

## Summer of Protest

by Gail Robinson

Monday, June 21, 2004 12:00 AM -

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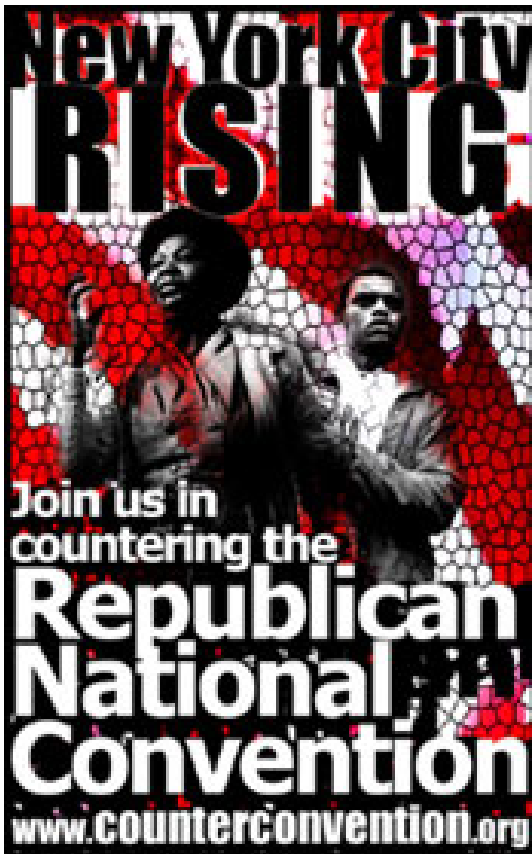
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In 15 years of protesting, Mary Finelli had never been arrested until she visited New York, and took part in an animal rights protest scheduled to coincide with the meeting of the World Economic Forum.

"It was quite an organized march," she recalled. "Everyone was walking single file. It was very well-behaved."

Police were out in full force, Finelli said, and demanded the protesters disperse, but then blocked them from leaving. "The next thing we knew, everybody was being arrested," said Finelli, who spent two days in a cockroach-ridden cell with dirty mats to sleep on and no privacy, even in the bathroom.

Civil liberties advocates complained of such treatment two years ago, and they fear that it will

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be repeated this summer, when many thousands of people plan to gather in New York to protest the Republican convention from August 30 to September 2. Last week, the City Council held hearings on the issue of how the city has, and should, handle protests.

Police concede they are wary.

"The threat of terrorism is just about paramount in all of our thinking for all of these events," Chief of Department Joseph Esposito told reporters recently. "We'd have to be out of our minds not to have that as the paramount concern."

Dan Perez, an attorney who has filed suit on behalf of Finelli and others arrested during the World Economic Forum protests, counters that even when fears of terrorism run high, the First Amendment still stands. "Unless we want to live in an outright police state, we have to put up with protest and demonstrations."

Meanwhile, more than a dozen groups have requested permits to march or rally during the convention and not received them so far. So far, only the labor group, the AFL-CIO, seems close to winning approval for its plans to protest Bush administration policies while the Republicans are in town.

City officials say again and again that they will protect the right to protest. "The bottom line is if you want to express yourself in this city you are free to do so," Mayor Michael Bloomberg said last week. But the questions some ask are - how far, and how fair?

### **GIULIANI, BLOOMBERG AND PROTEST**

Protesters have long encountered [official resistance](#) in New York as elsewhere in the country. At the turn of the 20th century, New York police met picketing workers with nightsticks and arrest. During World War I, police arrested some 2,000 New Yorkers for opposing U.S. involvement in that conflict.

Following what many considered police excesses during the 1960s and '70s, the city adopted a more tolerant attitude toward political activism. In 1985, for example, the police agreed to limit

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their surveillance of lawful political activity, such as protests and meeting.

But the official tolerance of protest faded during the Giuliani administration. Mayor Rudolph Giuliani [limited access to City Hall plaza](#) for press conferences and protests. At the 1998 "Million Youth March" in Harlem, police [restricted the movements of marchers](#) by confining them in pens, then stormed the stage to end the rally and buzzed the crowd with helicopters.

"People who hold views unpopular with Mayor Giuliani and his administration routinely have to go to court to win the right to hold marches in New York City," the New York Times said in a 1998 editorial.

Norman Siegel, a lawyer who used to head the New York Civil Liberties Union, said he brought about some 27 challenges against the Giuliani administration on First Amendment issues and won virtually all of them. The former mayor, Siegel says, was "the quintessential authoritarian."

But the rocky relationship between the city and protesters has continued into the Bloomberg administration, exacerbated by security concerns after the terror attacks of September 11, 2001. "The Bloomberg administration is less forgiving of dissent than the Giuliani administration, and I never thought I'd say that," said Perez.

Days after Bloomberg took office, the police department went to court, asking that it be allowed to [increase its surveillance of political activity](#), even when no law was being broken. The department said the rules adopted some 18 years earlier were "not workable in the context of terrorism." The court largely agreed.

Soon after, the World Economic Forum, which usually meets in Davos, Switzerland, came to New York City to show solidarity with the city following September 11. The New York Times hailed the police handling of protests at the event. But Perez has filed suit on behalf of about 35 people arrested during the conference. One key issue is that people arrested for protesting were detained for 40 hours, more than twice as long as the average person arrested during the conference for other offenses. "It seems punitive. It seems retaliatory," Perez said.

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The war in Iraq further increased tensions, culminating in the February 15, 2003, protests against the U.S. action. While cities around the world allowed protests against the impending war, New York City police cited security concerns and refused to grant a permit for a march past the United Nations. Police directed demonstrators to block-long pens created with barricades. More than 250 people were arrested, many for trying to get to the rally. Others tried to leave but were prevented from doing so.

"It was not their finest moment," said Siegel.

In a suit filed over the city's handling of the protests, the [New York Civil Liberties Union](#) seeks to stop the police from such tactics as putting up barricades and using horses to control crowds, as well as searching demonstrators and detaining people in vans for long periods of time without food, water, or access to bathrooms.

"The NYPD crackdown on peaceful protest that happened at the anti-war protests [in 2003] cannot be repeated at the convention," the union's associate legal director, Christopher Dunn, said when the case was filed last year.

City officials have blamed the demonstrators themselves for many of the problems. Mayor Michael Bloomberg faulted United for Peace and Justice, which sponsored the demonstration, for refusing to discuss possible alternate march routes.

And police department officials testified that they would not rule out some of the tactics they have used in the past. Esposito, for example, said the department might use pens again.

### **THE PERMIT ISSUE**

By early June, some 15 different groups had requested police permits for 20 to 25 events immediately before and during the Republican convention, according to Paul Brown, deputy commissioner for public information. The department had asked that anyone needing a sound permit or a march permit for the convention period submit their request by June 15, but has now extended the deadline to late July.

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The police have not disclosed the criteria they will use in deciding whether to grant or deny the permits. "Applications will be reviewed taking into consideration the needs of the community businesspeople, the commuters and needs of security," an unidentified Police Department official recently told Newsday.

So far, no permit has received final approval. According to a police spokesperson, the department has offered the AFL-CIO 8th Avenue and 30th Street for a rally on September 1, but the labor federation has not officially accepted and received the permit. Clearly, though the AFL expects the demonstration to go ahead. In a written announcement, it announced the Labor Day rally -- five days before the actual holiday -- to "protest the Bush administration's policies."

And a group called [One People's Project](#) reportedly received a permit for a concert in Tompkins Square Park only to have it revoked by the parks borough commissioner for Manhattan.

The other organizations are still waiting. Activists hoping to hold protests say the delay in granting permits complicates planning and creates confusion. "Permits delayed are permits denied," Councilmember Bill Perkins said during the hearings on the protest issue last week.

The lack of permits galls many protesters who see the city making huge efforts -- ad campaigns, special events, reduced rates, closed streets -- to welcome the Republicans. "Mayor Bloomberg has indicated numerous times he's rolling out the red carpet for the Republicans National Convention," says Bill Dobbs of United for Peace and Justice. "Well he's slamming the door on people who hold opposing views."

So far, the most attention has focused on the request by United for Peace and Justice, an anti-war coalition, to hold a rally on the Great Lawn in Central Park the day before the convention. The Parks Department [denied](#) the request, saying it would damage the grass, which it restored in 1996, (See related stories [for](#) and [against](#) the permit.) While the area once held huge crowds for special events, the department says the lawn can no longer accommodate more than 80,000 people. The protest organizers anticipate 250,000.

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The city has offered an alternative site in Flushing Meadows Park or on West Street. Neither is acceptable, says Dobbs. The Queens site is too far away and West Street is far from mass transit and completely unsheltered, which could present health risks to demonstrators on a hot summer afternoon.

In its fight for the permit, the group attracted an odd array of allies including the pro-war New York Post which reminded the city, " 'Keep Off The Grass' appears nowhere in the First Amendment."

But Park Commissioner Adrian Benepe has said the issue is not one of quashing protest but protecting a cherished part of New York. "Central Park is a respite from the city, a place for people to lay out and picnic," Benepe told the [Washington Post](#) . "They have a right to protest, but they don't have a right to destroy the Great Lawn."

Negotiation continues between groups planning demonstrations and the city, with each side accusing the other of delay tactics.

And activists are pursuing other avenues as well. Last week a City Council committee approved a resolution calling on the city to "protect and uphold First Amendment rights. And U.S. Representative Major Owens of Brooklyn and other members of the New York congressional delegation have sent the mayor what they term a "Memorandum of Understanding" that they would like him to sign. It asks that that city allow demonstrations near Madison Square Garden, refrain from investigating protesters participating in legal demonstration and train police on First Amendment issues.

The memo has been sent to the city law department for review.

The possibility of court challenges looms if the city denies permits. In fact, one protester already has plans to go to court. Patrick Mahoney, of the Christian Defense Coalition, said he will seek a restraining order against New York for "crushing the First Amendment." He claimed the city has not told him when or how he can demonstrate -- or acted on his request to have some 1,500 people pray outside Madison Square Garden on August 28. "I think the city of New York

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wants a sanitized event," he told reporters. "If they had their way, they would put a fence around Manhattan and just let the delegates in."

### **STIFLING DISSENT?**

While they probably agree with him on little else, many of the other demonstrators share Mahoney's belief that the city is making a concerted effort to stifle dissent

There is, says Siegel, an "atmosphere of almost a criminalization of dissent. ... Protesters cannot discount the possibility that the hampering of the right to protest is because of the content of the protest."

Jeff Fogel, legal director of the Center for Constitutional Rights, which is representing some of the organizations seeking permits, questions the approach of city officials. "They don't get the first amendment," he said. "They don't take it seriously. It's the organic law of the United States."

In a written testimony submitted to City Council, State Assemblyman Richard Gottfried called upon the city government to "learn from history." He continued, "There may be some in the Republican Party who think that provoking disruption on our streets will benefit them politically. The Bloomberg administration should not be playing into their hands."

### **ENSURING SAFETY?**

But Bloomberg and Police Commissioner Raymond Kelly say that, along with protecting the right to protest, they have other concerns. In explaining the denial of the permit for the Central Park rally, Bloomberg has cited public safety. "What we have to do in this city," he said, "is make sure people have a right to protest . . . and people that want to go about their business without protesting, they have rights too."

One anonymous police department official told New York magazine, "We have more important things to worry about than a bunch of wannabe revolutionaries and anarchists. They're amateurs. It's the professionals, the terrorists, that we're focused on."



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Law enforcement officials in Boston, which will be the site of the Democratic convention in July, have issued stringent rules for protest permits during the gathering and announced plans to search people. This even though the Democratic convention promises to attract far fewer protests -- and will not be attended by a sitting president. And, citing fears of terrorism, Boston officials have announced plans to close North Station and miles of roads, including a major highway.

The FBI has termed both conventions targets for possible terrorist attacks, although no specific threats have been reported. The March bombings of commuter trains in Madrid days before Spain's elections increased the concern. "Whether the events in Madrid actually affected the election, the terrorist mind might think that they did affect the election process," Pasquale Damuro, assistant FBI director has said. "So of course there's a concern that they would possibly look at trying to conduct a terrorist attack during the conventions here to try to affect the election."

Law enforcement officials worry that terrorists can use legitimate rallies as a cover for more nefarious activities. "There is an added awareness of needing to break demonstrators into smaller groups because, inevitably, you will have some people among them who will want to cause serious trouble," security consultant Bo Dietl told the [Christian Science Monitor](#) .

Even Siegel concedes that 9/11 "does change the balance. It's a different field." And, he says, the civil rights community has to acknowledge that. But he and others believe the city can make things safer by being more forthcoming about its plans. "The overwhelming majority of protesters who come to demonstrate are peaceful and non violent," he said. "The government makes a huge mistake in not showing the respect to protesters that they should get."

The fact that the Republican Party will meet in a state where the president's approval is a paltry 36 percent according to a recent Quinnipiac University poll - and probably even lower in the city - presents additional problems. "What's really complicating the whole security scheme . . . on top of all the protesters and terrorism stuff is this president," former Deputy Police Commissioner John Timoney told a British reporter recently. "There just seems to be this visceral dislike of him, more so than anyone we've seen in the past. The expectation is that you're going to get a lot of motivated people showing up."

For now, the city has been close-mouthed, not only about the permits but about security for the convention in general, including what streets may be closed, restrictions on businesses near the

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garden and other possible measures.

With so much still unclear two months before the Republicans arrive in town, no one can be sure how the protesters and police will deal with one another. Many people will protest -- permit or no permit. The level of organizing and the web activity heralding one event or another, requesting rides, looking for housing, all indicate a massive effort is underway that will almost certainly not stop.

Whether the event will be peaceful or not, remains to be seen. After all the city of Chicago went to great lengths to woo the 1968 convention only to see it turn into a disaster as club-swinging police confronted anti war protesters outside the convention hall. In the end, the Democrats lost the election and the city -- and its mayor -- lost their reputations.