



DEFENDING DISSSENT FOUNDATION LETTER

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Founded in 1960 as the National Committee to Abolish HUAC

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Dear Troublemakers,

There are protests and civil disobedience, soapboxes and talk radio, t-shirts and bumper stickers, but most Americans exercise their right to dissent in the voting booth. We encourage everyone to get involved this election day (and before and after). You can call the non-partisan Election Protection Coalition at 1-866-Our Vote or visit www.866ourvote.org to find out about ways you can volunteer in your state. You can find information about voter suppression and intimidation efforts around the country, as well as resources to fight those efforts at www.NoMoreStolenElections.org.

For people who want to voice their dissent outside the voting booth, there is plenty in this newsletter to make you angry: state police spying on peaceful activists and labeling them 'terrorists' in state and federal databases; new guidelines for the FBI that give agents too much leeway to collect too much information about too many innocent Americans; but on the brighter side, the Defending Dissent Foundation is leading the charge for better guidelines for police conduct during First Amendment demonstrations, and finding support in surprising places.

In Solidarity,

A handwritten signature in cursive script that reads "Sue Uhey".

ACTIVISM

Police Label 53 Activists Terrorists

We reported in our August newsletter that Maryland State Police had spied on anti-death penalty and anti-war activists for over a year and that one activist targeted by police had been added to state and federal terrorist lists. It turns out that 53 activists have been named as terrorists! Not because they had done anything illegal, but because the software police use has only a few options for classifying entries, so police chose 'terrorist'. Apparently police didn't consider the option of simply not entering the names of innocent people.

To their credit, elected officials in Maryland are taking the scandal seriously.

Governor O'Malley (who was not in office at the time of the spying) appointed the state's former attorney general to undertake a speedy investigation of the spying, and the State Senate held a hearing to demand answers from the Police Superintendent who approved the spying.

Former Maryland Attorney General Stephen Sachs issued a 93 page report on October 1. While the report condemned the surveillance program and concluded that police "significantly overreached", it did not go far enough. The report was not the full investigation into the surveillance program that is

needed; in fact, Sachs did not have subpoena power so he had to rely on information voluntarily disclosed only by those police officers who were willing to talk with him (the superintendent who approved the program did not agree to be interviewed for the report). The report did make some policy recommendations that were immediately accepted by the Governor; however, while they are a step in the right direction, they do not adequately protect activists from future abuse. On the positive side, police have notified those 53 activists who have been listed as terrorists, so they can review their information and ask that it be purged. The report calls for new software (so when they spy on activists they can enter their names in a category other than 'terrorist'—might we suggest 'absolutely innocent?'); as well as new guidelines to prohibit surveillance of protests groups unless the police superintendent says it is justified (hardly adequate, since the inappropriate surveillance program was approved by the superintendent).

In response to the report, DDF has joined with Maryland activists to demand a full investigation into the spying, full accountability within the police force, and legislation establishing guidelines that prohibit surveillance of protest groups unless there is reasonable suspicion of criminal activity. Further action is being taken by the ACLU, which has helped 32 additional organizations file FOIA requests to get more information about the extent of the spying.

Convention Follow-Up

We're continuing to hear disturbing reports from activists about police misconduct and unjustified arrests in St. Paul during the Republican National Convention, and to a lesser extent, in Denver at the Democratic National Convention. Rather than tell you more horror stories though, I'd like to let you know what DDF is doing about it.

We want to make sure that the First Amendment rights of activists are

protected at the 2012 national conventions, so we are asking Congress to hold hearings to look into police misconduct at both conventions, and to pass legislation to protect demonstrators in the future. I've been meeting with both staff and members of the House and Senate since the conventions ended, and have been shocked at how most have been unaware of the extent of the police misconduct at the conventions. However, most *are* concerned when they hear the stories of mass arrests, the use of pepper spray, percussion grenades and tasers on peaceful demonstrators, as well as the year-long surveillance of the RNC Welcoming Committee. There is interest in holding hearings, although that will not be able to happen until next year.

Several members of Congress have also expressed an interest in legislation that would include guidelines for police conduct during national conventions, since the federal government provides millions in security grants for the host cities. DDF has been promoting D.C.'s First Amendment Rights and Police Standards Act as a good model for these guidelines. The First Amendment Rights law encourages and enshrines dissent, specifying people's right to demonstrate "near the object of their protest so they may be seen and heard." It prohibits preemptive arrests and dispersals, police lines to entrap demonstrators, and the use of tear gas and pepper spray against peaceful protestors. The standard for arrest is criminal activity – and then only people engaged directly in crimes (breaking windows etc.) should be arrested, not the whole crowd.

The law is a good one, and it has already passed Congress once (since D.C. is a colony, all its laws must be approved by Congress). The D.C. City Council approved the bill in 2004, and it slipped through Congress despite the opposition of the FBI.

The First Amendment Rights law is also a useful template for cities and localities around the country. DDF is working to drum up interest in cities with a history of large demonstrations and/or police abuses. Resources for both the Congressional and local campaigns will be available on the DDF website shortly.

DDF Endorses PCC

PCC is the People's Campaign for the Constitution, a non-partisan grassroots movement to take back our constitutional rights. Join today and work with a coalition in your community or congressional district to hold your legislators accountable to upholding the Constitution. The initiative is spearheaded by the Bill of Rights Defense Committee. Find out more at www.constitutioncampaign.org

EXECUTIVE

No Evidence Needed

Just one month before the election of a new President, the Department of Justice (DOJ) has issued new guidelines for opening FBI investigations that will allow FBI agents to use the most intrusive of investigative techniques, including: recruiting informants; going undercover to infiltrate groups, conduct interviews or spy on individuals – all without any evidence that a person or group has done or has any plans to do anything illegal, or has any connection to terrorists. Look for more in depth analysis of the rules coming soon. A copy of the new rules is available on our website.

Civil libertarians and members of Congress voiced serious concerns about the substance of the new rules when they were allowed to see the draft rules, as well as the DOJ's rushed and secretive process. Although FBI Chief Counsel Valerie Caproni promised the Senate Intelligence Committee (in testimony before the committee on September 23) that the DOJ would take those concerns into account before issuing the finalized

rules, none of the key substantive problems were addressed. The DOJ did bow to Congressional demands that they not implement the rules before Congress got a chance to review them – the rules will now take effect on December 1, rather than on the DOJ target date of October 1.

Rep. John Conyers (D-MI) and Sen. Patrick Leahy (D-VT), Chairs of the House and Senate Judiciary Committees, were not pleased with the new guidelines. In a press release, Rep. Conyers protested, "The Department of Justice should provide these new guidelines as suggestions to the new Administration to consider early next year. It is not appropriate for the current Administration to make such sweeping changes to FBI procedures at this late date, only a month before the election." Senator Leahy, for his part, asserted that his committee intends to play a strong role in overseeing the implementation of the guidelines.

Posse Comitatus I

Remember the Posse Comitatus Act that forbids the deployment of the U.S. military inside the U.S.? The Act has been steadily eroded since at least the Reagan administration (at that time the military was used at home to fight the 'war on drugs'), but the Bush administration has crossed a line and will deploy an Army brigade here at home. An alarming report in *Army Times* revealed that a brigade that has returned from a 14-month tour of duty in Iraq will be stationed in Georgia to provide a federal response to large scale emergencies and disasters, and "may be called upon to help with civil unrest or crowd control". According to the article, this is "the first time an active unit has been given a dedicated assignment to NorthCom, a joint command established in 2002 to provide command and control for federal homeland defense efforts and coordinate defense support of civil authorities."

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**National Committee
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The Defending Dissent Foundation
is the amalgam of the First
Amendment Foundation and the
National Committee Against
Repressive Legislation (NCARL)

*In Memory of
Frank Wilkinson,
Director Emeritus,
and
Chauncey Alexander,
President Emeritus,
and all who went before*

The article goes on to talk about the training the brigade received in non-lethal weaponry, and one soldier bragged about being the first in his unit to be tasered.

After the article appeared, the Army backed-tracked and claimed the brigade's mission will not include law enforcement or crowd control. That reassurance does not totally satisfy us, especially since we learned over the summer that NorthCom played a role in the security at both National Conventions, although the precise role is unclear. Now that NorthCom has an entire brigade at its disposal, we have to ask questions. DDF will continue to follow this story, and has begun to work with several organizations to develop an advocacy response.

LEGISLATIVE

Posse Comitatus II

The Bush Administration has been fighting to deploy military spy satellites here at home, but they have faced strong opposition in Congress. In fact, we thought we had defeated the proposed program when Democrats in Congress refused to fund the program until the General Accounting Office (GAO) could look into privacy and civil liberties issues raised by the program. The GAO just finished its 60-page report on the program concluding that adequate privacy and civil liberties safeguards have not been put into place yet – nonetheless, funding for the program found its way into a \$634 billion omnibus funding bill that passed Congress with little debate, and was signed by the President on September 30. The funding restricts the spy satellite program to emergency response and scientific needs, and requires safeguards to be put into place before it can be expanded to homeland security or law enforcement. We still don't like it – the funding allows the Department of Homeland Security to launch the program, with the potential to expand it without the necessary safeguards in place.

Looking for a Good Read?

Bud and Ruth Schultz's beautiful new book, [We Will Be Heard](#) presents more than 90 profoundly inspiring first-person accounts and portraits of courageous individuals who have stood up for their constitutional and human rights in the face of repression by the American government. You will find stories of old friends and new heroes. Get the book at www.powells.com

