



The ACLU in the Courts since 9/11

The judiciary was established as a check on the other two branches of government. It is the first line of defense for individuals who believe their civil liberties have been violated and for many, the last resort.

Since Sept. 11, 2001 the American Civil Liberties Union has received many complaints about government secrecy, domestic spying, discrimination, illegal search and seizure, detentions without charges and government attempts to stifle dissent. Because actions taken by the Bush administration and Congress under the pretext of rooting out terrorism threatened fundamental constitutional protections without making us safer, the ACLU took its concerns to the courts.

In some cases, the ACLU filed direct challenges to unconstitutional policies; in others, it filed friend-of-the-court briefs supporting lawsuits filed by others. Here is a summary of its recent litigation to safeguard democracy in a time of crisis:

SECRECY: CHALLENGES UNDER THE FREEDOM OF INFORMATION ACT AND RELATED STATE LAWS

Center for National Security Studies, et al. v. U.S. Department of Justice

On Dec. 5, 2001, the ACLU, the Center for National Security Studies and others filed a challenge to the federal government's refusal to disclose basic information about individuals arrested and detained since Sept. 11, 2001. On Aug. 2, 2002, U.S. District Court Judge Gladys Kessler ordered the government to release the names of detainees and their attorneys. "Unquestionably," she said in her opinion, "the public's interest in learning the identity of those arrested and detained is essential to verifying whether the government is operating within the bounds of law." She did not order the release of the date of arrest, location of arrest or location of detainees, and her order allows for any detainee to opt out of the disclosure requirement by requesting that his/her name be kept secret. However, the government appealed.

Status: Judge Kessler issued a stay of her order after the government sought an expedited appeal in the D.C. Circuit Court of Appeals. Plaintiffs then filed a cross-appeal. Oral argument before the appeals court took place on Nov. 18; a decision is pending.

ACLU of New Jersey v. County of Hudson

This case stemmed from the denial of a Nov. 28, 2001 request by the ACLU of New Jersey under state law for the names of all Immigration and Naturalization Service detainees held in Hudson and Passaic County jails. The lawsuit, filed on Jan. 22, 2002 in New Jersey Superior Court, argued that New Jersey state law requires disclosure of the information. On March 27,

(More)

2002, in a widely quoted opinion, New Jersey Superior Court Judge Arthur D'Italia granted access to the records, calling secret arrests "odious to a democracy." The government announced its intention to appeal and was granted a 45-day stay of the ruling. On April 22, the Department of Justice issued an interim regulation that purported to override state law in New Jersey and elsewhere by prohibiting state and local officials from releasing the names of INS detainees housed in their facilities.

Status: On the basis of the Justice Department's interim regulation, the state court of appeals reversed the trial court, and the New Jersey Supreme Court declined further review, effectively ending the case.

ACLU of Massachusetts FOIA request

On Dec. 9, 2002, the ACLU of Massachusetts filed a Freedom of Information Act request seeking details on government surveillance of college professors and students nationwide. The request was prompted by disclosures that a police officer at the University of Massachusetts campus at Amherst was recruited by the Federal Bureau of Investigation to spend several days a week working exclusively for its Anti-Terrorism Task Force. In its request, the ACLU asked for information that would allow it "to assess the nature and scope of FBI activities at U.S. colleges and universities," including records about the enlistment of campus security officers to serve the interests of the FBI, any guidelines or documents about questioning of students and faculty, and the name of every university campus security or police officer recruited after Sept. 11, 2001 who is now working under the direction and control of the FBI. Federal law requires that the FBI respond to the request within ten days.

Status: The FBI has yet to respond to the request.

National Council of La Raza et al. v. U.S. Department of Justice

On April 14, 2003, the ACLU filed a Freedom of Information Act lawsuit on behalf of a coalition of seven groups seeking disclosure of a new Department of Justice policy granting local police unprecedented powers to enforce non-criminal immigration laws. According to the lawsuit, the Attorney General has adopted a new policy that allows state and local police to arrest and detain certain immigrants who are believed to be in violation of non-criminal provisions of the federal immigration laws. Despite repeated requests, the Department has refused to release the new policy or its legal basis to the public. The ACLU said in legal papers that the Attorney General has overruled a 1996 Justice Department policy, and that the change "would constitute a dramatic departure from prior policy and practice on an issue of national importance, with profound consequences for citizens and immigrants alike."

Status: The case is pending.

(More)

Rebecca Gordon et al., v. FBI et al.

On April 22, 2003, the ACLU of Northern California filed a federal lawsuit challenging secret “no fly” and other transportation watch lists. The lawsuit, filed in federal district court, follows two Freedom of Information Act and Privacy Act requests filed in the last five months. The lawsuit was necessary because the government has refused to confirm the existence of any protocols, procedures or guidelines as to how the “no fly” lists were created or to detail how they are being maintained or corrected and, importantly, how people who are mistakenly included on the list may have their names removed. The lawsuit seeks immediate disclosure of the requested records.

The ACLU filed the FOIA and Privacy Act requests on behalf of itself and peace activists Jan Adams and Rebecca Gordon last November. Earlier in 2002, both women were told by airline agents that their names appeared on a secret “no fly” list at San Francisco International Airport (SFO). The women were briefly detained by San Francisco Police while their names were checked against a “master” list. On March 12, the ACLU filed a records request with airport officials under the San Francisco Sunshine Ordinance and the California Public Records Act. On April 8, airport authorities released nearly 400 pages of documents which confirm that approximately 339 air passengers, between September 2001 and March 2003, were stopped or questioned at SFO in connection with the “no fly” list and other watch lists. An earlier Public Records Act request to airport officials had confirmed the existence of the “no fly” list, and that Gordon’s and Adams’ names had been checked against a “master” list. The scant public information that is available about transportation watch lists confirms that the Transportation Security Administration maintains at least two watch lists: the “no fly” list and a “selectee” list that establishes which air passengers are singled out for additional security measures.

Status: The case is pending.

SECRECY: CLOSED HEARINGS

Detroit Free Press v. Ashcroft

This lawsuit challenged a government policy imposing a blanket ban on media and public access (including family members) to immigration hearings of people detained after Sept. 11, 2001. A Sept. 21, 2001 memo from Chief Immigration Judge Michael Creppy to all immigration judges required the closure of all deportation proceedings to the public and the press when directed by the Justice Department.

The ACLU and its Michigan affiliate filed the challenge on behalf of Rep. John Conyers (D-MI), the Detroit News and the Metro Times, a weekly newspaper. Their reporters were among hundreds turned away from deportation hearings in the case of Rabih Haddad, a Muslim community leader from Ann Arbor who had co-founded an Islamic charity suspected of supporting terrorist activities. The ACLU challenge was consolidated with one brought by the

(More)

Detroit Free Press. On April 4, 2002, Judge Nancy G. Edmunds of the U.S. District Court in Michigan granted the ACLU's motion for a preliminary injunction against use of the policy in Haddad's case and held that the newspapers had established a likelihood of success on the claim that the blanket closure of deportation hearings was unconstitutional.

Status: On Aug. 26, a three-judge panel of the Sixth Circuit Court of Appeals unanimously upheld Edmunds' opinion; it was the first such decision by a federal appellate court. In that much-quoted opinion, Judge Damon Keith wrote, "Democracies die behind closed doors." On Jan. 22, 2003, the Sixth Circuit denied the government's petition for a rehearing before the full court.

North Jersey Media Group, Inc. and New Jersey Law Journal v. Ashcroft

This was a second challenge to the government policy blocking media and public access to immigration hearings of people detained after Sept. 11. The national ACLU and the ACLU of New Jersey filed the case on March 6, 2002 in the U.S. District Court in New Jersey on behalf of two local media organizations whose reporters had been blocked from attending routine proceedings.

On May 29, Chief U.S. District Judge John W. Bissell rejected the government's blanket policy of secrecy, in a ruling that he said applied not just in New Jersey but also nationally. Without the ban on secrecy, Judge Bissell said, "the government could continue to bar the public and press from deportation proceedings without any particularized showing or justification. This presents a clear case of irreparable harm to a right protected by the First Amendment." The government asked for a stay of the ruling, which was denied by Judge Bissell and then denied on appeal by the Third Circuit Court of Appeals. The stay was ultimately granted by the U.S. Supreme Court, pending the outcome of arguments in the Third Circuit, which took place on Sept. 17, 2002.

Status: On Oct. 7, 2002, a three-judge panel of the Third Circuit ruled 2-1 that immigration hearings involving people detained after Sept. 11 may be closed by the government without the input of the court. On Dec. 4, a request for a rehearing of the case by the full Third Circuit was denied by a 6-5 vote. The ACLU filed a petition for *certiorari* asking the Supreme Court to review the case.

On May 27, 2003, the Supreme Court declined the ACLU's request. However, the ACLU was pleased with the government's argument effectively abandoning its policy. In its brief opposing Supreme Court review, the government said it was not currently conducting any more secret hearings and that its policies relating to secret hearings are under review and will "likely" be changed.

(More)

SURVEILLANCE

ACLU et al. v. U.S. Department of Justice

In Aug. 2002, the ACLU filed a Freedom of Information Act request demanding that the Department of Justice provide information about the pervasiveness of domestic spying. It made the request jointly with the Electronic Privacy Information Center, the Freedom to Read Foundation, and the American Booksellers Foundation for Free Expression.

Status: When the Attorney General failed to respond to the FOIA request, the ACLU and its coalition partners filed suit to force a response. After the suit was filed in October 2002, the Attorney General released approximately 350 pages of responsive material. The released records provide a glimpse into the nature and extent of FBI surveillance after the Patriot Act. A feature on the records that the ACLU was able to obtain is posted on our website, at http://www.aclu.org/patriot_foia/

In May 2003, a federal district judge in Washington held that the FOIA does not require the Attorney General to disclose further information about the FBI's use of new surveillance power. The judge found, however, that public advocacy groups had advanced a "compelling argument that the disclosure of this information will help promote democratic values and government accountability." The ACLU is hopeful that the court's decision will be useful in persuading Congress to step up its oversight of FBI surveillance. Some of the records that the ACLU obtained through the FOIA will likely be used to support a constitutional challenge to the Patriot Act's more egregious surveillance provisions.

In re Appeal from July 19, 2002 Opinion of the United States Foreign Intelligence Surveillance Court

In the first case of its kind, the ACLU and a coalition of civil liberties groups filed a friend-of-the-court brief before a secret appeals court, urging it to reject the Justice Department's radical bid for broadly expanded powers to spy on U.S. citizens. At issue in this case -- which has focused a spotlight on the ultra-secret Foreign Intelligence Surveillance Court -- is whether the Constitution and the USA PATRIOT Act adopted by Congress after the Sept. 11 terrorist attacks permit the government to use looser foreign intelligence standards to conduct criminal investigations in the United States. The ACLU said that expanding government surveillance powers "would also jeopardize other constitutional interests, including the First Amendment right to engage in lawful public dissent, and the warrant, notice, and judicial-review rights guaranteed by the Fourth and Fifth Amendments."

Status: The ACLU filed its brief on Sept. 20, 2002 and the review court accepted it on Sept. 24, but held a hearing in which it allowed only the government to appear. On Nov. 18, ruling for the first time in its history, the review court issued a decision approving the

(More)

Justice Department bid to broadly expand its powers to spy on U.S. citizens. On Feb. 1, the ACLU, the National Association of Criminal Defense Lawyers and two Arab-American organizations filed a motion to intervene and petition for certiorari with the U.S. Supreme Court asking it to review this expansive new interpretation of the government's surveillance powers. On March 24, Supreme Court's rejected that request. The ACLU said it will continue to press Congress and the courts to curb abuse of government spy powers, noting that the Court's action was not a ruling on the merits of the challenge.

MATERIAL WITNESS DETENTIONS

United States v. Osama Awadallah

Osama Awadallah, a Jordanian-born college student, was charged last year with making two false statements during a grand jury proceeding arising out of the terrorist attacks of Sept. 11. The charges were later dropped, but they could have cost him up to 10 years in prison.

Awadallah was held by the U.S. government -- often shackled and in solitary confinement -- for a total of 83 days, from Sept. 21 until Dec. 13, 2001. He was initially held on a material witness warrant. After his appearance before a grand jury 20 days following his detention, he was indicted on charges of perjury because he had denied knowing the name of one of the Sept. 11 terrorists.

In May 2002, Judge Shira A. Scheindlin of the U.S. District Court for the Southern District of New York dismissed the perjury charges against him and ruled that his detention as a material witness without being charged was unlawful. Authorities "made several misrepresentations and omissions" to get an arrest warrant for Awadallah and then misapplied the material witness statute to have him testify before a grand jury, she said. "If the government has probable cause to believe a person has committed a crime, it may arrest that person," she wrote. "But since 1789, no Congress has granted the government the authority to imprison an innocent person in order to guarantee that he will testify before a grand jury conducting a criminal investigation." Scheindlin also criticized authorities for treating Awadallah in a manner "more restrictive than that experienced by the general [prison] population." He was kept in prolonged solitary confinement even before he was charged with a crime.

Status: On Nov. 22, the ACLU filed a friend-of-the-court brief urging a federal appeals court to uphold the ruling that the government unlawfully used the material witness statute to detain Awadallah. A decision in the case is pending.

(More)

In re Application of the United States for Material Witness Warrant (Abdallah Higazy)

At issue in this case is the government's attempt to suppress a report concerning a confession obtained from an Egyptian student arrested for alleged involvement in the World Trade Center attack. The student, Abdallah Higazy, was arrested in Dec. 2001 and charged with lying about ownership of a ground-to-air radio that reportedly had been found in a safe in his room at a hotel at the World Trade Center, where he was staying when the attacks occurred. Federal Judge Jed Rakoff ordered Mr. Higazy held without bail after the federal government reported to the judge that Mr. Higazy had confessed to owning the radio in an FBI interrogation. Two weeks after the supposed confession, another person came forward to claim the radio, and Mr. Higazy was fully exonerated.

Judge Rakoff then demanded that the government explain how it had obtained a confession from Mr. Higazy. After the government refused to complete the investigation and to provide a report to Judge Rakoff, he ordered that it do so by Oct. 31. The government filed a report that day but asked that it not be released to the public.

The NYCLU then entered the case as co-counsel for Mr. Higazy and filed a motion with Judge Rakoff arguing that well-established law required disclosure of the report. The NYCLU also argued that the current national controversy over coerced confessions made release of the report particularly important.

Status: On Nov. 22, 2002, the federal government informed Judge Rakoff that it agreed with the position of the NYCLU and would consent to release of the report. Judge Rakoff released the report on Nov. 25.

DISCRIMINATION LAWSUITS

Edgardo S. Cureg et al. v. Continental Airlines, filed in U.S. District Court in the District of New Jersey.

Michael Dasrath et al. v. Continental Airlines, filed in U.S. District Court in the District of New Jersey.

Hassan Sader et al. v. American Airlines Inc., filed in U.S. District Court in the Northern District of Maryland.

Arshad Chowdhury v. Northwest Airlines Corporation, filed in U. S. District Court in the Northern District of California.

Assem Bayaa et al. v. United Airlines, filed in U.S. District Court in the Central District of California.

These five lawsuits filed by the national ACLU and its affiliates in New Jersey, California and Maryland on June 4, 2002 accuse American, Continental, Northwest and United Airlines of discrimination against five men who were ejected from flights based on alleged prejudices

(More)

of airline employees and passengers. The American-Arab Anti-Discrimination Committee is a plaintiff in two of the cases and a private law firm, Relman and Associates, is co-counsel in the Chowdhury and Bayaa cases.

Status: The airlines have filed motions to dismiss the charges in some of the cases, all of which were denied. Further litigation is pending.

Samar Kaukab v. Maj. General David Harris

The ACLU of Illinois filed this case on Jan. 16, 2002 on behalf of Samar Kaukab, a 22-year-old U.S. citizen who was pulled out of a group of airline passengers and subjected to repeated and increasingly invasive searches based on her ethnicity and her religion. Ms. Kaukab's religion was evident because she was wearing a traditional head covering for Muslim women known as a hijab.

Status: The case has been assigned to U.S. District Court Judge Joan Lefkow. A hearing has not yet been scheduled.

Gebin v. Mineta

A challenge to the citizenship requirement for continuing employment imposed on screeners at the Los Angeles and San Francisco International Airports, filed Jan. 17, 2002 by the ACLU and its affiliates in California, on behalf of the Service Employees International Union and nine airport screeners.

As part of the Aviation and Security Transportation Act, noncitizens were barred from working as screeners even though no such requirement was put in place for airline pilots, flight attendants, mechanics or members of U.S. military. This provision of the new law affected an estimated 8,000 noncitizen screeners, most of whom lost their jobs as a result.

Status: On Nov. 13, 2002 a federal district judge in California denied a government motion to dismiss the ACLU challenge. Two days later, on Nov. 15, the same judge granted a court order that allows qualified, noncitizen airport screeners to remain on the job or be considered for jobs they lost. On May 20, 2003, the Ninth Circuit sent the case back to the district court for reconsideration based on a relatively minor change in the federal law.

Hamdy Abou-Hussein v. American Eagle Airlines, Inc.

The ACLU of Massachusetts filed a complaint with that state's Commission Against Discrimination on behalf of a U.S. citizen of Egyptian descent who last November was prevented from boarding a flight to Washington, D.C. from Logan Airport. Mr. Abou-Hussein is employed by a Navy contractor and has a security clearance to do underwater structural inspections of battleships before they are launched.

(More)

Status: The administrative complaint is pending, along with a separate complaint filed with the Federal Aviation Administration.

Rajcoomar v. U.S. Department of Transportation

In Sept. 2002, the ACLU filed a claim for damages on behalf of a 54-year-old Florida doctor of Indian descent who was handcuffed and detained by air marshals in Philadelphia because they “didn’t like the way he looked.” In letters sent to lawmakers in Philadelphia and Florida, ACLU officials described how Dr. Bob Rajcoomar became a victim of racial profiling after a flight on which air marshals subdued an unruly passenger and held other passengers at gunpoint for 30 minutes, refusing to allow anyone to get up, even to use the bathroom, after the disruptive passenger was subdued and shackled to his seat. After the plane landed, marshals also handcuffed Dr. Rajcoomar without explanation and turned him over to the Philadelphia police, who detained him for four hours.

Status: On April 14, 2003, the ACLU filed a federal lawsuit against the Transportation Security Administration (TSA) for civil rights violations stemming from the wrongful arrest of Dr. Rajcoomar. The lawsuit seeks damages and other sanctions on behalf of Dr. Rajcoomar and his wife Dorothy. In September, the ACLU sent a letter to the TSA urging federal officials to investigate the reckless actions of air marshals and to take steps to improve air marshal training or otherwise safeguard the public. The case is pending.

CITIZEN DETAINEES

Jose Padilla v. George W. Bush

The ACLU filed a friend-of-the-court brief on Sept. 26, 2002 supporting a challenge to the government’s decision to detain U.S. citizen Jose Padilla in a military jail without charges, trial, or access to a lawyer. First detained as a material witness in Chicago in May 2002, Padilla was later brought to New York, where the grand jury investigating the September 11 terrorist attacks is based. In June, President Bush declared Padilla an “enemy combatant,” and he was placed in military custody in a Navy brig in Charleston, South Carolina.

Status: On Dec. 4, 2002, Judge Michael B. Mukasey of the Southern District of New York rejected the government’s claim that it could hold Padilla indefinitely without any judicial scrutiny or access to counsel. Although acknowledging that the government’s determination is entitled to deference, Judge Mukasey ruled that Padilla is entitled to a court hearing to contest his designation as an “enemy combatant,” and to meet with his lawyer to prepare for that hearing. Judge Mukasey reaffirmed that ruling in a separate opinion issued on March 11, 2003. The case is now on appeal to the Second Circuit.

(More)

Yaser Hamdi v. Donald Rumsfeld

The ACLU filed a friend-of-the-court brief with the U.S. Court of Appeals for the Fourth Circuit in Oct. 2002, challenging the lawfulness of the government's decision to detain U.S. citizen Yaser Hamdi in a military jail without charges, trial, or access to a lawyer. On Aug. 16, 2002, a federal district court judge in Richmond, Virginia, ordered the government to produce additional evidence to support its decision to designate Hamdi as an "enemy combatant." Rather than comply with the judge's decision, the government appealed.

Status: On Jan. 8, 2003, the Fourth Circuit held that the government's minimal showing was nonetheless sufficient to detain Hamdi as an "enemy combatant" and to deny him access to counsel. Hamdi's lawyers have filed a motion for reconsideration by the entire Fourth Circuit.

SEARCH AND SEIZURE VIOLATIONS

In the Matter of 750A Miller Drive Leesburg, Va., et al.

The ACLU of Virginia filed a friend-of-the-court brief on May 3, 2002 on behalf of three Muslim establishments and ten Muslim families in Northern Virginia whose possessions government agents seized during raids in March. The ACLU argued that many of the items, especially books, magazines and pamphlets, should not have been taken because the First Amendment affords them extra protection against seizure. The ACLU also argued that the affidavits used as the basis for issuing the search warrants should be unsealed to determine whether the government had proper justification for taking the items.

Status: The court refused in May to unseal the affidavit for the warrants and rendered an unfavorable ruling on the return of property.

ASSET FORFEITURE / PROPERTY SEIZURE

Abdinasir Ali Nur v. U.S. Treasury Department

On Dec. 19, 2001, the ACLU of Washington filed claims with the U.S. Treasury Department on behalf of two Somali businessmen in Seattle, seeking fair compensation for more than \$300,000 in losses during a November raid by agents who sought assets of a completely separate money-transfer business.

Status: The U.S. Treasury has reimbursed the men for \$40,580 for checks it took in the raid. The ACLU continues to pursue claims for merchandise, including specially prepared halal meats (central to the religious practices of the Somali immigrants) destroyed in the raid; Nur estimated his losses at roughly \$250,000. The ACLU is also seeking the return of money that local Somalis sought to send to relatives abroad, sums frozen since the raid.

(More)

FIRST AMENDMENT

ACLU of Illinois v. General Services Administration

In Dec. 2001, the ACLU of Illinois filed a lawsuit challenging Chicago's closing of Federal Plaza, a central venue historically used for demonstrations, prayer vigils and the distribution of leaflets on important matters of public policy. The lawsuit was filed as an amendment to a pre-Sept. 11 complaint about overly restrictive leafleting policies.

Status: In March 2002, the city reopened the plaza in response to the ACLU lawsuit, and settled the leafleting complaint seven months later. It agreed not to deny a permit solely because another group already holds one to use the plaza at that time. This agreement specifically protects the rights of counter-demonstrators to express opposing views. On Nov. 26, the court approved a settlement agreement between the two parties.

Consolidated Government of Columbus v. Roy Bourgeois, Jeff Winder, Eric Lecompte, and Ken "Doe"

In Oct. 2001, the ACLU of Georgia came to the defense of demonstrators barred from holding an annual protest march at the entrance to Fort Benning. The groups included School of the Americas Watch, which opposes the training of foreign soldiers in schools operated by the U.S. military. Although marches had been allowed in the past, the city cited a need for increased security after Sept. 11.

Status: On Nov. 16, 2001, Federal Magistrate G. Mallon Faircloth ordered that the protest go forward in accordance with President Bush's charge for Americans to get back to their lives. As Faircloth saw it, his job was "to protect the American way of life," which in Columbus included the annual School of the Americas Watch march.

School of the Americas Watch v. Consolidated Government of Columbus, Georgia

On Nov. 13, 2002, the ACLU of Georgia filed a lawsuit challenging last-minute plans by the City of Columbus to conduct mass searches of over 10,000 marchers at the upcoming School of Americas demonstration on Nov. 17th. The ACLU asked for an immediate hearing and requested that the court stop the City's plan to search all protesters.

Status: The ACLU lost the hearing and filed an 11th Circuit appeal on Feb. 13, 2003, which was denied.

Peace and Justice Coalition v. Pleasantville

The ACLU of New Jersey threatened to sue the city of Pleasantville for trying to bar a post-Sept. 11 rally by the Peace and Justice Coalition under an overly restrictive local ordinance. The city had erected numerous obstacles to the permit application process and threatened to arrest demonstrators.

(More)

Status: After the ACLU entered the case, the city agreed to revise its policy. However, after negotiations over the revised ordinance proved unsatisfactory, the ACLU filed a First Amendment lawsuit in May 2003. The case is pending.

City of Lynchburg v. Payden-Travers

Acting on behalf of local anti-war protesters, the ACLU of Virginia challenged the Lynchburg City Code, which prohibits groups of more than five people from gathering in a public forum for a planned demonstration.

During Oct. 2001, Jack Payden-Travers and other members of the Lynchburg Peace Center began protesting the war in Afghanistan every Friday at the Monument Terrace in Lynchburg. During one of these demonstrations, Payden-Travers was arrested for protesting in a group of more than five without a permit. He was convicted of the misdemeanor in Lynchburg District Court on Dec. 11, 2001, and appealed his conviction to the Circuit Court. The ACLU filed a motion to dismiss the charges, arguing that the permit ordinance violates the First Amendment rights of free speech and public assembly.

Status: On April 23, 2002, the judge held that the ordinance violates the First Amendment and dismissed the case against Payden-Travers. The City of Lynchburg has filed a petition for appeal with the Virginia Supreme Court, which the ACLU has opposed. The Virginia Supreme Court has decided to hear the case. The ACLU is preparing a brief to be submitted the Virginia Supreme Court.

United States v. Richard Reid

The ACLU of Massachusetts filed a friend-of-the-court brief opposing a broad gag order that barred the accused “shoe-bomber’s” lawyer from talking to other lawyers, including anyone in his office, about his case.

Status: The government opposed the motion, but the court said that it was for the judicial branch, not the attorney general, to decide what was appropriate. The court gave Reid’s attorney permission to expand the number of people he talked to as long as the discussion related to the defense of Reid. However, the court did not allow the attorney to talk to the press and public about the case, except about general matters such as how Reid was being treated in prison. The government did not appeal the court’s decision and Reid subsequently pleaded guilty.

American-Arab Anti-Discrimination Committee and Imad Chammout v. City of Dearborn

On Jan. 21, 2003, the ACLU of Michigan filed a federal lawsuit against the City of Dearborn challenging the constitutionality of a city ordinance that makes it a crime to protest unless a permit is obtained at least 30 days before the event. The lawsuit was filed on behalf of the American-Arab Anti-Discrimination Committee, a national civil rights organization with offices in Dearborn, and Imad Chammout, a Dearborn resident and business owner.

Dearborn officials prosecuted Chammout last spring for participating in a march without a permit, a crime punishable by up to 90 days in prison and a \$500 fine. The march, which was not organized by Chammout, was held to protest Israeli policies a few days after Israeli soldiers entered into a Palestinian refugee camp in Jenin.

Status: A hearing date has not yet been set.

Handschu v. Special Services Division

In 1985, the NYCLU and others negotiated a comprehensive settlement agreement with the New York City Police Department establishing a set of procedures and safeguards designed to address past abuses regarding political surveillance. In 2002, the Police Department asked the Court to relax those restrictions in the wake of September 11th. The NYCLU opposed the motion.

Status: On Feb. 11, 2003, U.S. District Judge Charles Haight argued that the original Handschu agreement could be modified to permit the NYPD to conform its practices to the new (and relaxed) FBI surveillance guidelines.

United for Peace and Justice v. City of New York

As part of a worldwide demonstration on Feb. 15, 2003, antiwar protestors requested permission to march past the United Nations in New York City. In an unprecedented response, the NYPD refused to allow any march at all, insisting instead that the demonstrators be routed to a stationary rally. The NYCLU sued on their behalf.

Status: On Feb. 12, 2003, the Second Circuit affirmed the District Court denial of the preliminary injunction.

###

For more information on these cases, go to
<http://www.aclu.org/SafeandFree/SafeandFreeMain.cfm>

Updated 6/11/03