streets around Madison Square Garden and Penn Station because they were carrying signs. [R. 62, R. 114, R. 116, R. 154.] On September 1, a man carrying a sign reading “Another Gay Man Against Bush” was denied westbound access to 32nd Street from Sixth Avenue. An officer approached him and told him that he could not walk down 32nd Street with his sign. When the man asked why, the officer “told me that signs were prohibited on the street” and that “[he] could not ‘demonstrate’ on the block.” [R. 154.]



Later that day, an officer on Eighth Avenue told him he could not proceed carrying his “Another Gay Man Against Bush” sign. The officer said that “no signs were allowed near Madison Square Garden. . . . [specifically] I could not carry my sign on the sidewalk between Eighth Avenue and Sixth Avenue between 35th Street and 29th Street.” Proceeding to Seventh Avenue, he was stopped at the corner of 33rd Street by two officers who told him to step aside. One of the officers told him that “all ‘Anti-Republican, I mean demonstrating in front of Madison Square Garden is prohibited.’” The officer then told him that he could not carry his sign between 33rd and 31st Streets on Seventh Avenue. [R. 154.]

On September 2, a Brooklyn man “was walking in Herald Square alone with a protest sign, peacefully, when I was told I could not proceed down 34th St between 6th and 7th Ave. with my sign even though it was not in the security zone and thousands of people without signs were allowed to pass down the block between 6th and 7th Ave. on 34th Street.” A police officer repeatedly told him, “No signs between 6th and 7th Ave. on 34th St.” [R. 62.] That same day, a 38-year-old Manhattan man was stopped by a police officer as he was attempting to follow other pedestrians down 30th Street from Seventh Avenue to Sixth Avenue. The officer said: “You can’t go down this street with that sign.” When he responded that he would go to 29th Street, the officer demanded the sign, grabbed the man’s arm, and ripped the tubing off the sign. [R. 114.] Also on September 2, a man trying to turn west onto 32nd Street from 6th Avenue with posters rolled up in a tube was asked by a police officer: “What are the posters about?” The officer then stated: “You can’t take posters in there,” which the man understood to mean 32nd Street. [R. 116.]

Three people reported that on September 1, police denied them access to the subway at Penn Station/Madison Square Garden because they were carrying protest signs. [R. 25, R. 32, R. 63.] The police officers said they had orders to forbid signs in Penn Station or nearby subway entrances. [R. 25, R. 32, R. 63.] One man, traveling with his 12-year-old daughter and their dog, was stopped on Seventh Avenue attempting to reach Penn Station following a protest. An officer told him he could not enter the station with his poster, which read “Stop Bush Now While We Can” and “Money for Transit, Not for War.” The man left, placed his sign inside his bag, and was stopped again a few blocks away. There, an officer demanded to see the sign, which was partially sticking out of his bag. The man explained that it was a souvenir from the rally, but the officer said that if he wanted to get into Penn Station, he had to get rid of his poster; these were orders. The man asked the officer about his First Amendment rights, to which the officer replied: “Get rid of the sign; don’t go home; we’ll arrest you.” A superior officer stated that all officers had been given the same order: not to allow anyone into Penn Station with a poster. The man finally entered Penn Station at 34th Street and Seventh Avenue after folding his poster into fours and putting it inside his bag so that it would not be visible. [R. 25.]

A 34-year-old man from Brooklyn reported that on September 1, he was verbally abused by an officer for

his anti-Bush shirt. While he was stopped at a red light on the corner of Seventh Avenue and 34th Street, a police officer “lunged” at him, saying: “You fucking people had your say already, get the fuck out of here.” The man told the officer that he was just crossing the street to get home, to which the officer replied, “I don’t care what the fuck you’re doing. When this light changes, get the fuck across the street or I’ll fucking arrest you.” Bystanders asked the officer if he was instructed to arrest people with anti-Bush clothing, and he responded, “No, I’m just a ticked-off Bush supporter and I’m sick of you fucking people.” [R. 119.]

A 55-year-old man also reported that on September 1, he was pulled off an uptown local train at the 34th Street station by two officers. He had been engaged in a heated political discussion on the train with a woman wearing a “Terrorists for Kerry: Vote Bush” T-shirt. The officers forced the man out of the train car and when he asked “What have I done?” one of the officers responded, “I told you to get the fuck out of here.” The officer then hit the man very hard in his chest and pushed him down onto the stairs. The man lost his glasses, and was told that he was not “moving fast enough.” Five or six police officers followed him out of the station. [R. 122.]

## EXCESSIVE FORCE AND OTHER POLICE MISCONDUCT

The NYCLU received 16 reports regarding excessive force and other police misconduct, including dangerous use of unmarked police scooters, officers’ hiding their badge numbers and the use of pepper spray.

### Plainclothes Officers on Unmarked Scooters

The NYCLU received 7 reports concerning plainclothes police during the Convention. Three reports mention the aggressive presence of unmarked officers on motor scooters.

As the August 30 Still We Rise/Poor People’s March neared Madison Square Garden, plainclothes officers rode unmarked police scooters into a large crowd after other officers had without warning pushed metal barricades across the street to break up the march. In one of the two reports the NYCLU received about this situation, a 31-year-old woman from Brooklyn recounts:

I was at the very end of the march and the protesters were all demonstrating peacefully when suddenly the police charged the protest with metal pens and cut off the protesters directly behind where I was standing. Absolutely nothing had occurred that I had seen to incite this action. I turned around to see what was happening, and there were cops coming toward the protesters from all directions it seemed. . . . At this point, I noticed plainclothes officers on scooter bikes driving through the area. One was on the sidewalk blocking it not too far from near where I was standing on the street and the other was on the opposite side of the street driving towards the main section of the protesters ahead of where I was located. [R. 84.]

A 34-year-old man from Washington, D.C. gives a more detailed description of the plainclothes riders’ actions:

I also saw a motorcycle drive into a group of protesters. Some people were [sic] and not able to get out of the way. Instead of stopping, this African American man on the motorcycle charged into the crowd again and hit someone that had turned their back and was trying to move away. At that point this man was pulled from his motorcycle and some people in the crowd attacked him. I did not know that the motorcycle driver was a police officer and I only learned about this when someone from Utne interviewed me after the incident. Several other witnesses then shared with me that this man had to be a police officer since the entire area we were in had metal barricades around it and there was no way someone

could have moved a motorcycle into the area. I did not understand why a lone plain clothes officer with an unmarked motorcycle would charge into a peaceful group of people. [R. 87.]

The NYCLU also received reports about plainclothes scooter officers engaging in dangerous tactics during a bicycle protest on the afternoon of Sunday, August 29. The cyclists formed at Union Square and headed north around noon. A 58-year-old Manhattan participant states:



We did not impede traffic. We stopped at red traffic lights, except when the police blocked the side streets in which case we went with the flow of traffic. We dismounted and walked with our bikes whenever we went onto the sidewalks....Traveling north on 6th Ave., near 30th St. around ten motor scooter riders joined us. They were very reckless, swerving and sweeping their way within traffic. They were not wearing police uniforms though I spotted a walkie-talkie in the back pocket of one of them and so I slowed down trailing the group and planning to leave at the first sign of a problem. Turning west on 37th St., the scooter riders began running into bicyclists. I saw an orange net being strung across the intersection with 8th Ave., which cut the group in two. [R. 246.]

Other reports confirm scooters blocking streets and weaving dangerously amongst the riders. Eventually, the scooters forced the riders west on 37th street into a barricade across Seventh Avenue. Another ride participant, a 36-year-old Brooklyn man, stressed that no scooter rider identified himself as an officer or ordered the bicyclists to stop. [R. 130.] Another cyclist reported

Around this time [noon] as we were nearing 37th St on Broadway, the police on scooters tried to zoom in front of us and block our passage North. We therefore were forced to make a quick left turn onto 37th St towards 7th Ave. As we neared the corner of 37th and 7th officers on scooters drove in front of us and began blocking our passage in the road. An officer shouted for us to get on the sidewalk. Therefore myself and several others got off our bicycles and proceeded onto the north sidewalk to try and continue on foot. 2 or 3 more officers on scooters drove onto the sidewalk and one even bumped the woman standing next to me with his bike. This same officer (BADGE #2441, white male with blonde spiky hair) got off his scooter and grabbed the woman next to me . . . and pushed her to the ground using excessive force. She showed no signs of aggression or of trying to leave once the sidewalk was blocked. His actions were totally unnecessary.” [R. 235.]

### **Pepper Spray**

The NYCLU received three reports from people who were pepper sprayed, all on August 29. Two incidents occurred during the bicycle protest that morning, one after an officer pushed a bicyclist to the ground. [R. 113.] Officers also pepper sprayed a National Lawyers Guild legal observer assigned to follow the bicyclists. [R. 128.] That afternoon, near Madison Square Garden, the police pepper sprayed a woman reportedly calling attention to police misconduct. [R. 139.]

### **Other Excessive Force**

A 30-year-old cyclist from Rochester suffered a broken collarbone after an officer pushed him into some



scaffolding and he landed on the pavement. [R. 113.]

Two reports from witnesses describe incidents of excessive force at Union Square on August 31. One witness saw the police throw four or five people to the ground, apparently without provocation. [R. 110.] Another reports:

Several officers targeted and attacked young men and women who were dressed mostly in black, with backpacks, and handkerchiefs around their necks. One officer chased a white male from the street onto the sidewalk and pushed him face first onto the ground. Holding the man down with his foot, the officer began kicking him in the back as he reached down to grab his arms and hand cuff him. . . . the officer would not alleviate the force he was using to restrain him even after he was cuffed. [R. 192.]

Finally, near the end of the United for Peace and Justice march, where some participants set fire to a large dragon in middle of the crowd, a female Columbia graduate student and administrator, reported that she

found two other drummers (whose names I do not know) and we started banging the drums saying “Walk don’t run, walk don’t run” in an effort to calm things down. At this point it was getting chaotic. I was almost at 6th Avenue when I looked at the downtown side of 34th and saw cops beating a young male protester who was on his knees. I put my drumstick away into my backpack and went over and shouted to the cops, “Shame, shame, no, no, stop, stop.” I did not touch a police officer but I pointed my finger at the cops in an effort to raise awareness that this man was being beaten. This is typical at protest actions in order to prevent police brutality such as I was witnessing. I was grabbed all over by cops and forced down to the ground but I fell on my chest on the drum so I couldn’t get down. Meanwhile the cops were telling at me to get on the ground. I said I can’t and one of the cops cut the drum and yanked it away. I was pushed to the ground and my head and face was [sic] pressed to the pavement. My arms were pinioned and I was sprayed with peppers-pray [sic]. I was handcuffed and yanked up by the handcuffs in a painful manner and marched to a batch of police vehicles at 34th and 6th. [R. 139]

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### Obstructed Shield Numbers



The NYCLU received only one report about an officer trying to conceal his identity. A 27-year old woman reports that an officer she encountered on August 30 at 29th Street and Eighth Avenue had covered his shield number in several places:

The shield number on his shirt was covered with black tape. On the front of his helmet it was covered with blue tape. He was standing on front of a metal barricade blocking the corner, at the point when the police were trying to shut down the March for Our Lives. I was barricaded in on a corner and wanted to know how to get out. He refused to answer my questions and just stood there silently. So I wrote down his name in case anything happened and asked him for his shield number. He refused to give it to me. R. 73.

### **Improper Political Action**

A 45-year-old Brooklyn man arrested at the World Trade Center site on August 31 reports: “We were taunted by, ‘four more years’ and [sic] while being processed between. Taped on the walls were photocopies of Bush/Cheney ‘04 stickers, one of which we face during our ‘mug shots’.” [R. 178]. A professor of medical ethics also noted the presence of Bush-Cheney posters on the wall at 100 Centre Street. [R. 53].

## **IMPACT OF POLICE ACTIONS**

The effect of many police actions during the Convention was to chill people’s willingness to attend future protests, and in some cases make people feel as though protesting was an illegal act. On August 31, a Philadelphia woman stopped in New York City on her way back from vacation with a friend to “bear witness” to the protests and “add two to their numbers, if only for a few moments.” She was arrested with her friend in Union Square. She says that she “never thought that [she] would be arrested, much less arrested without any explanation. ...I know that I personally am unlikely to attend any protest that is not legally permitted and well organized.” [R. 209.] Similarly, a new teacher “afraid for [her] job” said: “I am ashamed to say that the NYPD’s tactics worked — I wanted to join the protest at Pier 57 2 Saturday’s [sic] ago, but I was afraid I would get arrested again.” [R. 202. ]

A West Virginia woman arrested at the World Trade Center site on August 31 while videotaping the War Resisters League march said: “I was made to feel as if protesting itself was a criminal act, as if free speech, personal opinion and dissent (even just to possibility of dissent) are illegal acts.” [R. 4.]

While people felt chilled in exercising their speech rights, they also reported being galvanized politically and likely to become more involved in the political process. The Philadelphia woman was encouraged “to become even more aware of politics, [her] rights and any possible influence [she] might have over issues that concern [her].” [R. 209.] The day after being released from jail, a New York City high school teacher registered to vote for the first time. [R. 212.] ■



Shortly after it was announced in January 2003 that New York City would host the Republican National Convention, the New York Civil Liberties Union started making plans for a major campaign to protect the right to protest during the Convention. The importance of this campaign became all the more apparent one month later when New York City refused to allow a large anti-war march to take place and the NYPD then used a series of extremely troubling tactics to police a large stationary rally that drew hundreds of thousands of people on February 15th of 2003.

While the NYCLU long has been involved in defending the right to protest, the February 2003 debacle convinced us that we would need to adopt a far more comprehensive approach to the Convention. We therefore launched the “Protecting Protest” campaign.

With support from the Open Society Institute and other important funders, the NYCLU was able to develop and sustain a multi-faceted campaign that

- ▶ represented virtually every group seeking to hold a major demonstration during the Convention;
- ▶ obtained a court order barring the NYPD from using certain policing tactics at Convention demonstrations;
- ▶ published and disseminated tens of thousands of copies of “know your rights” publications;
- ▶ got the City Council to adopt a resolution supporting the right to protest during the Convention;
- ▶ established and operated a special website dedicated to all aspects of Convention protest activity;
- ▶ opened and operated the NYCLU’s Protecting Protest Storefront just a few blocks from Madison Square Garden;
- ▶ offered public training and information sessions, and
- ▶ ran a major police-monitoring operation throughout the Convention.

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## Protest Permits

In the year before the Convention, the NYCLU assisted scores of groups and individuals seeking legal advice about planned protest activity during the Convention. Many of those groups needed or wished to obtain permits, and the NYCLU represented virtually every group that held a major demonstration during the Convention. Our clients included:

- ▶ 9/11 Families for Peaceful Tomorrows
- ▶ Artists and Activists for Peace
- ▶ Christian Defense Coalition
- ▶ Green Party
- ▶ Hip-Hop Summit Action Network
- ▶ NARAL Pro-Choice New York
- ▶ National Organization for Women, New York City Chapter



- ▶ Not in Our Name
- ▶ Planned Parenthood of New York
- ▶ Still We Rise Coalition
- ▶ “The Line”
- ▶ United for Peace & Justice (along with the Center for Constitutional Rights)

In representing these groups the NYCLU worked for months with NYPD and Parks Department officials and attended numerous meetings to obtain permits and negotiate the details of the policing of planned protests. With one exception, the NYCLU was able to obtain a permit for every single event for which its clients sought a permit.<sup>27</sup>

## Legal Challenges to NYPD Demonstration Policing Tactics

In the aftermath of the February 15, 2003 anti-war demonstration, the NYCLU received hundreds of complaints about the NYPD’s restrictions on access to the rally; its use of “pens” made of interlocking metal barricades to confine the movement of people at the rally; and the Department’s use of mounted officers to disperse crowds of people packed on city streets or sidewalks just trying to get to the event. In April 2003 the NYCLU issued the report “Arresting Protest,” which included specific recommendations to address these problems.

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When the NYPD had not taken any meaningful steps to adopt needed reforms, the NYCLU filed three federal lawsuits in November 2003 that challenged a range of tactics we believed the Department would deploy during the Convention, including the unreasonable closing of streets and sidewalks leading to demonstrations, the unreasonable penning of protesters, the dangerous use of mounted officers, and the blanket searching of people seeking to attend public demonstrations.<sup>28</sup> Working with eight students from the NYU Civil Rights Clinic, the NYCLU conducted expedited discovery during the spring — including depositions of high-level NYPD officials including Commissioner Raymond Kelly — and then presented its case to federal Judge Robert Sweet in a four-day evidentiary hearing in early June 2004.



In a 78-page decision issued on July 16th, Judge Sweet ruled that the NYPD had been unconstitutionally restricting access to demonstrations, unconstitutionally using pens to confine demonstrators, and unconstitutionally searching the bags of people seeking to attend demonstrations.<sup>29</sup> Shortly thereafter, he issued an order barring the NYPD from using these tactics at future demonstrations, including at the Convention.

After initially praising the decision, the City reversed position and attacked Judge Sweet’s ruling on the searches (a ruling that had ignited a substantial public debate). However, though it eventually appealed the ruling, it

never sought an emergency appeal, and the ruling remained in effect throughout the Convention.

## NYCLU Know-Your-Rights Publications

For many years the NYCLU has published and disseminated pamphlets, flyers, and brochures informing people of their legal rights. In the expectation that many people participating in Convention protests would be coming from out of town and thus would be unfamiliar with the NYPD, the NYCLU decided to prepare materials especially for the Convention.

In May 2004 the NYCLU produced a special Convention edition of its “Demonstrating in New York City,” which sets out all the basic rules concerning protest activity in New York and related permit requirements. We also produced the pocket-sized “What To Do If You’re Stopped by the Police,” which sets out the legal rights of people when interacting with the police and provides commonsense tips about how best to handle such interactions. In the months leading up to the Convention and during the Convention itself the NYCLU distributed over 50,000 copies of these know-your-rights publications.



## City Council Resolution and Congressional Memorandum of Understanding

The NYCLU’s Bill of Rights Defense Campaign spearheaded the effort to pass the Right to Assemble resolution in the New York City Council. The resolution called on the NYPD to refrain from investigating individuals or groups based solely upon activities protected by the First Amendment, such as political advocacy or the practice of religion; to take prompt action on permit applications, provide written explanations when permits are denied, and offer suitable alternatives; to refrain from the use of four-sided enclosures, known as “pens,” to confine people at demonstrations; and to allow demonstrators within sight and sound of, and in close proximity to, the object of their demonstrations at the Convention.

City Council Speaker Gifford Miller, Deputy Majority Leader Bill Perkins, and Council Member David Yassky introduced the resolution on June 7, and on June 28 the City Council adopted it by a margin of 44-5.

The NYCLU also worked with Congressional leaders to ask Mayor Michael Bloomberg to sign a Memorandum of Understanding on the regulation of expressive activities at the Convention. Seven members of the New York City Congressional delegation signed the Memorandum and presented a copy of it to Mayor Bloomberg on June 9th for his review and signature.

The Memorandum set out procedures and guidelines to ensure that the regulation and policing of public demonstration at the Convention were conducted in a manner that respected the rights of speech, expression and association. The Memorandum sought to resolve key outstanding issues prior to the commencement of the Convention. Subjects addressed in the Memorandum included: plans by the City Administration to facilitate access to, and freedom of movement at, demonstrations and rallies; special training by the NYPD to instruct police officials and the rank and file to respect people engaged in peaceful demonstrations; and the NYPD’s preparedness to document its compliance with the Handschu guidelines.

Representatives Charles Rangel, Major Owens, Jerrold Nadler, Eliot Engel, Carolyn Maloney, Jose Serrano, and Edolphus Towns endorsed the Memorandum. In addition to outreaching directly to Mayor Bloomberg through phone calls and letters, two news conferences were held in City Hall to ask the Mayor to meet with Congressional

lawmakers to discuss the Memorandum. Mayor Bloomberg never responded.

## The NYCLU's Protecting Protest Website

In June 2004 the NYCLU launched its Protecting Protest website, which was a special section on the NYCLU's website ([www.nyclu.org](http://www.nyclu.org)) and had its own domain address so people could access it separately ([www.rncprotestrights.org](http://www.rncprotestrights.org)). The website had two primary functions: as an outreach tool, it allowed the NYCLU to publicize our trainings and projects to a wide audience, and as a public education tool, it offered downloadable versions of all of the NYCLU's Know Your Rights materials, useful links, maps and calendars of most of the major demonstrations, and up-to-the-minute updates about events at the RNC from the NYCLU. During August alone the site had over 220,000 "hits."

## The NYCLU's Protecting Protest Storefront

One of the most vibrant features of the NYCLU's campaign was its Protecting Protest Storefront located at 520 8th Avenue between 36th and 37th Streets. While the NYCLU has had a strong presence at demonstrations in New York for decades, the Storefront was the first time the organization had a street-level space to support its work. Just blocks from Madison Square Garden, the Storefront was alive with activity from the day it opened in early August until it closed the day after the Convention ended.

In the month it was in operation, the Storefront served many purposes:

- ▶ As the base of operations for NYCLU lawyers, staff, and volunteers who monitored police activity leading up to and during the Convention;
- ▶ As the location of our "Know Your Rights" trainings for groups and individuals planning to protest during the Convention;
- ▶ As a place where protesters, organizers, reporters, members of the media and even police officials could get information about the legal rights of groups and individuals planning to protest during the Convention;
- ▶ As a place for people to file complaints or provide reports about police activity before and during the Convention;
- ▶ As a location for members of the media to file stories during the Convention;
- ▶ As a central distribution point of information to the media, with the Storefront being used daily for interviews, press conferences, and briefings.

In the weeks preceding the Convention, the Storefront was open from 10:00 a.m. to 6:00 p.m., Monday through Saturday. Starting on Thursday, August 26, the storefront was open daily from 8:00 a.m. to 10:00 p.m. Soon after our opening in the first week of August, the Storefront began hosting regular events, press conferences,





and trainings. A steady stream of people came through the space, picking up literature and getting general information about the upcoming Convention.

The first floor of the storefront was dedicated to the public aspects of the campaign: trainings, meetings, and press interaction. The second floor was reserved for staff use, but desks, phones and other office equipment were available on both levels for staff use.

From its opening, the Protecting Protest Storefront received considerable attention from the media, the public, and from the activist community. On any given day the Storefront would host a press conference in the morning, a volunteer orientation at noon, and a training in the early evening, all against the backdrop of a steady stream of visitors throughout the day seeking information or advice. And on more than a few occasions, police officials visited the Storefront to see what all the excitement was about.



The operation of the space was facilitated by a core group of staff and volunteers, who in turn were assisted by dozens of volunteers. During the Convention itself, the entire NYCLU office shifted to the Storefront. It also served as the base for our Monitoring Project volunteers and Outreach and Education volunteers. All of this translated into an energetic, fast-paced, and dynamic atmosphere.

## Training & Education

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A central goal of the Protecting Protest campaign was to educate members of the public about their rights as participants in demonstrations. One of our most important educational activities came in the form of training and information sessions the NYCLU offered to the public.

Our interactive trainings were approximately two hours in length and facilitated by NYCLU staff and legal interns. They focused on common sense approaches to interactions with the police, providing an overview of what rights exist “on the books” and strategies for when those rights are infringed upon. The trainings also discussed ways to protect one’s rights in an encounter with the police and tactics to keep the situation from escalating. In addition, the training offered recommendations on how to interact with the police on the street, what to do if you are stopped or searched, and how to report police misconduct.

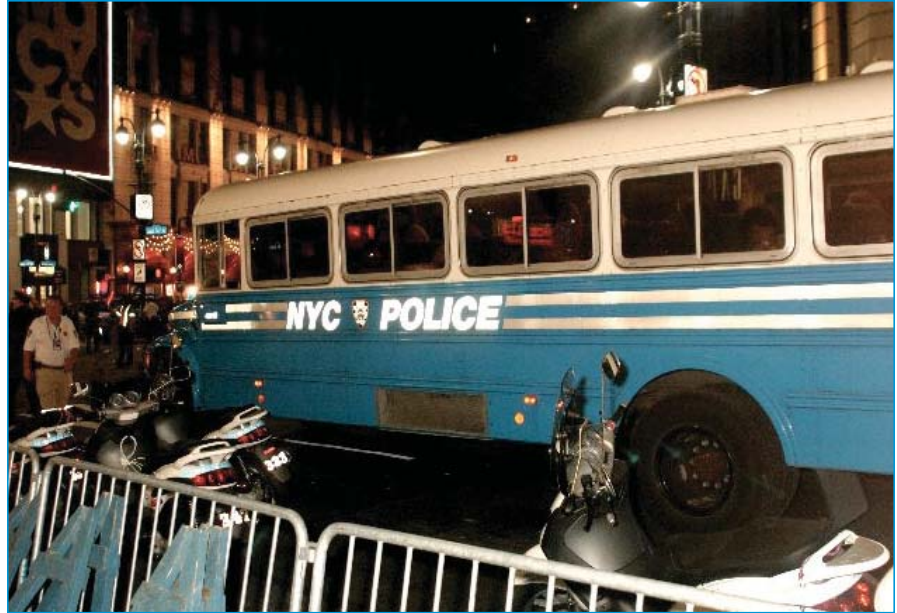
The trainings were held on August 14th, 18th, 21st, and 25th at the Protecting Protest Storefront. Additionally, we conducted trainings for three community organizations at their request: Gay Men’s Health Crisis, Positive Health Project, and the Books Not Bars Youth Convergence. Attendance at the trainings grew steadily as the convention grew closer - beginning with 20 people at our first training to over 150 at our last. The trainings were attended by a diverse group of people and included college activists, lawyers, and community organizers. Most striking was the large number of people who were preparing to attend their first demonstration or who were attending their first demonstration in many years.

## Police-Monitoring Project

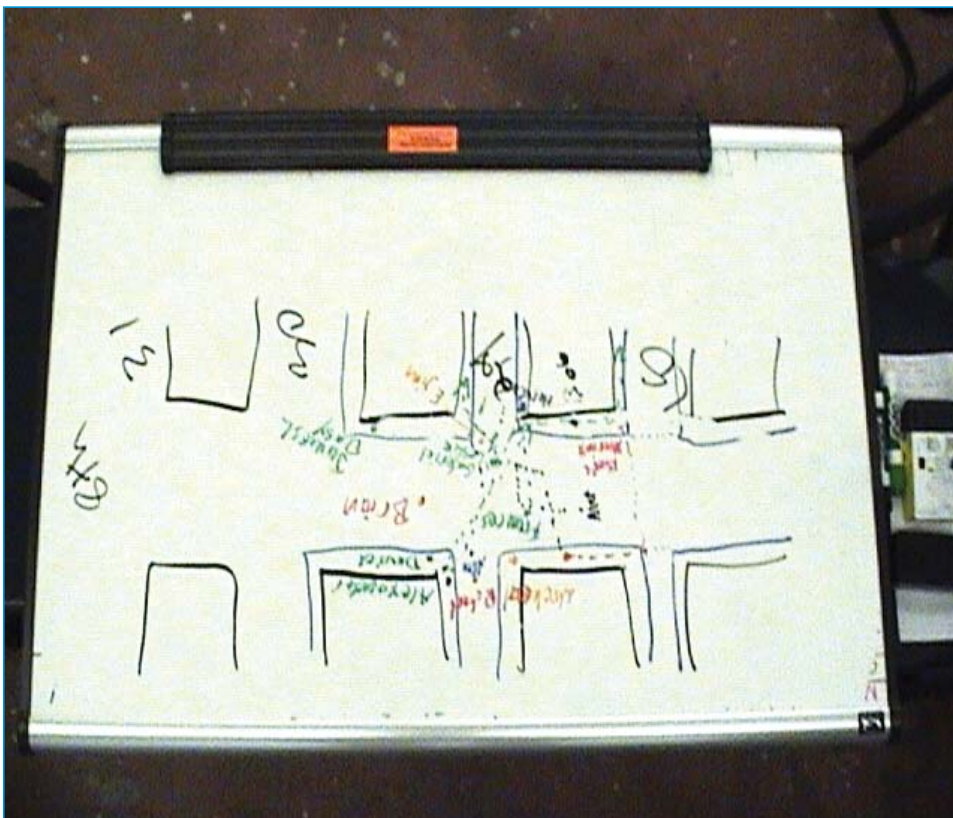
A central component of the Protecting Protest campaign was a police-monitoring project that the NYCLU ran throughout the Convention. While NYCLU attorneys long have been involved monitoring and negotiating demonstration policing, we recognized that a larger effort would be required for the Convention.

To supplement the work of NYCLU staff, we therefore decided to train a large group of volunteers who would fan out over the city to ensure that we had comprehensive and timely information about emerging problems as they developed. Rather than focus on arrest activity (which the National Lawyers Guild was observing), the NYCLU program emphasized observation of NYPD tactics used to police Convention demonstrations.

The goal of our monitoring project was to have at least one team of observers at every demonstration throughout the Convention. This allowed us both to track problems at individual events and to develop a more complete understanding of the tactics utilized by the police throughout the protests.



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Monitors were selectively recruited from across the city, making use of the NYCLU's connections within the civil liberties community and at law schools and public interest law firms. Many people on our monitoring team came from the NYCLU and ACLU National Office staff, while others were students interested in public interest law, media, and first amendment rights. A good portion of





our monitoring team were long-time activists, whose first-hand experience interacting with both police and protesters proved essential on the street.

Following an application and screening process, the monitors attended a mandatory intensive training session, at which they were trained in basic observation skills, use of still and video cameras, and guidelines for interacting with police and protesters. The training explored what to do at potential trouble areas (for example, large groups of people in the street without a permit) or situations in which the possibility of police misconduct was greatly increased (such as police massing or when a large number of arrests were underway). As one monitor put it, “The sort of information we looked for was something that could only be seen by people, using their eyes and minds, as opposed to, for instance, the kind of statistical information that could be found in databases...a premise behind this kind of monitoring is that some truth can only be seen and recorded by human observers.”



All told, the NYCLU trained 154 people to be monitors. During the Convention we deployed

approximately 117 teams of two to four monitors to over 40 events across the city. Monitors were in the streets for the duration of all events, usually working 6- to 8-hour shifts.

In light of the NYCLU’s concerns about NYPD policing tactics, we outlined some key areas for observation. These included the placement of police barricades and pens, the accuracy of police instructions at such barricades, and concurrently, any difficulties experienced by people attempting to get to the demonstrations. We were also interested in the resources and unusual equipment made available to the police department, and how these resources were deployed. Also of particular interest was the police use of recording equipment, including cameras and video. Monitors were asked to record the names of high ranking officers present, and if applicable, details about the use of force. They were trained to record any police instructions, how those instructions were delivered, and whether or not people heard them. Data was gathered by the monitors through observation, note-taking, still photography, and video.

The monitors were supervised on the street by a team of NYCLU staff, and coordinated by a dispatch team based at the Storefront. The supervisory team, made up of senior staff attorneys and organizing staff, reviewed the reports from the field, as well as their own observations, on a regular basis. Each monitor had an official NYCLU photo identification, a sample of which had been provided to the NYPD before the Convention.

While some worked every day, most monitors worked two or three 6-8 hour shifts over the week of the Convention. Shifts were organized to cover the maximum number of events while keeping the monitors within the same general area. On lighter days, each shift would consist of 10-16 monitors, but on days of intense action we had upwards of 80 monitors in the field.





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At the beginning of their shift the monitors would gather at the Storefront for a brief orientation and overview of the day's events. As all monitors worked in teams, they would meet their partners and be outfitted with the necessary supplies: photo identification, NYCLU monitor hat, NYCLU monitor t-shirt, disposable camera, note pad, and water. After checking in with the dispatch desk, the monitors would be deployed into the field with a map of their assigned area. After their initial call in to dispatch upon arrival, they would continue to check in every couple of hours. At the conclusion of their shift, the monitors would regroup at the storefront to debrief and go over the days events with the supervisory staff. The staff would then assess the day's events, and plan accordingly for the next day.

Operating from our Storefront, the dispatch team functioned as the central distribution point of information during the convention. Staffed at all times that monitors were in the field, the dispatch desk received an ongoing stream of reports from the monitors. By maintaining constant communication with the supervisory team by two-way radio and with the monitors by cell phone, we were able to dispatch people immediately to areas that needed attention. This communication system was particularly effective in our direct work with the NYPD on the street. The senior staff of the NYCLU had access to reliable and concrete information about activities across the City and consequently were able to negotiate with the police to much greater effect.

Interaction between the NYPD and the NYCLU monitors was largely cooperative. However, in one instance (on Sunday, August 29), a monitor engaged in lawful activity was given a summons, and the police officer managed to "lose" the monitor's driver's license while writing the summons. The NYCLU appeared in court to challenge the summons, but the officer failed to appear, and the summons was dismissed. ■



Though the Republican National Convention is unlikely to return to New York City anytime soon, large demonstrations occur in the City on a regular basis. It therefore is important for policymakers, legislators, the mayor, the NYPD, and advocates to examine the Convention with an eye towards reforming practices so as to avoid problems at future demonstrations in New York City. With this in mind, the NYCLU offers the following recommendations.

### 1. THE NYPD MUST ADOPT NEW PROCEDURES AND INSTITUTE NEW TRAINING TO AVERT UNLAWFUL MASS ARRESTS

Perhaps the most troubling aspect of the NYPD's actions during the Convention was its resort to mass arrests on several occasions. This resulted in large numbers of innocent people being swept into police custody. To avoid this problem, the Department should do the following:

- ▶ [Stop the indiscriminate use of mesh nets as an arrest tactic](#) — Whatever the merit of using nets to restrict the movement of crowds or to stabilize a situation, it is inappropriate to surround crowds with nets and then arrest everyone. This sort of indiscriminate arrest tactic is assured of capturing large numbers of innocent people, as happened during the Convention.
- ▶ [Assure that clear warnings to disperse are given](#) — During the Convention, the NYPD made mass arrests without giving clear warnings to disperse. Despite Department claims that dispersal orders first were given, extensive videotape and eyewitness testimony reveal that warnings either were not given or were inaudible to most members of the crowd. There is no reason why the Department cannot give clear, audible warnings to disperse if it genuinely intends to give people the opportunity to disperse.
- ▶ [Assure that the only people arrested are those who actually have been observed engaging in unlawful activity](#) — When law enforcement officials seek to arrest large groups of people, it is essential that careful steps be taken to assure that the only people arrested are those who in fact are observed to have engaged in unlawful activity, as opposed to simply being in a public area near unlawful activity. That this is a problem is apparent from the large number of bystanders arrested during the Convention and evidence collected by the NYCLU that “arresting officers” during Convention mass arrests in fact did not observe any unlawful conduct by those they arrested.

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### 2. THE NYPD SHOULD NOT HOLD FOR ARRAIGNMENT PEOPLE CHARGED WITH MINOR OFFENSES

The problems created by the mass arrests during the Convention were greatly compounded by the fact that most people arrested were held for arraignment rather than being released with a desk appearance ticket or summons. There is no legitimate reason to hold people for arraignment when they are charged only with minor offenses such as parading without a permit or disorderly conduct (offenses that do not rise to even the lowest level of criminal offense in New York). Unless there is a specific reason not to hold the person (such as not having valid identification), every person charged with a minor offense during a demonstration should be released with a desk appearance ticket or summons.

### 3. PEOPLE HELD FOR ARRAIGNMENT SHOULD BE RELEASED WITHIN 24 HOURS

In those instances in which people are held for arraignment, they should be arraigned within 24 hours or released with a desk appearance ticket or summons. To assure this happens, the City Council should pass Intro. 649, which would require City agencies (the NYPD and Department of Correction) to take the steps necessary to assure this happens. In addition, state legislation may be required to assure that other agencies involved in the arraignment process are assuring the timely processing of those under arrest.

### 4. THE NYPD MUST STOP FINGERPRINTING POLITICAL PROTESTERS CHARGED WITH MINOR OFFENSES

Despite being barred by state law, the NYPD fingerprinted every person arrested during the Convention, including the nearly 1,500 people arrested for minor offenses like parading without a permit and disorderly conduct. This raised serious concerns that the NYPD was using minor arrests to build a fingerprint database of political activists.

While the NYPD, when challenged by the NYCLU, reported that it had destroyed all the fingerprints it took during the Convention, the Department must institute procedures and training to assure that it strictly adheres to state law, which prohibits the taking of fingerprints from those charged with minor offenses except in unusual circumstances particular to the person under arrest.

### 5. THE NYPD SHOULD CURTAIL ITS VIDEOTAPING OF LAWFUL PROTEST ACTIVITY

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Marking a dramatic change from prior years, NYPD personnel during the Convention were widely and indiscriminately videotaping people participating in lawful and peaceful protests, and the Department has insisted on retaining those videotapes. While the use of videotaping to document unlawful activity is perfectly appropriate, the NYPD clearly has adopted a strategy of simply videotaping all protest activity. There is no legitimate reason for the Department to be doing this, and this practice should be stopped.

In addition, all footage of lawful protest activity during the Convention should be destroyed unless it contains evidence relevant to a judicial proceeding. Any such videotape that is retained should be transferred from the Police Department to the Law Department.

### 6. THE NYPD MUST ASSURE THAT PLASTIC HANDCUFFS ARE USED APPROPRIATELY

In light of the large number of complaints the NYCLU received about the use of plastic handcuffs during the Convention and in light of similar complaints the NYCLU has received from people arrested at other demonstrations, it is apparent that the NYPD's training and supervision in this area is inadequate. Plastic handcuffs that are inappropriately tightened on a person or are left on the person for prolonged periods of time can cause injury, pain, and extreme discomfort. When one realizes that most people suffering through this experience have been charged with the most minor of offenses, it makes it all the more important to address this issue.

### 7. THE NYPD MUST DEVELOP BETTER PROCEDURES FOR PROCESSING DEMONSTRATION ARRESTS

On past occasions — such as the February 2003 anti-war rally — long delays in the processing of those under arrest might have been explained by the NYPD being surprised by the number of arrests. For the Convention, however, the Department reportedly was preparing for as many as 1,000 arrests a day. Though nothing close to that many arrests occurred, people still were held for as long as three days (and were released only following a court order), opening the Department to criticism that it was intentionally delaying the release of protesters.

Whatever may have been the Department's intentions during the Convention, it must do much better in pro-



cessing people it arrests at large demonstrations. The whole process will go much faster, of course, if the Department adopts the NYCLU's recommendations about not arraigning those charged with minor offenses and about not fingerprinting those charged with minor offenses. Beyond that, the Department should assure that any special holding facilities are equipped and staffed so that Central Booking does not become a bottleneck. (For instance, there were no fingerprinting machines at Pier 57.)

#### **8. THE NYPD MUST BETTER PLAN WHEN IT COMES TO CHOOSING HOLDING FACILITIES**

It is difficult to understand how the NYPD concluded that Pier 57 would be an appropriate holding facility for large numbers of people arrested during the Convention. While no one expects arrestees to be held in luxurious accommodations, the use of a bus depot with grime-covered concrete floors and inadequate seating and sanitation was plainly inappropriate. In the future, the NYPD must assure that special holding facilities are reasonably clean with adequate seating and sanitation.

#### **9. NYPD DEMONSTRATOR HOLDING FACILITIES SHOULD BE OPEN TO PUBLIC INSPECTION**

Given the serious allegation that have arisen about the conditions at Pier 57 and about the processing of people arrested at earlier demonstrations, the City must assure that in the future any special facilities designated for the detention of demonstrators are open to public inspection by appropriate government officials, advocates, and members of the press. In addition, given the lengthy time periods during which people are being held in these facilities, steps should be taken to allow attorneys and/or family members to visit with those being held.

#### **10. THE NYPD MUST ASSURE THAT THOSE WITH MEDICAL NEEDS ARE TREATED APPROPRIATELY**

The complaints received by the NYCLU from people with medical needs suggests that the Department needs to improve its training and supervision in this area. Most significantly, the NYPD must assure that officers are not responding to those seeking medical attention with threats of prolonged detention.

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#### **11. THE NYPD SHOULD NOT BE SINGLING OUT THE PROPERTY OF DEMONSTRATORS FOR DISCRIMINATORY TREATMENT**

During the Convention, the NYPD classified as "arrest evidence" property that normally is not treated as arrest evidence (including bicycles and cameras). When evidence is labeled as "arrest evidence" (rather than as personal effects) it is much more difficult to recover.

If the Department has an across-the-board policy of classifying certain types of property as arrest evidence, it plainly can apply that policy to people arrested at demonstrations. But the City cannot single out demonstrators for discriminatory treatment of their property. To do so simply targets protesters for punitive action.

#### **12. NEW YORK CITY MUST ESTABLISH AN AUTHORITY INDEPENDENT OF THE NYPD TO PARTICIPATE IN THE PLANNING FOR AND MANAGEMENT OF LARGE DEMONSTRATIONS**

Currently, the NYPD handles all aspects of large demonstrations in New York City, from the negotiation of permits to the staffing of the events. As a result of this and the large numbers of officers the Department is committing to such events, the police have become a central feature of what is otherwise lawful and peaceful protest activity, seriously altering the character of far too many protests.

The NYCLU's concern about the excessive policing of protest events is heightened by the fact that, to date, Commissioner Kelly has refused to acknowledge that the Department made any mistakes in its handling of the Convention protests. While, as this report acknowledges, the Department did good things during the Convention,

it also committed a number of serious mistakes. That the Department is unable or unwilling to acknowledge any mistakes simply reinforces the need to have an office outside of the Police Department be established to help the city manage protests.

The NYCLU recommends the creation of an agency, independent of the NYPD, that would be responsible for the management of public demonstrations. This agency would handle permit applications, negotiate event particulars with organizers, and staff events to handle logistical details (such as street closings, staging, and assembly areas).

The NYPD would certainly remain part of the process, but its focus would shift to traditional law enforcement. In this respect, demonstrations would be treated just like other large public events (such as street fairs or concerts). In those rare instances at which unlawful conduct takes place, the NYPD would of course respond. For all but a handful of events, however, this is not an issue, and the NYPD's role can be greatly reduced. ■

# Footnotes

- 1 Wilson, James Q. and George Kelling. 1982. "The Police and Neighborhood Safety." *The Atlantic Monthly*. March.
- 2 Vitale, Alex S. Forthcoming "From Negotiated Management to Managed Control: How the NYPD Polices Protests." *Policing and Society*.
- 3 New York Civil Liberties Union. 2003. *Arresting Protest*. NYCLU.
- 4 American Civil Liberties Union-Washington. 2000. "Out Of Control: Seattle's Flawed Response to Protests Against the World Trade Organization." ACLU-Washington. <http://www.aclu-wa.org/issues/police/WTO-Report.html>. WTO Accountability Review Committee, Seattle City Council. 2000. "Report of the WTO Accountability Review Committee." Seattle City Council. <http://www.cityofseattle.net/wtocommittee/>.
- 5 American Civil Liberties Union-Washington. 2000. "Out Of Control: Seattle's Flawed Response to Protests Against the World Trade organization." ACLU-Washington. WTO Accountability Review Committee, Seattle City Council. 2000. "Report of the WTO Accountability Review Committee." Seattle City Council.
- 6 City of Miami Police Department. 2004. "FTAA After Action Review." City of Miami Police Department. <http://www.miami.com/mld/miamiherald/7874639.htm>.
- 7 Scahill, Jeremy. 2003. "The Miami Model: Paramilitaries, Embedded Journalists and Illegal Protests. Think This is Iraq? It's Your Country." *Democracy Now*. November 24. <http://www.counterpunch.org/scahill11242003.html>.
- 8 In 1971, civil rights organizations including the NYCLU filed a lawsuit against the NYPD for their actions in infiltrating and attempting to destabilize dozens of organizations including the NAACP, ACLU, CORE, and numerous peace groups. This lawsuit, *Handschu v. Special Services Division*, resulted in a consent decree signed in 1985 that prohibited the NYPD from commencing an investigation into the political, ideological or religious activities of an individual or group unless, "specific information has been received by the Police Department that a person or group engaged in political activity is engaged in, about to engage in or has threatened to engage in conduct which constitutes a crime." *Handschu v. Special Services Division*, 349 F. Supp. 1384 (S.D.N.Y. 1985). The decree also required that a paper trail of all investigations be maintained.
- 9 *Handschu v. Special Services Division*, 71 Civ. 2203 (Feb. 11, 2003).
- 10 The NYPD videotaping of protest activity during the Convention has prompted advocates to challenge the Department's compliance with the remaining restrictions on NYPD surveillance activity.
- 11 On August 11th, *Newsday* ran a story quoting unnamed "police sources" as saying that the department was watching protest groups by attending rallies and meetings, "Our guys got in there without them knowing it... It helps us keep track of what they're doing." The article also discussed police training for the demonstrations involving the use of pain compliance holds and mass arrests.  
  
On August 18, WABC television did an unsourced report stating that the NYPD had assembled a large group of undercover officers that were planning on tracking 56 "primary anarchists" from across the country. According to the report police teams of one supervisor and six officers were sent to places such as Boston, Washington, D.C., North Carolina, and California to provide surveillance of these individuals based on their past involvement in political demonstrations. This surveillance appears to have been undertaken without any specific evidence that these individuals had any plans to commit illegal activity or even attend the RNC protests.
- 12 Anderson, Christopher. 2004. "Getting used: How the Media Helps Create a Climate of Fear and Repression During Political Protests." Unpublished Manuscript. [http://nyc.indymedia.org/usermedia/application/2/Getting\\_Used\\_Report.pdf](http://nyc.indymedia.org/usermedia/application/2/Getting_Used_Report.pdf).
- 13 Patrice O'Shaughnessy. "Fury at Anarchist Convention Threat." *New York Daily News*, 12 July 2004, p. 6.
- 14 Daryl Khan. "Activists Dismiss Police Security Fears." *New York Newsday*, 13 August 2004.
- 15 Randal C. Archibold. "Anarchists Emerge as the Convention's Wild Card." *New York Times*, 20 August 2004, p. A1.
- 16 Stefan C. Friedman. "Radicals Plot Bad Weather." *New York Post*, 23 August 2004, p. 10.
- 17 Patrice O'Shaughnessy. "Anarchists Hot for Mayhem: Police on Guard vs. Violent Tactics." *New York Daily News*,



26 August 2004, p. 5.

- 18 James Gordon Meek, Michele McPhee and Maggie Haberman. "Violence at RNC Feared: Protests May Turn Bloody, Feds Warn." *New York Daily News*, 19 August 2004.
- 19 These accounts have been compiled into a booklet entitled "RNC Intake, Received by the New York Civil Liberties Union between August 27, 2004, and March 25, 2005." Each intake form is individually numbered and referred to herein by its number, preceded by "R."
- 20 This account is verified by the eyewitness testimony of R. 75, R. 176, R. 53, R. 82, R. 107, R. 112, R. 127, R. 236, and R. 242, among others.
- 21 Editor's note: Dyer Avenue, which runs north-south, is between 9th and 10th Avenues. Accordingly, in the block quotation, the parenthetical reference should properly read "midway between 9th and 10th Avenues" and the reference to 9th Avenue should properly be to 10th Avenue. This account of the arrests on 35th Street was corroborated by a report from a 34-year-old man from Brooklyn. [R. 134.]
- 22 These accounts are echoed by that of a photographer working on a documentary about Union Square: "everyone, including innocent bystanders that were on the sidewalk not taking part of [sic] the march, were blocked off and cornered." R. 17.
- 23 The NYCLU also received a report from a photographer working freelance for a major daily newspaper who reported that, after photographing an exercise that took place in plain view on the steps of the Post Office building across from Madison Square Garden, he was approached by two Secret Service agents who interrogated him about his picture-taking. When he said he was working for a major newspaper, they demanded that he call his editor on the phone so they could speak with the editor.
- 24 A 27-year-old woman arrested in Herald Square on August 31 states: "The correction officers kept informing us that there was no 24 hour rule in NYC. There was a sign on the wall stating that the city of NY could hold us for up to 72 hours before arraignment." R. 238. A Critical Mass arrestee states that "regular arrestees off the st. were being moved ahead of [the bikers] + processed before them." R. 134.
- 25 The following reports corroborate this account: R. 93 (regarding safety gear); R. 186 (same); R. 192 (regarding hazardous material); R. 209 (same).
- 26 Any item classified as "arrest evidence" becomes part of the case against the arrestee, and as such cannot be released until after that case is closed or the District Attorney permits it to be released. Two of the reports the NYCLU received about classification of property as arrest evidence were from cyclists arrested during the Critical Mass ride on the evening of August 27, who were unable to retrieve their bicycles for days or even weeks, until civil rights lawyers intervened. [R. 5, 96.] One man describes the arbitrary classification of his property. He explains that, on the property voucher, there are ten lines for "personal property" and ten lines for "criminal evidence." The report states that when an officer ran out of room in the "personal property" section, he or she would list the remaining items as "criminal" and confiscate them, regardless of their relevance to the alleged crime. [R. 95.]
- 27 The sole exception was the permit sought by United for Peace and Justice for use of Central Park for a rally of 250,000 scheduled for August 29. UFPJ first applied for this permit in June of 2003, and many meetings took place between January and July 2004 before the group finally acquiesced in the City's insistence that the rally following its march take place on the West Side Highway. When UFPJ subsequently concluded it could not stage the rally on the highway and the City rejected a renewed application for Central Park, the the Center for Constitutional Rights and the NYCLU filed suit in state court over the permit denial. The state court rejected this challenge, and UFPJ then canceled its rally, electing to hold only a march.
- 28 The three cases were *Stauber v. City of New York*, 03 Civ. 9162 (S.D.N.Y.); *Conrad v. City of New York*, 03 Civ. 9163 (S.D.N.Y.); and *Gutman v. City of New York*, 03 Civ. 9164 (S.D.N.Y.).
- 29 For technical reasons, the judge did not decide the NYCLU's challenge to the NYPD's use of mounted officers to disperse crowds.

# RNC Chronology / Appendix A

2001			
9/11	Terrorist attack destroys World Trade Center and damages Pentagon. 2,749 people die when terrorists crash two planes into World Trade Center.		
2002			
9/25	New York City asks a federal court to eliminate restrictions on the ability of NYPD to conduct surveillance on lawful political activity.		
2003			
1/06	The Republican National Committee announces it has selected New York City as the site of the August 2004 Republican National Convention. Within 10 days, NYCLU contacts NYPD to request a meeting to discuss policing of Convention demonstrations.		
2/15	On the eve of the American invasion of Iraq, United for Peace and Justice holds a stationary rally on First Avenue attended by more than 100,000 people. The event is marred by NYPD closing of streets and sidewalks leading to the event, the use of pens to confine demonstrators, the use of police horses against peaceful crowds packed on public streets and sidewalks trying to get to the event, and hundreds of arrests. Earlier that month City had denied UFPJ's request for a permit for a march, and federal courts rejected a legal challenge brought by NYCLU.		
3/22	New York City allows UFPJ to hold an anti-war march, which proceeds from Times Square to Washington Square Park. Over 200,000 people participate, and the event takes place without incident.		
4/06	NYCLU discloses that NYPD used a "Demonstrator Debriefing Form" to interro-		
		gate people arrested at the February 15, 2003, antiwar rally about their political activities and associations and was using the information to build a database. NYPD agrees to discontinue the use of forms and questioning about political affiliation and to destroy database.	
		4/07	A Federal court grants City's request to loosen restrictions on NYPD's ability to monitor political activity.
		4/28	NYCLU releases its report "Arresting Protest," which chronicles the problems that arose from NYPD's handling of the February 15, 2003 antiwar rally and makes specific recommendations.
		6/04	UFPJ files a Parks Department application for use of the Great Lawn in Central Park for a 250,000-person antiwar rally on Sunday, August 29, 2004, the day before the Convention is scheduled to begin.
		8/06	The Parks Department denies UFPJ Great Lawn application in a letter that says the Great Lawn cannot accommodate a crowd of 250,000.
			In response to demonstrator debriefing disclosures, federal court imposes new restrictions on NYPD surveillance of political activity.
		9/03	NYCLU starts regularly asking to meet with NYPD to discuss policing of demonstrations at the Convention. High-level representatives of the NYPD's Legal Bureau and of the City's Law Department say the City is not yet ready to meet.
		11/19	NYCLU files three federal lawsuits arising out of the February 2003 anti-war demonstration and challenging NYPD demonstration
			practices expected to be used at the Convention, including the closing of streets and sidewalks leading to demonstration sites, the use of pens to confine demonstrators, the use of mounted officers to disperse peaceful crowds, and the blanket searching of people seeking to attend demonstrations.
		12/08	NYCLU notifies NYPD in writing about large planned demonstrations by Not in Our Name and the Still We Rise Coalition and request meetings.
		12/23	First NYPD meeting about planned demonstrations takes place when NYPD meets with NYCLU to discuss demonstrations planned by Not in Our Name and the Still We Rise Coalition.
2004			
		1/29	NYPD meets for the first time with UFPJ, NYCLU, and Center for Constitutional Rights (CCR) about the planned UFPJ march and rally.
		3/26	At meeting with UFPJ, NYCLU, and CCR, NYPD informs UFPJ that the Parks Department has rejected application for Central Park. Police Department proposes march route that would involve assembly on West Side Highway, march up 10th Avenue to 34th Street, across 34th Street to 8th Avenue, up 8th Avenue to 57th Street, across 57th Street to 11th Avenue, and down 11th Avenue to the West Side Highway for rally.
		3/29	The Parks Department's General Counsel informs NYCLU that the Department has made no decision about UFPJ application and agrees to meet with group.

## 2004

- 4/19** The Parks Department meets with UFPJ, NYCLU, and CCR to discuss group's application for Great Lawn.
- 4/26** The Parks Department formally denies UFPJ application for Great Lawn.
- 5/27** NYPD informs NYCLU that it will allow UFPJ to march on 7th Avenue past Madison Square Garden.
- 6/09** In first substantive meeting about any demonstration other than the UFPJ event, NYPD meets with Not In Our Name and NYCLU about a proposed march on Thursday, September 2. NYPD Assistant Chief Bruce Smolka, with a senior lawyer from Law Department present, announces that the City will not allow any marches to take place in Manhattan during the four days of the Convention. NYCLU objects, and the Department agrees to consider march proposals, though not on September 2.
- 6/11** NYCLU informs NYPD that UFPJ wishes to postpone by two weeks a meeting scheduled for next day. In a letter released to the press, Commissioner Kelly writes to NYCLU complaining about the postponement and pressuring UFPJ to accept its West Side Highway proposal.
- 6/15** NYPD meets with organizers of "The Line" and NYCLU to negotiate an event at which people holding pink slips symbolizing unemployment will line Broadway sidewalks from Wall Street to Madison Square Garden.
- 6/18** NYPD meets with NARAL Pro-Choice New York and NYCLU to negotiate a women's rights rally scheduled for Union Square Park on Tuesday, August 31.
- NYPD meets with Still We Rise Coalition, Hip-Hop Summit Action Network, and NYCLU to negotiate a march and rally scheduled for Monday, August 30.

UFPJ proposes that City allow its rally to take place in the North Meadow of Central Park rather than on the Great Lawn.

- 6/24** Law Department writes to NYCLU informing UFPJ that the City will not issue permit for North Meadow.
- 6/28** NYPD meets with UFPJ, NYCLU, and CCR about a march route and rally location. Department continues to propose use of West Street, but UFPJ proposes rally in Times Square.
- The Parks Department informs NYCLU it has approved Planned Parenthood's permit application for a rally at City Hall Park on Saturday, August 28.
- The New York City Council, by a vote of 44-5, passes a resolution calling on government officials to protect and uphold First Amendment rights at the Convention.
- 6/29** The Parks Department informs NYCLU that it has approved NARAL's application for an event in Union Square Park on Tuesday, August 31.
- 6/29** NYPD meets with Planned Parenthood and NYCLU to negotiate a march planned for August 28 across the Brooklyn Bridge to City Hall Park.
- 6/30** NYPD informs NYCLU it has approved the Planned Parenthood march and rally for August 28.
- 7/01** NYPD informs NYCLU it has approved "The Line" event for September 1.
- 7/02** NYPD meets with UFPJ, NYCLU, and CCR to discuss a march route and rally site. Department rejects Times Square as rally site and repeats West Side Highway as proposed site. UFPJ proposes rally take place on Third Avenue south of 60th Street.

## RNC CHRONOLOGY (cont'd)

- 7/02:** Federal Judge Robert Sweet starts the trial in NYCLU's lawsuit challenging NYPD demonstration policing tactics.
- NYPD informs NYCLU it is rejecting UFPJ's Third Avenue proposal.
- 7/07** NYPD agrees not to use four-sided pens and not to search protesters at the Not In Our Name event. NION agrees to cancel its march and have a stationary rally on Eighth Avenue in designated demonstration area.
- 7/09:** NYPD representatives meet with UFPJ and NYCLU at the West Side Highway location being proposed by the Department as rally site.
- 7/12** The Parks Department notifies NYCLU it has approved a Green Party political festival in Washington Square Park for Saturday, August 28.
- 7/13** NYPD informs NYCLU it has approved the Still We Rise/Hip-Hop Summit march and rally for August 29.
- 7/14** Commissioner Kelly holds a press conference announcing that UFPJ must accept West Street as its rally location.
- 7/15** UFPJ stages a small demonstration at City Hall over the right to have a rally in Central Park.
- 7/16** NYPD meets with UFPJ, NYCLU, and CCR about a march route and rally site. This is a contentious meeting at which no agreements are reached.
- 7/18** NYPD informs NYCLU it will not participate in any more meetings about UFPJ event until the group accepts West Side Highway.
- 7/19** Federal Judge Robert Sweet issues decision finding NYPD restrictions on access to demonstrations, use of pens, and searching of demonstrators unconstitutional. The judge's ruling about searches ignites substantial public controversy.



**2004**

**7/20** UFPJ announces it will accept the West Side Highway location for rally.

**7/28** The Parks Department meets with New York City Chapter of National Organization for Women and NYCLU about proposed NOW rally on Great Lawn. The Department rejects the Great Lawn but offers East Meadow, which the group accepts.

**7/26-29** The Democratic National Convention takes place in Boston. Demonstrations are small, but substantial controversy arises over police-mandated frozen zones and designation of a “protest area.”

**7/29** NYCLU opens its Protecting Protest Storefront at 520 Eighth Avenue, three blocks north of Madison Square Garden.

**8/10** UFPJ announces it will not hold a rally at the West Side Highway location and is reapplying for Central Park, proposing that the event be split between Great Lawn, North Meadow, and East Meadow.

**8/13** National Council of Arab-Americans and ANSWER file federal lawsuit challenging the Parks Department rejection of its application to use the Great Lawn for a 50,000 person rally on Saturday, August 28.

**8/16** NYPD meets with Not In Our Name and NYCLU about the proposed September 2 rally near Madison Square Garden. Group informs NYPD it will cancel the rally if it can hold an event in Union Square on August 29 before UFPJ march. NYPD agrees to proposal.

**8/18** CCR and NYCLU file suit on behalf of UFPJ against the City over denial of permits for Central Park.

**8/23** Federal judge William H. Pauley III rejects the challenge of National Council of Arab-Americans to the Parks Department denial of a permit for use of the Great Lawn on August 28.

**8/25** New York State Supreme Court Justice Jacqueline Silberman rejects the UFPJ challenge to the Parks Department denial of a permit for use of the Great Lawn on August 29. UFPJ announces it will have no rally, only a march.

The first significant Convention demonstration takes place as AIDS activists strip naked, baring political messages and blocking traffic on Eighth Avenue near Madison Square Garden.

**8/26** Protesters walking from the Democratic National Convention to the Republican National Convention arrive at Columbus Circle and march down Broadway to Union Square accompanied by local political activists.

**8/27** The monthly Critical Mass bike ride draws approximately 5,000 participants who ride through Manhattan streets for approximately 90 minutes before NYPD cracks down on the event, stretches orange netting across Seventh Avenue to block riders, and arrests over 250 people, including scores of legal observers and members of the media.

The Christian Defense Coalition holds candlelight vigil at Madison Square Garden.

**8/28** Planned Parenthood, NYCLU, and other women’s rights groups lead a march across Brooklyn Bridge to a rally at City Hall Park. As many as 25,000 people reportedly participate, and the event takes place without problems.

The Green Party holds political festival in Washington Square Park without incident.

**8/29** Not In Our Name holds a rally in Union Square Park before the UFPJ march.

The UFPJ march draws as many as 500,000 people, who march past Madison Square Garden, across 34th

**RNC CHRONOLOGY (cont’d)**

Street to Fifth Avenue, down Fifth Avenue to Broadway, and down Broadway to Union Square Park. The event takes place largely without problems with the police.

After UFPJ march, thousands casually gather in Central Park without interference from the NYPD.

That evening NYPD officers use nets and motor scooters to surround and arrest scores of people standing on public sidewalks in and near Times Square.

**8/30** Still We Rise Coalition, in an event co-sponsored by NYCLU, marches from Union Square across 15th Street to 8th Avenue and up 8th Avenue to the designated demonstration area at 30th Street for a rally. The rally is marred by a long line of buses allowed to proceed across 30th Street between the stage and the crowd attending the rally, by problems getting speakers to the stage, and by the use of metal barricades to segment parts of the crowd.

Thousands gather at Dag Hammarskjold Plaza near the United Nations to participate in a march for which no permit has been issued. High-level police officials negotiate with organizers and NYCLU and agree to allow group to march to 8th Avenue demonstration area. Thousands march down 2nd Avenue to 23rd Street, across 23rd Street to 8th Avenue, and up 8th Avenue to designated rally site. As group approaches 30th Street police officers without warning run line of barricades across 8th Avenue at 29th Street, sparking panic amongst marchers. As people start pushing against barricades, police officers storm into crowd and strike people with batons and plainclothes officers on unmarked scooters ride into crowd. One officer is pulled from his scooter and assaulted.

## 2004

- 8/31** Designated day of “direct action.” NYPD arrests over 1,100 people in a four-hour period, almost all of whom are charged with minor offenses such as disorderly conduct or parading without a permit. At World Trade Center, officers arrest 227 people at War Resisters’ League March after telling them they could march on a sidewalk. At New York Public Library, scores are arrested for standing on building steps. At Union Square, police officers use mesh nets to seal entire blocks and to arrest hundreds, including bystanders. Sole protester at a demonstration scheduled at a Hummer dealership is arrested for blocking a sidewalk.
- 9/01** “The Line” demonstration takes place without incident.
- NYCLU first contacts the Manhattan District Attorney’s Office seeking dismissal of charges against 227 people arrested at World Trade Center.
- Reports start surfacing that people arrested by NYPD are being held in filthy former bus depot on Hudson River known as Pier 57.
- Protest outside Pier 57 over NYPD detention of people at the facility.
- Central Labor Council holds large rally in the designated demonstration area on 8th Avenue.
- NOW-NYC rally takes place in Central Park’s East Meadow without incident.
- President Bush arrives in New York City and participates in an event in Queens.
- Legal Aid Society files lawsuit to force release of hundreds of people who were arrested on August 31st and are still being held. National Lawyer’s Guild follows with a similar suit. A state court judge orders the City to release certain prisoners.

- 9/02** The Legal Aid Society and National Lawyers Guild seek and obtain a contempt order against City for its failure to comply with the court order to release arrestees.
- ANSWER holds a rally attended by several thousand in designated demonstration area on 8th Avenue. NYPD uses four-sided pens that substantially impair movement at demonstration, and NYCLU monitors observe that police officers along 7th and 9th Avenue provide inaccurate information or no information to those seeking to attend rally.
- Thousands gather in Union Square and spontaneously decide they wish to march to 8th Avenue rally site. NYCLU negotiates with NYPD, which agrees to allow the march. Marchers proceed across 15th Street to 8th Avenue and up 8th Avenue to 30th Street, where they are met by a line of police officers in riot gear, which is the first instance the equipment has been used. Marchers remain at the rally for a couple of hours without incident.
- The Convention ends and President Bush leaves New York City.
- 9/15** The City Council holds its first oversight hearing about policing of demonstrations. No one from the City appears to testify.
- 9/22** NYCLU meets with the District Attorney’s Office and requests the dismissal of 227 arrests from the War Resister’s League march.
- 9/30** NYCLU discloses that a plainclothes officer in the unmarked scooter unit had “Loud Wives Lose Lives” stenciled on his helmet. NYPD responds by attacking NYCLU for releasing a photograph of the officer and helmet.

## RNC CHRONOLOGY (cont’d)

- 10/04** NYCLU charges that NYPD unlawfully fingerprinted people arrested for minor offenses during the Convention and calls upon NYPD to destroy fingerprints.
- 10/06** The Manhattan District Attorney’s Office announces it will dismiss the cases of all 227 people arrested at the World Trade Center.
- 10/07** NYCLU files two federal lawsuits challenging NYPD mass-arrest tactics, the length and conditions of detention (including at Pier 57), and the blanket fingerprinting of people arrested during the Convention.
- 10/20** The City informs NYCLU it will destroy all fingerprints.
- 10/27** The City Council holds its second hearing into policing of the Convention demonstrations. The NYPD chief in charge of Pier 57 testifies that the Department instituted a special program to fingerprint those arrested at Convention because it was a national security event.
- 11/04** A newspapers report discloses that in August, the NYPD established a panel to reinvestigate complaints of Convention police misconduct that are substantiated by the independent New York City Civilian Complaint Review Board. Prior to this, NYPD did not conduct such investigations.
- 11/22** The National Lawyer’s Guild files a class-action damages suit on behalf of people arrested during Convention.

## 2005

- 8/05** NYCLU issues *Rights and Wrongs at the RNC*, a special report about police and protest at the Republican National Convention.

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