

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. **08-cv-00910-MSK-MJW**

AMERICAN CIVIL LIBERTIES UNION OF COLORADO,
AMERICAN FRIENDS SERVICE COMMITTEE,
AMERICAN INDIAN MOVEMENT OF COLORADO,
AMERICANS FOR SAFE ACCESS,
CODEPINK,
ESCUELA TLATELOLCO CENTRO DE ESTUDIOS,
LARRY HALES,
GLENN MORRIS,
RECREATE 68,
ROCKY MOUNTAIN PEACE & JUSTICE CENTER,
DAMIAN SEDNEY,
TENT STATE UNIVERSITY,
TROOPS OUT NOW COALITION, and
UNITED FOR PEACE & JUSTICE,
Plaintiffs,

v.

THE CITY AND COUNTY OF DENVER, COLORADO,
MICHAEL BATTISTA,
THE UNITED STATES SECRET SERVICE, and,
MARK SULLIVAN,
Defendants.

DECLARATION OF CHRISTOPHER DUNN

I, **Christopher Dunn**, declare under penalty of perjury of the laws of the United States of America, as follows:

1. I am over the age of 18. I am competent to give testimony in this matter. The statements contained herein are based upon my personal knowledge. This declaration is being given in connection with Plaintiffs' First Motion For Preliminary Injunction and the proceedings related thereto.

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2. I am the Associate Legal Director of the New York Civil Liberties Union (“NYCLU”), a position I also held in 2004. In the nine months leading up to the Republican National Convention in New York City that started at the end of August 2004, the NYCLU represented nearly every major group that was seeking permits from the New York City Police Department (“NYPD”) for convention-related protest activity. I was the NYCLU representative who led the negotiations on behalf of these groups. Because of this, for many months I had ongoing dealings with top-level NYPD officials who were planning for the convention

3. I also served as lead counsel in two cases filed by the NYCLU in November 2003 that sought preliminary injunctive relief restricting certain NYPD demonstration policing practices that the NYPD was expected to use during the convention. Following an evidentiary hearing in June 2004, Southern District Judge Robert W. Sweet issued a decision in July 2004 finding that certain NYPD practices violated the First Amendment rights of protesters and issued a subsequent preliminary injunction. *See Stauber v. City of New York*, No 03-9162, 2004 WL 1593870 (S.D.N.Y. July 16, 2004), *as amended by* 2004 WL 1663800 (S.D.N.Y. July 27, 2004); *Stauber v. City of New York*, No. 03-9162, 2004 WL 1683166 (S.D.N.Y. July 27, 2004). That preliminary injunction remained in place for the convention.

4. I am also one of the co-authors of the report “Rights And Wrongs at the RNC: A Special Report about Police and Protest at the Republican National Convention,” published by the NYCLU in 2005. A true and correct copy of that report is attached hereto as **Exhibit A**.

5. The Republican National Convention in 2004 was held in Madison Square Garden in New York City from August 30, 2004, to September 2, 2004. Madison Square Garden is located between Seventh and Eighth Avenues, at 31st and 33rd Streets. A map of the

convention site is included in the "Rights and Wrongs" report, at page 7. *See* Ex. A, at 7.

6. On June 26, 2004, more than two months before the start of the convention, the New York Police Department publicly announced its intention to use the area of Eighth Avenue just south of Madison Square Garden as the designated protest area for the convention. A true and correct copy of a news story in the *New York Times* reporting on this announcement is attached hereto as **Exhibit B** (Winnie Hu, et al., "GOP Arrival to Close Streets and Divert Feet near Garden," *New York Times*, June 26, 2004).

7. At the front of this designated protest area, just north of the intersection of Eighth Avenue and 30th Street, the New York Police Department provided a stage for use by the organizations conducting rallies in the designated protest area. Based on my personal knowledge of the location of the demonstration area and my familiarity with the lengths of blocks in midtown Manhattan, I estimate that the stage and the portion of the demonstration area closest to the stage were within 150 yards of Madison Square Garden itself. (In fact, during the first day of the conventions, buses carrying delegates actually traveled through the designated protest area itself.)

8. During our extensive negotiations with police officials concerning the manner in which demonstration activities would be policed, police officials disclosed numerous aspects of their plans related to expected marches and rallies. In fact, the Police Department's plan to use "pens" to corral demonstrators was not only known well in advance of the convention, it was the subject of a motion for preliminary injunction by the NYCLU and a full evidentiary hearing at which police officials testified about their plans to use the pens and other security measures at the convention. This testimony was offered in open court, with full public access. (Ultimately,

Judge Sweet issued an injunction restricting the manner in which the city could use the police pens. *See Stauber*, No. 03-9162, 2004 WL 1683166 at *1.)


9. At no time prior to or after the Police Department's announcement of the specific location of the designated protest area for the convention did anyone with the Police Department, or anyone else with whom I had contact during the negotiations with the City of New York over protest activities at the convention, ever state or suggest that the disclosure of the specific location of the designated protest area would compromise security for the convention.

10. Although police engaged in various tactics to confine and control protest activities during the convention, see "Rights and Wrongs," Ex. A, there is no evidence of which I am aware indicating that the disclosure of the location of the designated protest area ever undermined the ability of police to maintain public safety during the convention.

11. I personally was present at the designated protest area during much of the time of the convention, and I did not observe any breakdown of the security measures that separated the protest area from Madison Square Garden. I also know of no such breakdown during times when I was not present and, given my substantial involvement with the NYPD during the convention, I would know if there had been any such breakdown.

12. The foregoing is true and correct, to the best of my recollection.

Executed this 3rd day of June, 2008.

By: 
Christopher Dunn
Associate Legal Director, New York Civil
Liberties Union