

Secondary Case Study



NO. 1 IN THE USA



www.usatodayeducation.com

Protesters challenge NYC arrests

By Martha T. Moore 2-3

Cities must rethink anti-gang measures

By Tony Mauro and Gary Fields 4

Israeli forces halt march on settlement

By Matthew Gutman 4-5

Additional Resources

5

Freedom of Assembly: Summary

The First Amendment guarantees freedom of assembly, the right of citizens to gather peacefully. The limits of that freedom take into account the need for public security and law and order. Cases involving this freedom have involved both political demonstrations and the ability of officials to regulate them and less political activities such as loitering and curfews. Abroad, limits on what would be constitutionally protected assembly in the U.S. are often linked to political control, or, even more frequently, basic security. This case study examines the balance between freedom to gather peacefully and the need to maintain law and order.

Nation

Judge: Protesters can't rally in park

Group calls ruling 'slap' to rights, will still march in NYC

By Martha T. Moore and Charisse Jones
USA TODAY

NEW YORK — More than 200,000 people expected to protest on the eve of the Republican National Convention will not be able to rally in Central Park.

A state judge ruled Wednesday that the city does not have to allow United for Peace and Justice, a coalition of groups opposing the Bush administration, to hold a demonstration in Central Park Sunday. The protest group is "guilty of inexcusable and inequitable delay" by waiting until Aug. 18 to file its lawsuit, state Supreme Court Justice Jacqueline Silberman

ruled. The city opposed having the rally in Central Park, saying the group was too large and would damage the lawn.

Leslie Cagan, head of the protest group, called the ruling "a slap in the face of our constitutional rights."

The judge said there is "no credible evidence" that the city's refusal was based on the protest group's political views. Regulations governing the park are to "ensure orderly usage of parks, and were not intended to restrict a message associated with any particular event."

The group said it would cancel any rally but would still march past Madison Square Garden, where the Republican convention will be held Monday through Thursday. The group was set to meet with police Wednesday evening to finalize the route for the march, which organizers say could draw 250,000 people from across the country. Even without a rally, "it should not be a problem ending this march in an orderly way," Cagan said.

The protest group last week backed out of an agreement with police to hold its rally on a large street on Manhattan's west side, insisting the rally should be in Central Park.

Many marchers will head to the park anyway, "as an act of protest, and they have the right to do that," said Christopher Dunn of the New York Civil Liberties Union, which represented the protest group.

Police Commissioner Ray Kelly said Wednesday that the city will have "significant police presence" in Central Park. "The park is open to anybody, but they're going to have to abide by the rules." For instance, major sound amplification is not allowed without a permit, he said.

The protests and the convention will take place amid unprecedented security, including truck barriers, checkpoints and thousands of uniformed officers around the convention site.

AS SEEN IN USA TODAY NEWS SECTION, THURSDAY, AUGUST 26, 2004, PAGE 3A

"We are prepared," Homeland Security Secretary Tom Ridge said after attending a security briefing Wednesday at a command center in police headquarters, where dozens of city and federal agencies are represented. Security plans are "as

strong and comprehensive and well-coordinated as we've had around any event," he said.

Mindful that the convention is supposed to be an economic boost, officials said the city will be a safe and welcoming place

next week. Security plans "strike the right balance between taking the necessary precautions without unduly inconveniencing New Yorkers," Mayor Michael Bloomberg said.

AS SEEN IN USA TODAY NEWS SECTION, MONDAY, FEBRUARY 7, 2005, PAGE 3A

Nation

Protesters challenge NYC arrests

Many held at GOP convention fighting back

By Martha T. Moore
USA TODAY

NEW YORK — Cindy Fiore came to New York on Aug. 31 to see her daughter, go shopping and protest the president during the Republican convention. She got home to Connecticut 36 hours later, dirty, hungry, sore, fingerprinted and, she says, angry "on every level."

Fiore, 46, was one of 1,806 people arrested here during the four-day gathering last summer. Police used orange netting, plastic handcuffs and city buses to handle the crowd. When Fiore was arrested, she was part of a group chanting slogans against President Bush on the sidewalk across from Macy's. According to police, she resisted arrest, obstructed governmental administration and

committed disorderly conduct.

But Fiore says she did nothing other than exercise her right to free speech and has challenged the city to prove otherwise in court. So have nearly 200 other protesters whose cases are making their way through the courts five months later.

Despite the sweeping arrests, more than three-quarters of the people arrested during the convention had their cases dismissed outright or dropped in exchange for a promise to behave for six months. Fewer than 10% have pleaded guilty to a misdemeanor or violation. And out of 28 trials, 10 protesters have been convicted.

The handful of convictions and large number of dismissals are seen by protesters and their advocates as evidence that police wanted to take demonstrators off the streets and intimidate potential participants into staying home.

'Police overarrested'

"The police overarrested," says Donna Lieberman of the New York Civil Liberties Union. The arrests "were the product of bad policing that was prompted at least in part by the post-9/11 national security rationale. . . . Some of that is legitimate. . . . But when law enforcement conflates lawful protest with a national security threat, we as a democracy are in deep trouble."

Similar scenes — a heavy police presence meeting vigorous protests followed by arrests — occurred at other high-security events, such as an anti-war march at the United Nations in 2003, the Group of Eight economic summit meeting in coastal Georgia in June and the presidential inauguration in Washington last month.

Bill Dobbs, spokesman for United for Peace and Justice, which organized the largest protest during the Republican convention, says the possibility of arrest discourages people from attending protests. The group is planning a nuclear disarmament demonstration in New York on May 1.

Mass arrests "do discourage people, they scare the dickens out of people," Dobbs says. "You can spend days, weeks, months dealing with court cases. And I'm sure there are people who are too scared to get near a protest because of it."

Before the convention, Police Commissioner Ray Kelly said he expected 1,000 arrests. More than 10,000 police officers were on the streets surrounding Madison Square Garden, the convention site. Security cost about \$50 million.

Paul Browne, a spokesman for the New York Police Department, says the large number of cases dismissed is due to the inability to prosecute successfully, not the legitimacy of the arrests. "There's a difference," he says. "We did make quality arrests, and we were very careful about it." The Manhattan district attorney's office declined to comment.

Joseph Alcott, 23, a student at DePaul University in Chicago who was arrested during the convention, called the mass arrests "a concerted effort by the city to make it very difficult along the way, to



AS SEEN IN USA TODAY NEWS SECTION, MONDAY, FEBRUARY 7, 2005, PAGE 3A

scare people." Last month, Alcott walked out of a Manhattan courtroom with a pledge to behave and a day of community service to perform.

Most protest cases ended with an "adjournment in contemplation of dismissal," which means charges are dropped after six months of good behavior. Cullen Nawalkowsky, 28, was offered that and said no. "I wanted to see it through and have (prosecutors) admit, in one way or another, that they could not prove I was guilty."

They couldn't: Last month, at his fourth court appearance, his case was dismissed by the judge because Nawalkowsky had not received a trial within the required 90 days for a misdemeanor.

That, Nawalkowsky says, was "a clearer sign than them saying, 'You be good, and we'll let you go this time.'"

On the same morning, Fiore took

another day off work for her fifth court appearance. An assistant Manhattan district attorney offered to let her off with time already served in the city lockup, almost 24 hours. She said no. "I don't want those charges on my record," Fiore says. "I would be guilty, and I would have those charges on my record forever."

But the trial could not proceed. The police officer who had arrested Fiore had the day off and wasn't there to testify. The judge told Fiore to come back this week.

In October, the Manhattan district attorney dismissed the cases of 227 people also arrested Aug. 31 in an anti-war protest near the site of the World Trade Center.

"That's an indication of how bad the arrests really were and how indefensible they were," says Lieberman of the New York Civil

Liberties Union. "It's great that the cases were dismissed, but people still spent 24, 48 and even more hours in jail for protesting lawfully."

Suits could cost the city

The convention-related arrests have resulted in lawsuits that could cost the city money and change how police handle future cases:

► The New York Civil Liberties Union filed two wrongful-arrest lawsuits in federal court on behalf of protesters. The group is also challenging why the police fingerprinted nearly 1,500 protesters. Fingerprints are not supposed to be taken for misdemeanors. As a result, the city destroyed 1,481 sets of fingerprints taken during the convention.

► The Center for Constitutional Rights, a New York-based legal advocacy group, is seeking class-action status on behalf of all those arrested. The lawsuit charges police with illegal arrests and holding demonstrators in unsafe conditions. The city used a former bus garage on a riverfront pier to hold those arrested.

► The city may be held in contempt of court for holding protesters more than 24 hours, and as long as 66 hours, despite a judge's order to release them. As many as 560 protesters remained in jail after the judge's order. The city could be fined more than \$500,000.

On Jan. 25 in Washington, a judge ordered the police chief to apologize to seven plaintiffs for wrongful arrests during a mass protest in 2002 against the World Bank. The court ruled that police are required to clearly order a crowd to disperse before making arrests and provide phones for calls.

Most will have charges dropped

More than 1,800 people were arrested in New York City during the Republican National Convention Aug. 30-Sept. 2. The status of those cases as of last week:

1,806	Total arrests
1,029	Charges to be dropped after six months good behavior (adjournment in contemplation of dismissal)
371	Dismissed
4	Declined to prosecute
140	Pleas
18	Acquitted at trial
10	Convicted of violation or misdemeanor
189	Cases pending
45	Arrest warrants issued for people who failed to appear in court

Source: Manhattan district attorney's office

AS SEEN IN USA TODAY NEWS SECTION, FRIDAY, JUNE 11, 1999, PAGE 8A

Cities must rethink anti-gang measures

Other anti-crime options available after court ruling

By Tony Mauro and Gary Fields
USA TODAY

WASHINGTON — Cities nationwide might have to rethink their wars on crime in the wake of the Supreme Court striking down on Thursday a sweeping Chicago anti-gang ordinance.

The ruling leaves open a wide range of options for cities, including anti-loitering ordinances tied to specific crimes, and court orders restricting the activities of specific gang members. "The Chicago ordinance was struck down, but the court did not do major damage to anti-gang efforts," Ohio State Solicitor Edward Foley said.

Chicago's ordinance, generally viewed as the most aggressive anti-gang measure in the nation, gave police the power to arrest any suspected gang member — and anyone standing with the gang member — who did not obey an order to disperse. In the three years it was in effect, police issued 89,000 dispersal orders and arrested more than 42,000 people who refused.

Chicago officials said gang-related homicides dropped 26% in 1995, the last year the Chicago law was in effect.

Chicago Mayor Richard Daley said the city will review the decision and try to draft a new ordinance.

"In this instance, the city has enacted an ordinance that affords too much discretion to the police and too little notice to citizens who wish to use the public streets," the court wrote.

But as unique as the Chicago ordinance was, the ruling that struck it down shook the confidence of some advocates of community policing. They fear it might be used against other anti-gang measures. John Justice, president of the National Association of District Attorneys, said the ruling will send local and state officials "back to the drawing boards in looking for ways to keep a firm handle on the street-gang situation."

One of the goals of recent anti-gang campaigns has been to get gang members off the street before they commit crimes. Since gang members tend to halt criminal activity the moment police appears, the Chicago ordinance gave police a way to target gangs without waiting for crime or violence to happen in front of them.

The Supreme Court's insistence that laws should spell out what illegal activity would trigger arrest appears to undermine that preventive concept.

"The decision is a slap at communities that are trying to prevent crime as well as punish it," said Shawn Gunnarson of the conservative Washington Legal

Foundation.

Critics of Chicago's ordinance said laws that make criminals of people before they do anything wrong should be held unconstitutional.

"Such laws are likely to be enforced in a discriminatory manner," said Harvey Grossman of the American Civil Liberties Union. "They tend to trap people engaged in wholly innocent conduct."

One recently developed anti-gang tool that probably would survive the Supreme Court's test is for law enforcement officials to obtain a court order naming specific gang members and telling them whom they may associate with and what they may and may not do.

Los Angeles and other California cities have sought and obtained this kind of injunction, and they have been upheld by the state Supreme Court.

Justice Sandra Day O'Connor, in a concurring opinion, also points to narrowly worded anti-loitering ordinances that would be constitutional even after Thursday's decision.

Chicago's own ordinance, O'Connor said, would have avoided problems if it said it was targeting gang members who were loitering "to establish control over identifiable areas" or to "intimidate others."

The Nation

AS SEEN IN USA TODAY NEWS SECTION, TUESDAY, JULY 19, 2005, PAGE 4A

Israeli forces halt march on settlement

20,000 attempt 'last stand' over Gaza withdrawal plan

By Matthew Gutman
Special for USA TODAY

NETIVOT, Israel — Israeli police and troops prevented about 20,000 Israeli demonstrators from marching to the Gush Katif settlement bloc inside Gaza on Monday.

Israeli forces, also numbering 20,000, scuttled what settler leaders had hoped would be their biggest effort to thwart Israel's plan to evacuate 25 settlements later this summer.

The Yesha Council, Israel's main settlement group, billed the three-day protest march to the Gaza settlement as its "zero hour last stand" against Prime Minister Ariel Sharon's withdrawal plan. That initiative aims to

end Israel's 38-year presence in Gaza and the northern West Bank by dismantling 25 Jewish settlements starting Aug. 15.

Israel's parliament approved the withdrawal plan in October. The plan calls for the evacuation of all 21 Gaza settlements and four in the West Bank to reduce the cost — in money and lives — of maintaining Jewish settlements in disputed territory.

On Monday, police were deployed across Israel to stop the settlers from

World

AS SEEN IN USA TODAY NEWS SECTION, TUESDAY, JULY 19, 2005, PAGE 4A

marching to Gaza. "I saw this event as an attempt to break the law ... to try to derail the disengagement," Israeli Police Chief Moshe Karadi said at a news conference outside Gush Katif. "As the police chief," he explained, "I saw it as my duty to prevent this crime."

On Sunday, the Yesha Council failed to receive the necessary police permits for the march. But settlement leader Pinchas Wallerstein said the protest would go on anyway. Police responded Monday by setting up checkpoints throughout the country and blocking 320 buses from shuttling activists to Netivot, the central Israeli town that was the staging point, Yesha Council spokesman Helik Navon said.

Wallerstein assailed the police's refusal to issue a permit. "It will only strengthen the extremists among us," he warned. He added that Yesha's protest march would progress non-violently.

Justice Minister Tzipi Livni, speaking on Israel Radio on Monday, said any attempt by Israelis to infiltrate Gush Katif, which Sharon closed to non-residents last week,

is "violent by definition and seeks to overturn the disengagement, a legal government decision."

Despite the ban, settlers cascaded into Netivot on Monday evening. Some arrived by car. Others came on foot and on bicycles.

The settlement body kicked off its campaign at the shrine of Baba Sali, a Moroccan-born Jewish mystic said to answer the prayers of those who light candles and donate money at his Netivot tomb. Baba Sali, whose real name was Rabbi Yisrael Abuchatzera, descended from teachers of Kabbalah, or Jewish mysticism.

"A little help from above won't hurt," said Yesha Council spokesman Navon, explaining the choice of shrine and the park beside it as the march's starting point.

Ariel and Shirli Gedj, from the central city of Rehovot, hitchhiked four hours with their 10-month-old baby and two toddlers to reach what they called "the most important protest in Israel's history." Equipped with enough water for several

days, a large container of sunscreen and sleeping bags, Ariel Gedj said, "We'll stay as long as we need to stop the disengagement."

After an hour-long rally, the activists set out on the unlit, dust-choked road toward Kfar Maimon – and Gush Katif. Thousands of police and soldiers lined their route.

By evening's end, the marchers were permitted to stay at Kfar Maimon, 2 miles from Netivot. They were told they wouldn't be allowed to proceed to the settlement in Gaza. "This march is illegal. Therefore we will not allow them to complete it," said Superintendent Carla Oz, a police spokeswoman.

Asher Arian of the Israel Democracy Institute, a Jerusalem-based think tank, described the day's events as the settlement movement's "first major defeat."

"The settlers have controlled the pace and agenda of Israeli politics for the past 35 years," he said. "They have made and broken prime ministers, but now their fortunes have changed."

ADDITIONAL RESOURCES

The Freedom Forum/First Amendment Publications
www.freedomforum.org

The Future of the First Amendment
www.firstamendmentfuture.org

The First Amendment Center
www.firstamendmentcenter.org