

**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.**

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**DECLARATION OF JOHN REINSTEIN**

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I, **John Reinstein**, under penalty of perjury of the laws of the United States of America,  
declare 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.

2. I am the Legal Director of the American Civil Liberties Union of Massachusetts (“ACLU-Massachusetts”), a position I also held in 2004. At that time, I was the lead attorney representing the ACLU-Massachusetts in the negotiations with the City of Boston and its police department concerning arrangements for protest activities at the Democratic National Convention in Boston in July 2004. I also was one of the counsel of record for the plaintiffs in the litigation in Boston that led to the decisions reported at *Coal. to Protest the Democratic Nat’l Convention v. City of Boston*, 327 F. Supp. 2d 61 (D. Mass.), and *Bl(a)ck Tea Soc’y v. City of Boston*, 378 F.3d 8 (1st Cir. 2004).

3. The Democratic National Convention in 2004 was held at what was then known as the FleetCenter in Boston from July 27 to 29, 2004. The FleetCenter was located on Causeway Street, just west of Haverhill Street. A map of this area, showing what is now known as the TD Banknorth Garden, is attached hereto as **Exhibit A**.

4. Shortly after the announcement that Boston would host the Democratic National Convention in 2004, representatives of the ACLU-Massachusetts began discussions with officials of the Boston Police Department concerning arrangements for demonstration activities in conjunction with the convention.

5. Fully nine months before the convention, police officials showed representatives of the ACLU-Massachusetts a mock-up of the designated demonstration zone that they then planned to locate on a triangular space on North Washington Street. This location, however, prompted objections from various organizations, including the ACLU-Massachusetts, because the location was not within sight and sound of where the delegates would be congregating at the FleetCenter, and the city had failed to make arrangements to accommodate rallies within the

zone.

6. On May 6, 2004, the *Boston Globe* published a news story on the negotiations between activist organizations and the Boston Police Department over parade and demonstration zone arrangements, and with that story, the newspaper also published a diagram showing the detailed location of the “hard-security” perimeter, the “soft-security” perimeter, and the location of a newly proposed location for the demonstration zone that would be closer to the convention site and the delegates. See Rick Klein, “Convention protests must meet new rules,” *Boston Globe*, May 6, 2004 (copy attached as **Exhibit B**). The security perimeters and the demonstration zone locations reflected in this diagram were in fact what came to be implemented during the actual convention two-and-a-half months later.

7. Representatives of the ACLU of Massachusetts and other groups also met with lawyers or representatives of the City of Boston, the Massachusetts State Police and the United States Secret Service to discuss the plans for parades and demonstrations at the Democratic National Convention.

8. As a result of the extended negotiations between the Boston Police Department and the activist organizations, including the ACLU-Massachusetts, the city agreed to re-locate the planned demonstration zone to a 29,000-square foot area just south of Haverhill Street, within sight and sound of where the delegates were expected to be loading and unloading from their shuttle buses. The agreement between the parties as to the selection of this particular location was made known to the public prior to May 18, 2004.

9. Also as part of the agreement with the city to establish the demonstration zone within sight and sound of the delegates, the city also agreed to provide a stage and a sound

amplification system within the demonstration zone for use by organizations conducting rallies in the zone.

10. As part of our negotiations with the Police Department over the arrangements for demonstration, representatives of the ACLU-Massachusetts conducted a 90-minute walk-through of the demonstration zone on May 24, 2004, to investigate what measures would need to be taken to accommodate the expected demonstration activities. As a result of that walk-through, the city committed to clean up construction materials and other debris that had been left on the site from the “The Big Dig” project, and city representatives described to us the various barrier and security mechanisms that the city intended to use around the demonstration zone.

11. A significant understanding of the parties at the time of their agreement on this site for the demonstration zone was their expectation that the then-existing unused elevated tracks of the MBTA Green Line, crossing over the site, would be demolished before the convention.

12. In the weeks just prior to the convention, however, after it was apparent that the elevated tracks would not be demolished in time for the convention, as had been anticipated, we were informed of changes in the security arrangements for the demonstration zone from what had previously been presented to us. It was at this point that the plaintiffs in the *Coalition to Protest* case sought relief from the federal court.

13. At no point, however, in all of our discussions with officials from the City of Boston, the Boston Police Department, the Massachusetts State Police and the U.S. Secret Service did anyone ever indicate that public disclosure of the location, capacity, or security arrangements for the demonstration zone would create a security risk. In fact, those security

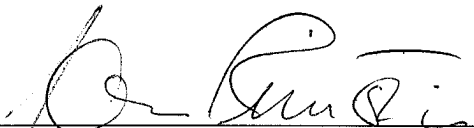
arrangements were extensively discussed with representatives of the activist organizations well in advance of the convention.

14. I am not aware of any evidence suggesting that the public disclosure of the location of the demonstration zone more than two-and-a-half months before the actual convention caused any detriment to the ability of police to maintain public safety during the convention.

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

Executed this 3rd day of June, 2008.

By:



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John Reinstein  
Legal Director, American Civil Liberties  
Union of Massachusetts