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PCJF wins settlement in illegal arrest case in D.C.

Tuesday, November 10, 2009

Peaceful protestors targeted for wearing black

The Partnership for Civil Justice Fund (PCJF) is pleased to announce a victorious settlement on behalf of eight people who were illegally arrested following April 20, 2002 lawful anti-war and IMF/World Bank protests. In this landmark case, the arrestees, who were never prosecuted for the false arrests, were politically targeted by law enforcement, in part based on the black clothing that some were wearing. Following their arrests, they were interrogated about their political beliefs by a secret intelligence unit of the FBI. The case, which has been litigated for six years by attorneys at the PCJF, was about to go to trial.

The case of [Bolger, et al. v. District of Columbia, et al.](#) Civil Action 03-0963, United States Court for the District of Columbia, has been settled for \$450,000 and changes in police procedures and policies. The District will pay each of the eight arrestees \$25,000 plus \$250,000 in attorneys' fees, which is in addition to the approximately \$200,000 the District has already paid in the course of the litigation for attorneys' fees including sanctions for its discovery misconduct. The arrests have been expunged.

The settlement also provides equitable relief provisions requiring that the police department modify its policies and require that police officers formally sign off on, and document, any effort by federal authorities to gain access to interview or interrogate protestors.

"This unconstitutional interrogation could never have occurred but 'off the books' and under cloak of secrecy and cover-up. The FBI and MPD long denied that it occurred, representations that were proven in the course of the litigation to be false," stated Mara Verheyden-Hilliard, an attorney with the PCJF.

"The MPD gave a secret FBI intelligence unit access to interrogate the protestors on video," stated Carl Messineo, attorney with the PCJF. "The FBI interrogators demanded disclosure of their political activities, associations, names of friends and associates, and even demanded disclosure of an arrestee's religious beliefs. Law enforcement took images of their political literature and materials, examined their bodies and photographed any political tattoos."

Background Information

This is the first nationally recorded case of alleging protestors were falsely arrested because they had been protesting in black, a color which police associated with holding anarchist or anti-capitalist political beliefs.

The MPD falsely arrested the protestors, charging them with "unlawful entry" into a garage on K St. following a lawful protest, even though police records—originally hidden—documented that at the scene, prior to the arrests, the MPD interviewed a building employee who attested he invited the group to park in the garage on the Saturday afternoon when it would be relatively empty. The protestors also showed police at the scene that they had not entered unlawfully but entered using the employee's electronic key card that opened the garage door to facilitate their invited entry.

For years, the MPD denied allowing the FBI to engage in the interrogations. The MPD denied the FBI was even on the scene.

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Ultimately, FBI agents identified Sergeant Jeffrey Madison of the MPD's Intelligence Unit as having allowed them access. Evidence developed by the plaintiffs showed that members of a joint MPD-FBI intelligence team had infiltrated the group earlier in the day, at the demonstration rally site, and proceeded with protestors to the garage.

The cover-up continued for years as MPD's attorneys represented that the MPD's Joint Operations Command Center did not create a running resume or log of the underlying events. After years of intense efforts resulting in a nearly \$100,000 sanction against the MPD for discovery violations, plaintiffs' counsel proved that not only had the MPD created the running resume, but that it had been in the possession of the MPD's Office of General Counsel all along. The running resume duly noted that the FBI was on the scene and interviews of the arrestees were being conducted. This foreshadowed even broader evidence of MPD evidence secretion, loss and destruction as has been documented in [Barham, et. al. v. Ramsey, et al.](#), Civil Action 02-2283 pertaining to the mass false arrest at Pershing Park in September, 2002, in which the PCJF is also counsel.

[Click this link to read](#) the Washington Post article on the settlement victory.

The Partnership for Civil Justice Fund (PCJF) is a not-for-profit legal and educational organization which, among other things, seeks to ensure constitutional accountability within police practices. The PCJF recently won a unanimous ruling at the D.C. Circuit Court of Appeals finding the MPD's unprecedented military-style police checkpoint program unconstitutional. PCJF is counsel on still pending class action lawsuits against the District for the mass false arrests of more than 1,000 persons during First Amendment protected demonstrations, among other litigation. The PCJF previously uncovered and disclosed that the D.C. police employed an unlawful domestic spying and agent provocateur program in which officers were sent on long-term assignments posing as political activists and infiltrated lawful and peaceful groups. For more information go to: www.JusticeOnline.org.