



City of Chicago
Richard M. Daley, Mayor

Department of Law

Mara S. Georges
Corporation Counsel

Commercial and Policy Litigation
Suite 900

30 North LaSalle Street
Chicago, Illinois 60602-2530
(312) 744-9010
(312) 744-6912 (FAX)
(312) 744-9104 (TTY)

<http://www.cityofchicago.org>

LEGAL NOTICE TO ALL EMPLOYEES OF THE CITY OF CHICAGO

By the consent of the City of Chicago, the United States District Court for the Northern District of Illinois entered an order, dated April 8, 1982 and modified March 2, 2001, that provides an added measure, via the Court's contempt powers, to protect an individual's First Amendment rights. The Court's order, as modified, requires the City to distribute a copy of the order to "[a]ll current employees of the City of Chicago, and all future employees at the time of their hiring[.]" Accordingly, a copy of the Court's order, as modified, is served upon you.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALLIANCE TO END REPRESSION, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	
CITY OF CHICAGO, <i>et al.</i> ,)	
)	
Defendants.)	Civil Action Nos.
)	74 C 3268
<hr/>		
AMERICAN CIVIL LIBERTIES UNION, <i>et al.</i> ,)	75 C 3295
)	
Plaintiffs,)	Judge Joan B.
Gottschall)	
)	
v.)	
)	
CITY OF CHICAGO, <i>et al.</i> ,)	
)	
Defendants.)	

STATEMENT OF JURISDICTION

This court has jurisdiction over the parties to these consolidated cases and over the subject matter of these actions pursuant to 28 U.S.C. §§ 1331 and 1343(3).

STATEMENT OF PRINCIPLES

1. The First Amendment of the United States Constitution protects the rights of every person to freedom of speech, press, assembly, petition, and religion, including without limitation the rights to hold, communicate and receive ideas and beliefs, to speak and dissent freely, to associate for the advancement of litigation, to write and publish, to advocate and organize concerning public policy and social issues and to associate publicly and privately with other persons concerning political and social issues. These rights are subject to reasonable time, place, and manner regulations supported by an appropriate governmental interest, and, with a few

exceptions, conduct that is forbidden without reference to whether it is being used for expression may be forbidden even when used for the purpose of expression.

2. The Fourth Amendment of the United States Constitution protects the rights of every person to be secure in person, house, papers and effects against unreasonable searches and seizures, including the right to be secure in communications which are engaged in with a reasonable expectation of privacy. This Amendment protects the innocent and the guilty alike against government intrusion not justified by an appropriate governmental interest or function.

3. The Fourteenth Amendment guarantees to every person equal treatment under the law unless an appropriate governmental interest justifies a difference in treatment.

INJUNCTION

The City of Chicago, its officers, employees, and agents, and all persons in active concert or participation with them who receive actual notice of this Decree, are hereby enjoined as follows:

1. No agency or agent of the City of Chicago shall
 - a) investigate, prosecute, disrupt, interfere with, or harass any person for the purpose of punishing or retaliating against that person for engaging in conduct protected by the First Amendment, or for the purpose of preventing them from engaging in such conduct, although nothing in this Decree shall enjoin reasonable investigative or law enforcement activities that are permitted by the First Amendment;
 - b) discriminate against any person on the basis of their conduct protected by the First Amendment, except as may be permitted by law;
 - c) authorize, assist, or encourage any person to violate this Decree, or to commit an act that would violate this Decree if committed by a City agent.

2. All current employees of the City of Chicago, and all future employees at the time of their hiring, shall be served with a copy of this Decree.

3. In each of the next five years, the Superintendent of Police shall conduct a departmental audit of the Police Department's compliance with this Decree, and submit copies of

the audit report to the Mayor, the Police Board, and this court for filing as a public record. The annual report shall include a summary of any internal disciplinary complaints concerning compliance with this Decree and the findings made and the actions taken on such complaints.

4. The Chicago Police Board shall review the Superintendent's audit annually, and may request such additional information as it deems necessary to monitor compliance with this Decree, and shall report to the Mayor, the Superintendent of Police, and the public concerning its findings.

5. The Chicago Police Board shall also cause an audit of the City's compliance with the terms of this Decree to be performed by a national independent public accounting firm within five years of the entry of the order adopting this modified Decree. The audit report shall contain a description and evaluation of any conduct believed by the auditors to constitute a probable violation of the Decree. The Police Board may require further investigation of any such possible violations. The audit report, together with any additional findings or recommendations made by the Board, the Superintendent of Police, or the Mayor shall be made public. For the purpose of these audits, or for any other investigations compliance with this Decree, the Board and the auditors engaged by the Board shall have access to all relevant data in the possession of the City except that the auditors shall not have access to information specifically identifying confidential information or to current criminal investigations that the Superintendent of Police states might be compromised by disclosure to the auditors. The auditors shall not disclose any information to anyone but the Board, the Superintendent of Police, or (upon his request) the Mayor. The Board shall not disclose in any manner details that specifically identify any investigations except as otherwise permitted by law, nor shall it disclose in any manner information that would reveal the identity of a confidential informant, compromise an ongoing criminal, regulatory, or employee disciplinary investigation, or constitute an invasion of a person's privacy.

6. If the Board, the Superintendent of Police, or the head of any other City Department learns of any probable substantial violation of this Decree, the matter shall be promptly referred to the Superintendent of Police (or, if the matter involves personnel of a City

agency other than the Police Department, to the Inspector General). The Superintendent of Police or the Inspector General, as the case may be, shall cause an investigation to be made and shall report to the Board, the Superintendent, and the head of the agency who made the report the results of the investigation. Where the result of the investigation supports the finding of a violation, the Superintendent or other agency head shall in turn report to the Board what corrective action has been taken, including what disciplinary proceedings have been instituted or completed.

RETENTION OF JURISDICTION

The court expressly retains jurisdiction to enable the parties to the Decree to apply to this court for the enforcement of compliance with the provisions contained herein, and for the punishment of any violation of such provisions. Application to enforce the provisions or to impose punishment for any such violation may be presented to the court by any person affected by the conduct complained of. Prior written notice of all such applications shall be given to counsel for the named parties to this action. Except where emergency relief is sought, seven days written notice shall be given.

TERM OF DECREE

Upon completion of the independent audit called for in this order, and its submission to the court, the court will consider whether further modification or dissolution of this Decree is warranted at that time.

(ORIGINAL SIGNED DECREE
ON FILE IN THE LAW DEPARTMENT)
ENTER: /s/ _____
Judge, United States District Court
Northern District of Illinois

DATED: MARCH 2, 2001

Attachment No. 1

Alliance to End Repression v. City of Chicago, No. 74 C 3268

American Civil Liberties Union v. City of Chicago, No. 75 C 3295

MODIFIED CONSENT DECREE

STATEMENT OF JURISDICTION

This court has jurisdiction over the parties to these consolidated cases and over the subject matter of these actions pursuant to 28 U.S.C. §1331 and 1343(3).

STATEMENT OF PRINCIPLES

1. The First Amendment of the United States Constitution protects the rights of every person to freedom of speech, press, assembly, petition, and religion, including, without limitation, the rights to hold, communicate and receive ideas and beliefs, to speak and dissent freely, to associate for the advancement of litigation, to write and publish, to advocate and organize concerning public policy and social issues and to associate publicly and privately with other persons concerning political and social issues. These rights are subject to reasonable time, place, and manner regulations supported by an appropriate governmental interest, and, with a few exceptions, conduct that is forbidden without reference to whether it is being used for expression may be forbidden even when used for the purpose of expression.

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1. No agency or agent of the City of Chicago shall

a) investigate, prosecute, disrupt, interfere with, or harass any person for the purpose of punishing or retaliating against that person for engaging in conduct protected by the First Amendment, or for the purpose of preventing them from engaging in such conduct, although nothing in this Decree shall enjoin reasonable investigative or law enforcement activities that are permitted by the First Amendment;

b) discriminate against any person on the basis of their conduct protected by the First Amendment, except as may be permitted by law;

c) authorize, assist, or encourage any person to violate this Decree, or to commit an act that would violate this Decree if committed by a City agent.

2. All current employees of the City of Chicago, and all future employees at the time of their hiring, shall be served with a copy of this Decree.

3. In each of the next five years, the Superintendent of Police shall conduct a departmental audit of the Police Department's compliance with this Decree, and submit copies of the audit report to the Mayor, the Police Board, and this court for filing as a public record. The annual report shall include a summary of any internal disciplinary complaints concerning compliance with this Decree and the findings made and the actions taken on such complaints.

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5. The Chicago Police Board shall also cause an audit of the City's compliance with the terms of this Decree to be performed by a national independent public accounting firm within five years of the entry of the order adopting this modified Decree. The audit report shall contain a description and evaluation of any conduct believed by the auditors to constitute a probable violation of the Decree. The Police Board may require further investigation of any such possible violations. The audit report, together with any additional findings or recommendations made by the Board, the Superintendent of Police, or the Mayor shall be made public. For the purpose of these audits, or for any other investigation that the Board may wish to conduct to investigate compliance with this Decree, the Board and the auditors engaged by the Board shall have access to all relevant data in the possession of the City except that the auditors shall not have access to information specifically identifying confidential informants or to current criminal investigations that the Superintendent of Police states might be compromised by disclosure to the auditors. The auditors shall not disclose any

information to anyone but the Board, the Superintendent of Police, or (upon his request) the Mayor. The Board shall not disclose in any manner details that specifically identify any investigations except as otherwise permitted by law, nor shall it disclose in any manner information that would reveal the identity of a confidential informant, compromise an ongoing criminal, regulatory, or employee disciplinary investigation, or constitute an invasion of a person's privacy.

6. If the Board, the Superintendent of Police, or the head of any other City Department learns of any probable substantial violation of this Decree, the matter shall be promptly referred to the Superintendent of Police (or, if the matter involves personnel of a City agency other than the Police Department, to the Inspector General). The Superintendent of Police or the Inspector General, as the case may be, shall cause an investigation to be made and shall report to the Board, the Superintendent, and the head of the agency who made the report the results of the investigation. Where the result of the investigation supports the finding of a violation, the Superintendent or other agency head shall in turn report to the Board what corrective action has been taken, including what disciplinary proceedings have been instituted or completed.

RETENTION OF JURISDICTION

The court expressly retains jurisdiction to enable the parties to the Decree to apply to this court for the enforcement of compliance with the provisions contained herein, and for the punishment of any violation of such provisions. Application to enforce the provisions or to impose punishment for any such violation may be presented to the court by any person affected by the conduct complained of. Prior written notice of all such applications shall be given to counsel for the named parties to this action. Except where emergency relief is sought, seven days written notice shall be given.

TERM OF DECREE

Upon completion of the independent audit called for in this order, and its submission to the court, the court will consider whether further modification or dissolution of this Decree is warranted at that time.

END OF TEXT OF MODIFIED CONSENT DECREE

Attachment No. 2**JUDGMENT ORDER CONCERNING ATTORNEY-CLIENT RELATIONSHIPS****CASE NO. 76 C 1982**

The plaintiff having filed its complaint, and the plaintiff and the defendants having consented to the entry of this agreed order, judgment, and decree as to such parties without trial or adjudication of any factual allegation in the complaint or any issue of fact with respect to the alleged commission by said defendants of any unconstitutional, unlawful, or wrongful act, and without this Judgment constituting evidence of or an admission by any defendant with respect to any issue of fact herein or the commission of any unconstitutional, unlawful, or wrongful act;

Plaintiff in its complaint alleges in part:

1. surveillance at meetings of the attorneys and other individuals employed by, or working under the auspices of, the plaintiff, and the compilation of reports listing all persons in attendance at these meetings and detailing the statements made during these meetings;
2. use of secret informers and undercover agents to attend and report on private meetings and discussions during which attorneys employed by or working under auspices of the plaintiffs were engaged in private and privileged discussions related to pending and potential litigations;
3. maintenance by the Chicago Police Department of files reporting on the activities of the plaintiff and its employees, agents, and cooperating attorneys, including reports on meetings attended by officers, agents or employees of plaintiff, and further including detailed summaries of confidential or privileged conversations relating to the planning, investigation, prosecution of potential and pending lawsuits in state and federal courts;
4. disseminating and making available, both to other law enforcement agencies and to individuals not involved with the functions of law enforcement, the information collected and maintained in the files of the Chicago Police Department relating to and reporting on the activities of the plaintiff;
5. all done with the improper purpose of interfering with the attorney-client relationship and with the intent of obtaining confidential and privileged information relating to pending and potential lawsuits;

Defendants deny the above five allegations of plaintiff's complaint. The parties however agree

that the public interest requires the observance of and respect for the attorney-client privileges;

NOW, THEREFORE, this court having jurisdiction of the parties to this Agreed Order, Judgment and Decree and the subject matter of these actions under sections 1331 and 1343 (3) of Title 28 of the United States Code; and upon consent of the parties and approval of the court, it is hereby ORDERED, ADJUDGED AND DECREED as follow:

The City of Chicago, the individual defendants, their officers, employees, and agents, and all persons in active concert or participation with them [hereinafter referred to as defendants], are hereby permanently enjoined as follows:

I. PROHIBITED ACTIVITY.

- A. Defendants shall not conduct surveillance at, gather information or compile reports on, or maintain files or records regarding, meetings or communications, if--
1. as to the meeting or communication, there is a reasonable expectation of privacy and that the attorney-client privilege will attach; and
 2. the meeting or communication--
 - a. is between--
 - 1) attorneys discussing the giving of legal advice or assistance in anticipated or pending litigation; or
 - 2) an attorney and one seeking legal advice or assistance in anticipated or pending litigation; or
 - 3) an attorney or attorneys and one or others engaged in assisting the attorney in the rendering of such advice or the giving of such assistance; and
 - b. involves--
 - 1) the giving or seeking of legal advice; or
 - 2) anticipated or pending litigation.

- B. This prohibition shall not apply:
1. if the attorney, attorneys, or their assistants are, by such meetings or communications, participating in criminal activity; or
 2. to a person who is a police officer, if such a person—
 - a. is know to the other participants in the meeting or conversation as a police officer; or
 - b. both—
 - 1) is attending the meeting or participating in the conversation as a private individual; and
 - 2) does not in his or her capacity as a police officer report on the meeting or conversation to any other defendant, except as allowed in I.B.1.

II. ENFORCEMENT.

A. Institutional.

1. Training:

Training with respect to the requirements of this Judgment shall be provided to new recruits as part of the Police Academy curriculum; and on a continuing, in-service basis to personnel of the Bureau of Investigative, and Community Services, all district tactical units, and all other units likely to engage in investigative activity.

2. Notice to defendants.

All present employees of the Chicago Police Department, and, in the future, all new employees, before resuming or assuming their official duties, shall be given a copy of this Order. In addition, the summary attached hereto as "Exhibit A" shall be given, through enclosure in pay envelopes or by a similar method, to each Chicago Police Department employee no less frequently than once every five years.

3. Internal reporting.

At any point at which any defendant knows or, by the use of reasonable diligence, should know that any defendant is engaged in activity prohibited by Part I hereof, the defendant with such knowledge shall have the duty to report such activity in writing to his or her immediate superior. Such superior shall have the duty to forward a copy of this written report, along with the superior's report, if any, to the office of the Superintendent of Police.

B. Judicial.

1. Continuing jurisdiction.

This court shall retain jurisdiction of this cause for the enforcement of this Order and to punish violations thereof.

a. Persons who may apply for sanctions.

Application to enforce this Order or to punish violations thereof may be presented to this court by any person affected by the conduct complained of.

b. Notice.

Prior written notice of all such applications and other matters in this action shall be given to counsel for the named parties hereto. Except where emergency relief is sought, seven days notice shall be given.

2. Private action for damages.

Any person affected by the conduct complained of, independent of a request to this court for sanctions, may bring an action for damages if such cause of action apart from this order exists in state or federal court.

III. ANCILLARY MATTERS.

- A.** This judgment represents the agreed disposition of all substantive claims by plaintiff against defendants.

B. The court expressly finds, pursuant to Federal Rule of Civil Procedure 54(b), that there is not just reason for delay, and directs that this judgment be entered forthwith.

C. **Attorney's Fees.**

Plaintiff will petition the court to determine whether and in what amount fees and costs will be awarded with respect to the matters resolved by this Agreed Order, Judgment and Decree. Defendants will file objections. The parties have made no agreement with respect to these questions.

END OF TEXT OF JUDGMENT ORDER (76 C 1982)

Attachment No. 3**Nelson v. Streeter, et.al., No. 88 C 5434****JUDGMENT ORDER****PURPOSE**

In the course of our daily activities, we may be confronted with situations in which an audience is hostile to the lawful expression of some individual or group of individuals. An angry crowd may gather around an individual making a speech in a public park, or people may assemble to protest an art exhibit they find offensive. All individuals have the right to express their opinions, but no one has the right to interfere with the expression of others.

In these types of hostile audience situations, we as police officers have important obligations. We have a general duty to maintain public order and to protect persons and property from harm; these are important governmental interests. But we have an equally important duty under the First Amendment to protect lawful expression from a hostile audience.

The purpose of this Department directive is to provide some guidance to Department members facing a hostile audience situation.

BACKGROUND

The First Amendment protects the rights of all persons to freedom of speech. In enforcing the protections of the First Amendment, we must approach our responsibilities with the neutrality of professionalism. We must protect the free speech rights of all persons, even if we as individuals do not personally like or agree with the particular message or position or philosophy espoused. Likewise, we must protect lawful expression even if other people are offended by it. These are fundamental principles embodied in the Department's mission statement and in the Law Enforcement Code of Ethics we have sworn to uphold.

Of course, not all speech is protected under all circumstances. For example, the government also has the right to impose reasonable time, place and manner restrictions on speech. Likewise, the expression of lawful speech does not excuse the commission of other, unlawful behavior. As police officers, we have an obligation to arrest individuals who are violating the law, even if they are also engaged in First Amendment activity. Except for specific circumstances such as these, however, we have a duty to enforce the broad protections of the First Amendment vigorously and impartially.

No person has a right to violate any applicable state law or municipal ordinance merely

because that person is engaging in expressive activities. Such persons may be cited or arrested, as appropriate, and any physical evidence relevant to the offense may be seized. When an individual has not violated any law, however, and the threat to public order arises solely from the reaction of a hostile audience, we must protect First Amendment rights.

The Department's responsibilities in hostile audience situations are not trivial or insignificant. The open expression of ideas is one of our nation's most cherished freedoms. It is a fundamental principle that sets us apart from so many other nations.

For police personnel, the First Amendment carries particular importance. As part of the community, all of us as individuals enjoy and frequently exercise our First Amendment rights. As police officers, we have a unique obligation to uphold and protect the free speech rights of all members of the community, regardless of how unpopular or controversial their ideas may be. This is a unique responsibility that we are uniquely qualified to carry out.

PROCEDURES

In a hostile audience situation, where there are threats to a speaker, artist, exhibitor or art work, or where there is a danger of harm to persons or property, police officers should endeavor to proceed as follows:

1. Where art work or other expressive material is involved, officers should try to establish who has possessory rights to the material, including ownership and the right of custody.
2. Assuming that the speaker, artist or exhibitor is lawfully present on the property, officers should advise them of their right to continue their expression at the original site, except under the circumstances identified below.
3. If the speaker, artist or exhibitor decides to continue its expression at the original site, officers should commence or continue police protection so as to allow the continued expression, except under the circumstances identified below.
4. Officers should summon a supervisor to the scene who will determine if the assignment of additional police personnel is necessary.

Where police officers determine that expression cannot continue at the original site due to the activities of persons hostile to the expression, police officers should endeavor to proceed as follows:

1. The highest ranking sworn member on the scene, or if reasonably possible, the Superintendent or a member acting in his stead will determine: (a) that all police

resources reasonably available have been deployed to maintain the peace and allow the expression to take place; (b) that police efforts to take direct action against those violating the law have not been successful; and (c) that there is a threat of imminent violence that police are unable to control.

2. If reasonably possible, officers should consult with Department or City of Chicago legal advisors.

3. The expression may be discontinued at the original site where the highest ranking sworn member on the scene, or if reasonably possible, the Superintendent or a member acting in his stead, determines that order can be restored only by taking the expressive material into protective custody, or otherwise discontinuing the expression, and that available alternatives of continuing private custody have been considered and cannot be employed.

4. Any seizure into protective custody of expressive material must be of the shortest possible duration. The material seized will be inventoried and shall be returned to its owner or custodian at the earliest opportunity, and police protection continued as required by the circumstances at the original site. The owner should be advised of his right to immediately reclaim the expressive material at the unit of inventory.

END OF TEXT OF JUDGMENT ORDER (88 C 5434)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Joan B. Gottschall	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	74 C 3268 & 75 C 3295	DATE	3/23/2001
CASE TITLE	Alliance to End Repression vs. City of Chicago, et al		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] Enter Proposed Modified Decree nunc pro tunc 3/2/01. Original is filed in case 74 C 3268.

- (11) [For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices MAR 25 2001 date docketed locking deputy initials date mailed notice	Document Number 10
<input type="checkbox"/>	No notices required.			
<input type="checkbox"/>	Notices mailed by judge's staff.			
<input type="checkbox"/>	Notified counsel by telephone.			
<input checked="" type="checkbox"/>	Docketing to mail notices.			
<input type="checkbox"/>	Mail AO 450 form.			
<input type="checkbox"/>	Copy to judge/magistrate judge.			
RJ	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	