



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission

**FROM:** Commission Secretary's Office 

**DATE:** April 18, 2013

**SUBJECT:** Comments on Draft AO 2012-38  
(Socialist Workers Party)

**Attached are timely submitted comments from Lindsey Frank and Michael Krinsky on behalf of the Socialist Workers Party, Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party.**

**Attachment**



AOR 2012-38 (Socialist Workers Party)

Lindsey Frank

to:

chemsley

04/17/2013 05:05 PM

Cc:

kdeeley, rknop, NStipanovic, EHeiden, ABell, "Michael Krinsky"

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From: "Lindsey Frank" <lfrank@rbskl.com> Sort List...

To: <chemsley@fec.gov>

Cc: <kdeeley@fec.gov>, <rknop@fec.gov>, <NStipanovic@fec.gov>

<EHeiden@fec.gov>, <ABell@fec.gov>, "Michael Krinsky" <mkrinsky@rbskl.com>

2013 APR 17 PM 5:12

OFFICE

I Attachment



AO 2012-38\_SWP Comments.pdf

Dear Ms. Hemsley:

Attached please find the comments on the drafts of AO 2012-38 made by our clients, the Socialist Workers Party, the Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party.

A hard copy was sent by overnight Federal Express delivery earlier today.

Sincerely,  
Lindsey Frank

Lindsey Frank, Esq.  
Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C.  
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**From:** Lindsey Frank

**Sent:** Tuesday, February 12, 2013 1:33 PM

**To:** 'chemsley@fec.gov'

**Cc:** 'kdeeley@fec.gov'; 'rknop@fec.gov'; 'NStipanovic@fec.gov'; 'EHeiden@fec.gov'; 'ABell@fec.gov'; Michael Krinsky

**Subject:** RE: AOR 2012-38 (Socialist Workers Party)

Dear Ms. Hemsley:

I confirm that the requestors of the above-referenced advisory opinion agree to extend the deadline for the Commission to respond until April 30, 2013.

I also confirm that the requestors agree to file with the Commission by 10:00 a.m. on April 18, 2013 any comments on the drafts of AO 2012-38 that have been made public.

Thank you for your courtesies.

Sincerely,  
Lindsey Frank

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**From:** chemsley@fec.gov [<mailto:chemsley@fec.gov>]  
**Sent:** Tuesday, February 12, 2013 1:02 PM  
**To:** Lindsey Frank  
**Cc:** kdeeley@fec.gov; rknop@fec.gov; NSTipanovic@fec.gov; EHelden@fec.gov; ABell@fec.gov  
**Subject:** AOR 2012-38 (Socialist Workers Party)

Dear Mr. Frank,

Pursuant to our phone conversation today, the Commission will agree to your proposal to defer consideration of your clients' Advisory Opinion Request until the Open Session scheduled for April 25, 2013. Please confirm by return email that the requestors of the above-referenced advisory opinion agree to extend the deadline for the Commission to respond until April 30, 2013. Please also confirm that the requestors agree to file with the Commission by 10:00 a.m. on April 18, 2013 any comments on the drafts of AQ 2012-38 that have been made public.

Thank you.  
Cheryl Hemsley

Cheryl Hemsley  
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April 17, 2013

Federal Election Commission  
Office of General Counsel  
999 E Street, N.W.  
Washington, DC 20463

Dear Commissioners:

On behalf of our clients, the Socialist Workers Party, the Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party (hereinafter collectively, for convenience, "SWP"), we respectfully request that the Commission approve Draft A of Advisory Opinion 2012-38, with an extension of the partial reporting exemption until December 31, 2016, instead of December 31, 2015, as currently stated in Draft A.

The SWP strongly opposes Draft B of Advisory Opinion 2012-38 as it, *inter alia*: (1) fails to identify a sufficient factual basis to break with the Commission's long-standing, prior Advisory Opinions granting an exemption concerning the SWP; (2) applies the wrong legal standard in several material aspects, departing from well-established case law, including, but not limited to, long-standing Supreme Court case law concerning the SWP, among other minor parties; and (3) inaccurately describes the factual record before the Commission in important respects.

**Any one of these three errors would compel rejection of Draft B. Together, they provide overwhelming reason to reject Draft B and accept Draft A.**

**After much litigation, including by the SWP and others in the Supreme Court and other federal courts, faithfully applied by the Commission, a well-developed standard has been established concerning exemptions such as that of the SWP. Draft B so far departs from this standard in so many ways as to re-open this area of the law and needlessly invites a whole new round of consideration.**

**In response to some of the issues raised by Draft B and, in further support of its already extensive record of past threats, violence and harassment by the government and private persons, as well as pervasive fear among potential SWP supporters of threats, harassment and reprisals if they were to associate with or contribute to the SWP, the SWP provides still further evidence to support its request, namely:<sup>1</sup>**

- 58-59 Two declarations from two different SWP supporters, who had donated more than \$200 to the SWP during the 2012 presidential election campaign, stating that they may not continue to donate to the SWP if its reporting exemption is not granted because they would be concerned that their names as contributors would become public and they would be subject to threats, harassment or violence by the government or private persons as well as job harassment or firing.**
- 60. In Omaha, Nebraska in February 2013, an SWP supporter, while petitioning to put an SWP candidate on the ballot, was seriously publicly threatened by a man yelling, "You deserve to die you commie bastard. Go back to Cuba." This man said he was going to call his militia friends to come down and "beat the shit out of" the SWP supporter and proceeded to call one of his friends and told him to "Come down right away, I have a commie bastard down here; he's white, wearing a baseball hat, dark coat, and is around six feet tall. We need to beat the shit out of him." He also said he was going to call the cops. The man proceeded to follow the SWP supporter into a grocery store as the SWP supporter tried to avoid confrontation.**
- 61. A declaration from the editor of *The Militant* newspaper, which has offered editorial endorsement to the candidates of the Socialist Workers Party, in which he details instances of mail threatening physical attack or murder against *The Militant's* reporters or office.**

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<sup>1</sup> Exhibit numbers continue from the SWP's November 7, 2012 Request.

62. A declaration from the editor of *The Militant* newspaper, in which he describes five (5) instances of individuals quoted in articles in *The Militant* posted online, who have encountered difficulty in maintaining or getting a job because employers have found their quotes in *The Militant* when searching their names on the internet. These individuals asked that their names be removed for fear that they will continue to encounter difficulties in getting or keeping a job because of their association with *The Militant*.
63. In Boston in 2008, the Boston Police Department openly photographed and recorded individuals and political organizations engaged in lawful political activities in the Boston area. Because the government is surveilling these protests, in which the SWP and SWP candidates have and continue to participate, people considering contributing to or supporting the SWP campaign will reasonably conclude that the government is also surveilling the SWP and that SWP supporters will also be subject to harassment.
64. In Longview, Washington in 2011, the police conducted surveillance of protests and picket lines in which the SWP actively participated. Because the government is surveilling these union support rallies, in which the SWP and SWP candidates have and continue to participate, and the government and private persons are harassing these union supporters, people considering contributing to or supporting the SWP campaign will reasonably conclude that the government is also surveilling the SWP and SWP supporters will also be subject to harassment.
65. A declaration of the chairman of the Socialist Workers National Campaign Committee demonstrating that the SWP has never been used to divert votes from another party's candidates.

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**ARGUMENT**

**I. Draft B's Assertion that the Record of Threats, Violence and Harassment Between 1990 and 2008 Is In "Substantial Decline" or "Minimal" Is Wrong.**

This section addresses Draft B's misinterpretation and misunderstanding of the record before the FEC concerning the SWP's history of suffering violence, threats and harassment between 1990 and 2008, Draft B, at 13-14. Draft B's misinterpretation and misunderstanding of the record before the FEC concerning incidents of violence, harassment and threats against the SWP since 2008, Draft B, at 14-20, is addressed below in Point III.

Draft B correctly acknowledges, as it must, that, under long-standing Supreme Court and Commission precedent, it must consider the history of threats, violence or harassment against the SWP by the government or private parties and not just events during the last reporting period. However, contrary to the substantial evidence provided by the SWP, Draft B then incorrectly proceeds to minimize this history. Its allegation that the record of threats, violence and harassment directed at the SWP or its supporters by governmental authorities or private parties since 1990 is in "substantial decline" and "minimal," is a patent misreading of the record. *See*

Draft B, at 13, 14.<sup>2</sup> Indeed, Draft B contradicts itself later by describing several incidents between 1990 and 2008 as “accounts of serious and widespread incidents by private parties.” Draft B, at 18.

Rather than declining, the number of incidents has actually increased since 1990. For the period 1985-1990, the SWP documented approximately 28 incidents of threats, harassment or reprisals. *See* SWP Submission to the FEC, dated July 2, 1990. For the 1990-1996 period, the SWP documented 72 incidents of threats, harassment or reprisals. *See* SWP Submission to the FEC, dated January 17, 1997. For the 1996-2002 period, the SWP documented 74 incidents of threats, harassment or reprisals. *See* SWP Submission to the FEC, dated February 13, 2003. For the period 2002-2008, the SWP documented 76 incidents of threats, harassment or reprisals. *See* SWP Submission to the FEC, dated January 13, 2009.

Also, as evidenced by this record, since 1990, the SWP and its supporters have suffered a long and continuous list of serious threats, violence and harassment, including, but not limited to, having “incendiary material ... thrown ... into a local SWP headquarters ... setting the front part of the building on fire and causing considerable damage” (2009-01, at 7); bullets fired through windows of SWP’s headquarters (1996-46, at 5; 1990-13, at 6); a continuous string of broken windows (2009-01, at 7; 1996-46, at 5; 1990-13, at 6); a swastika and a “White Power” sign spray-painted on the building that housed the SWP office in Alabama (1996-46, at 5); animal parts and products, such as pigs feet, chicken livers and eggs, strewn over and shoved in the SWP’s campaign headquarters in Iowa (2002 AO Request, at 33); physical assaults at informational tables (2009-01, at 7; 1996-46, at 5; 1990-13, at 6); threats of harm made in

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<sup>2</sup> Draft B misstates the SWP’s position on page 6 (emphasis added) – “[t]he SWP argues that, along with the lengthy history of government harassment and disruption that ended prior to 1990, ...” The SWP never alleged that the history of government harassment and disruption ended prior to 1990. In fact, the SWP has provided the Commission with evidence of numerous instances of government harassment since 1990, as shown below. *See also, infra*, Point I(B).

person, by phone and by letter (2009-01, at 7-8 – e.g., an individual said he wanted to “put a bullet in every one of your heads”; 1996-46, at 5; 2003-02, at 7; 1990-13, at 6); and sanctions at work or termination of employment (2009-01, at 8; 2003-02, at 7; 1996-46, at 5).

Draft B does not point to any evidence to support its claim, contrary to the record, that the record of threats, violence and harassment since 1990 is in “substantial decline” or “minimal,” except to rely upon to an unfounded statement by the Commission in AO 2009-01, to which the SWP objected. *Compare* Draft B, at 14 *with* Comments of AO 2009-01 (dated March 17, 2009), at 3. Draft B cannot so simply dismiss the SWP’s well-founded record of persistent harassment.

In addition to being factually inaccurate, Draft B’s assertion neglects the fact that this allegedly “minimal” record has been sufficient for the Commission, over the last 22 years, to “conclude[] that there is a reasonable probability that contributors to, and vendors doing business with, the SWP and committees supporting SWP candidates would face threats, harassment, or reprisals if their names and information about them were disclosed.” AO 2009-01, at 11.

A. Draft B’s Assertion that “the Past Government Surveillance and Harassment of the SWP” Is “Distant” Is Also Wrong.

Even though private surveillance and harassment can provide as powerful grounds for exemption as government action, we note that Draft B’s statement is incorrect even as to governmental action. Draft B’s statement that “past government surveillance and harassment of the SWP” is “distant” is wrong. Draft B, at 14. For example, on May 16, 2007, two FBI agents arrived unannounced at the home of David Arguello, the 2006 Socialist Workers Party candidate for U.S. Congress, in San Diego, California, on the pretense that they had information from an anonymous source that Mr. Arguello advocated violence against the U.S. Government. *See* SWP

Submission to the FEC, dated October 30, 2008, at Ex. 19. The agents interrogated Mr. Arguello about his political views and activities and his interest in unionizing his workplace. *Id.*

In 2000, the FBI refused to provide security clearance to an SWP supporter and presidential elector so he could become a federal census worker, even though he had scored a 97 on the exam and was labeled a "priority hire." *See* 2000 AO Request, at 37-38. In 1998, two federal officers from the Federal Protective Service were seen taking close-up pictures of SWP supporters at a picket line protesting the U.S. policy in Iraq. *See id.*, at 42.

These are just some of the examples of government harassment about which the SWP knows. Furthermore, these examples must reasonably be considered just the tip of the iceberg. As was revealed through long and hard-fought litigation as well as congressional investigations, most of the government's surveillance and harassment is conducted covertly and is nearly impossible to detect. *See Socialist Workers Party v. Attorney General*, 642 F. Supp. 1357, 1404-07 (S.D.N.Y. 1986) (FBI's SWP Disruption Program was "a covert program ... intended not to be traceable to the FBI." It only came to light after hard-fought litigation. "[T]he FBI consumed a substantial amount of time ... trying to conceal from [the SWP] the actual facts about the SWP Disruption Program."). As just one known example discovered through the SWP's litigation, the more than 200 covert burglaries of the SWP offices and its members' homes that occurred in the 1940s-1960s were "intended ... [to] be carried out with complete secrecy." *Id.* at 1393-95, 1407. The Government, at the FBI's recommendation, at first falsely deny involvement in these burglaries during the course of the legal proceeding. *Id.* at 1408.

Moreover, over the past 22 years, the SWP has also been subjected to scores upon scores of incidents of harassment by police officers, who frequently demonstrate their explicit, deep-seated and politically-based bias toward the SWP (2009-01, at 8-9; 2003-02, at 7; 1996-46, at 5).

**B. Draft B's Requirement that the SWP Corroborate Its Evidence of Government Harassment with Statements by Government Officials Is Contrary To Longstanding Supreme Court Precedent.**

Draft B improperly attempts to undermine the extensive record presented by the SWP by suggesting that the SWP be required, for the first time, to corroborate its allegations of surveillance or harassment by the government with "statement by Federal officials indicating a need to gather information on the SWP," citing to the SWP's pre-1990 court cases. *See* Draft B, at 13-15. Not only has the Commission never imposed such a requirement, this requirement would be inconsistent with longstanding Supreme Court case law establishing a "low" evidentiary standard for exemption requests by minor parties and recognizing that minor parties can "rely on a wide array of evidence to meet" its burden. *John Doe No. 1 v. Reed*, 130 S. Ct. 2811, 2823, 2827 (2010) (J. Alito concur) (citing prior Supreme Court precedent; internal citations omitted) ("The burden of proof must be low ... From its inception, ... the as-applied exemption has not imposed onerous burdens of proof on speakers who fear that disclosure might lead to harassment or intimidation."). As the Supreme Court in *Buckley* held, "unduly strict requirements of proof could impose a heavy burden ... Minor parties must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim." 424 U.S. at 74.

The Supreme Court established this low evidentiary standard for good reason, as statements acknowledging covert surveillance and/or harassment, such as the ones Draft B would require, are not easy to obtain and, in most if not all cases, would require costly and time-consuming litigation that minor political parties, such as the SWP, can scarcely afford. This is unequivocally established by the SWP's own history of covert government surveillance and actions that only came to light through extensive, hard-fought litigation and congressional investigation.

Even if it were true that there is less direct evidence of Federal government harassment, compared with the evidence obtained through litigation in the 1980s, the SWP has provided ample evidence that, on the basis of the long history of threats, violence and harassment against SWP supporters by the government, coupled with the well-known, documented, post-9/11 efforts of the U.S. government to monitor domestic protest organizations, there is an increasingly pervasive and reasonable fear among potential SWP supporters that their support for, or association with, the SWP will subject them to threats, violence or harassment by the government as well. The Commission has affirmed this fact time and again, holding that “the long history of Federal and local governmental harassment continues to have some present-day chilling effect despite the abatement of Federal governmental harassment.” 2009-01, at 11 (citing sworn statements as to reluctance of individuals to sign petitions or subscribe to SWP literature for fear of further scrutiny by governmental authorities, and some of these individuals cited concerns as to recent increased government surveillance); *see also* AO 2003-02, at 9 (“history continue to have a chilling effect ... One indication of this is the refusal of individuals to purchase or subscribe to SWP literature or circulations for fear of being included in lists maintained by the government identifying them as SWP supporters”).

This “present-day chilling effect” has not gone away, but rather has increased, as is demonstrated by the increasing number of potential SWP supporters, who refuse to support or contribute to the SWP, because of fear of government surveillance or harassment. *See* Request, at 33, 37-38 (The SWP has presented almost twice as many examples of this kind of widespread fear in the past four (4) year exemption period, relative to the prior six (6) year reporting period). Draft B completely fails to consider the extensive record of the increasing number of potential SWP supporters, who refuse to support or contribute to the SWP, because of this fear.

**II. Draft B Applies a Legal Standard that Represents a Significant and Unwarranted Departure from Well-Established Supreme Court Case Law.**

In several key instances, Draft B applies the wrong legal standard, one that represents a significant and unwarranted departure from well-established case law, including, but not limited to, long-standing Supreme Court case law concerning the SWP and other minor parties.

**A. Contrary to Draft B's Assertion, the SWP Does Not Need to Submit Evidence of Serious Harassment and Reprisals.**

Long-standing Supreme Court and FEC precedent does not require that the applicant provide evidence of "serious" harassment and reprisal, as Draft B insinuates at 19, but rather only that they establish "a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment or reprisals from either Government officials or private parties." *Buckley*, at 74. None of the prior Commission Advisory Opinions apply this "serious" standard. *See, e.g.*, AO 2009-01, AO 2003-02, AO 1996-46, AO 1990-13. Draft B relies upon no case law or Commission precedent to support this novel and unwarranted legal requirement.

**B. Contrary to Draft B's Assertion, In Order for Potential Supporters' Fear to Be Reasonable, the SWP Does Not Need to Submit Current or Recent Evidence of Government Harassment or Disruption.**

Draft B's statement at p.14 that "[i]n order for fears to be reasonable, ... there must be some current or recent evidence of government harassment or disruption" is wrong on two counts: it is not necessary to provide either: (a) "current or recent" evidence of harassment; or (b) evidence of government harassment. Indeed, the very cases Draft B relies upon, *Brown v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 98 (1982), and *FEC v. Hall-Tyner*, 678 F.2d 416, 422 (2d Cir. 1982), clearly demonstrate this. In *Brown*, the Supreme Court held that a minor political party may satisfy their evidentiary burden by, among other means, providing

“specific evidence of past or present harassment ... A pattern of threats or specific manifestations of public hostility may be sufficient.” *Brown*, 459 U.S. at 93 (emphasis added) (quoted by Draft B, at 12). Of course, as in *Brown*, “proof of specific incidents of private and government hostility ... within the [preceding] four years,” 459 U.S. at 98-99, may satisfy this standard, but “current or recent evidence of government harassment or disruption” was not required by that Court and, to our knowledge, has never been required. Similarly, in *Hall-Tyner*, the court did not impose this requirement, holding rather that a “‘pattern of threats or specific manifestations of public hostility’” would be all that is necessary. 678 F.2d at 423 (*quoting Valeo*, 424 U.S. at 74). Even though no such current or recent government harassment or disruption need be established, the SWP, nonetheless, has provided extensive evidence of such government harassment. *See Request*, at 43-50.

C. Draft B's Reliance on *ProtectMarriage.com v. Bowen* Is Completely Misplaced.

Draft B's reliance on the recent district court case *ProtectMarriage.com v. Bowen*, 830 F. Supp. 2d 914, 933 (E.D. Cal. 2011) (reporting requirements applied to ballot committees supporting passage of California's Proposition 8 concerning marriage) is completely misplaced. In denying the plaintiffs protection under *Buckley*, the court in *ProtectMarriage.com* went to great lengths to distinguish the SWP from the plaintiffs in that case:

Unlike the facts in *Brown* [*v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87 (1982)], the proponents of Proposition 8 succeeded in persuading over seven million voters to support their cause. They were successful in their endeavor to pass the ballot initiative and raised millions of dollars in the process. This set of circumstances is a far cry from the sixty-member SWP party, repeatedly unsuccessful at the polls, and incapable of raising sufficient funds. Indeed, it became abundantly clear during oral argument that Plaintiffs could not in good conscience analogize their current circumstances to those of either the SWP or the Alabama NAACP circa 1950.

...

Since *Buckley*, as-applied challenges have been successfully raised only by minor parties, specifically those parties, as discussed, having small constituencies and

promoting historically unpopular and almost universally-rejected ideas. As stated, in *Brown*, the SWP consisted of only sixty members in Ohio. The parties' 'aim was the abolition of capitalism and the establishment of a workers' government to achieve socialism.' The party was historically unsuccessful at the polls through its members regularly ran for public office. Additionally, 'campaign contributions and expenditures ... averaged approximately \$15,000 annually.'

Plaintiffs do not, indeed cannot, allege that the movement to recognize marriage in California as existing only between a man and a woman is vulnerable to the same threats as were socialist and communist groups, or, for that matter, the NAACP. Proposition 8 supporters promoted a concept entirely devoid of governmental hostility. Plaintiffs' belief in the traditional concept of marriage, to disagreement, have not historically invited animosity. The Court is at a loss to find any principled analogy between two such greatly diverging sets of circumstances.

830 F.Supp2d at 928-32 (emphasis added) (internal citations omitted).

Nonetheless, Draft B relies upon *ProtectMarriage.com* to support the following two propositions:

1. The SWP must establish that it "lacks adequate recourse to pursue means short of non-disclosure" to protect against any unlawful interference before it can be granted a reporting exemption. Draft B, at 19; and
2. "[M]any of the SWP's alleged incidents merely involve private parties expressing heated disagreement with the SWP's positions. Such episodes are 'typical of any controversial campaign,' and 'do not necessarily rise to the level of 'harassment' or 'reprisals.' Insulting messages containing harsh language are certainly not unusual occurrences in campaigns today, as was commonplace in the public discourse concerning our most recent presidential election." Draft B, at 18.

Draft B's proposition 1 is completely without basis in law for two reasons. First, the court in *ProtectMarriage.com* explicitly exempted the SWP from its holding in that case – "contrary to groups such as the SWP, Plaintiffs can seek adequate relief from law enforcement and the legal system." 830 F.Supp.2d at 932 (emphasis added). The SWP was explicitly exempted because, among other reasons, plaintiffs in *ProtectMarriage.com* "[did] not, indeed [could] not, allege that the movement to recognize marriage in California as existing only between a man and a woman is vulnerable to the same threats as were socialist and communist

groups, or, for that matter, the NAACP.” *Id.* at 931. Second, neither the Supreme Court, the Commission nor any other court, to our knowledge, has required that, in order to be entitled to exemption from FEC reporting requirements, a minor party must prove that it “lacks adequate recourse to pursue means short of non-disclosure” to protect against any unlawful interference. Neither Draft B nor the court in *ProtectMarriage.com* cite to anything to support this position.

Draft B’s proposition 2 simply mischaracterizes the record provided by the SWP and views these instances in isolation as opposed to in the context of the evidence presented as a whole, as well as the historic record, which, when taken together, undoubtedly reveal a pattern of public hostility toward the SWP. Draft B does not identify which incidents specifically it is referring to or how many incidents would qualify as “many.” By contrast, Draft A recognizes that “some of the SWP’s alleged incidents merely involve private parties expressing heated disagreement with the SWP’s positions,” while very importantly also recognizing that “although some of the alleged incidents of harassment may seem minor or subject to differing interpretations, there are a number of examples, such as firings and instances of workplace intimidation, as well as verbal threats and harassment, that legitimately raise concern by those associated with the SWP, particularly when such examples are taken together.” Draft A, at 13-14 & n.7 (emphasis added). Moreover, when taken together with the evidence of widespread fear of harassment among potential SWP supporters, it is clear that even seemingly “minor” incidents takes on a unique meaning when viewed, as it is and must be viewed, in the context of the long history of threats, violence and harassment by the government and private parties and the stepped-up surveillance of domestic groups by the government post 9/11.

**III. Draft B Fails to Recognize the Extensive Record of Incidents of Threats, Violence and Harassment Since the End of 2008.**

**A. The SWP's Record of Incidents Is Comparable in Number and Kind, and In One Important Instance Exceeds, the Record Before the Commission In 2008, 2002 and 1996.**

Draft B incorrectly asserts that the “evidence of ... harassment, threats or violence by private individuals or businesses” is “less serious ... than it has been in the past.” Draft B, at 18. Draft B fails to recognize that the SWP has provided a record of incidents of threats, violence and harassment since the end of 2008 that is comparable in number and kind of incidents to, *and in an important aspect exceeds*, the record it had presented in its prior Advisory Opinion requests, which were granted by the Commission. For the six-year 2003-2008 period, the SWP documented 76 incidents of harassment; for the 1997-2002 period, the SWP documented 74 incidents of harassment; and for the 1991-1996 period, the SWP documented 70 incidents of harassment. Here, the SWP documented 47 incidents<sup>3</sup> during the past four years, or roughly an equivalent number of incidents as in the past (four sixths of 74 is 49, 76 is 50 and 70 is 46). Here, as in the 1991-1996, 1997-2002 and 2003-2008 periods, there were death threats and threats of physical violence of SWP campaign supporters both in person and by mail and telephone, job firings and discrimination, and harassment of SWP supporters and campaign efforts by local law enforcement as well as private individuals. *See supra* Point 4(A).

To highlight just a few of the serious incidents of harassment: (a) in March 2011, a threatening message was left on the phone at the New York City Socialist Workers Party headquarters saying “The president of the campaign must leave town now or he will be shot on sight;” (b) in October 2012, a man vigorously shook the glass door of the SWP headquarters in Miami, Florida, which was locked at the time, during an organizational meeting and yelled, “If

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<sup>3</sup> In the SWP's November 7, 2012 submission, it documented 45 incidents, plus an additional 2 incidents here.

Obama wins I'm going to kill every one of you commie cock-suckers" while glaring at the SWP supporters inside. He then waited in the parking lot in front of the campaign headquarters for the next half hour, yelling other less audible obscenities; (c) in Omaha, Nebraska in February 2013, an SWP supporter was seriously threatened publicly by a man yelling, "You deserve to die you commie bastard. Go back to Cuba." This man said he was going to call his militia friends to come down and "beat the shit out of" the SWP supporter and proceeded to call one of his friends and told him to "Come down right away, I have a commie bastard down here; he's white, wearing a baseball hat, dark coat, and is around six feet tall. We need to beat the shit out of him." He also said he was going to call the cops and then followed the SWP supporter into a grocery store; and (d) there were four job firings and five documented instances of harassment in the workplace of SWP candidates and supporters. *See* Exs. 1-11 and 60. Contrary to Draft B's allegation that there are "serious questions as to whether any of the employees was fired due to the employee's support for the SWP," Draft B, at 18, the circumstances and submitted evidence clearly establish that the firings were on account of the employees' association with the SWP, particularly when viewed in the context of both (i) the long-history of firings of SWP candidates and supporters because of their association with the SWP; and (ii) evidence of at least five (5) individuals encountering difficulties getting or keeping their jobs merely because employers have found their quotes in *The Militant* when searching their names on the internet. *See* Ex. 62. Moreover, prior FEC Advisory Opinions have accepted the SWP's assertions related to similar firings in the past on the basis of the same type of evidence presented here. *See, e.g.*, AO 2009-01, at 8.

As noted in the Request, the description of incidents included in the Request is not meant to be exhaustive, and, in fact, is not exhaustive, as acts of intimidation and harassment against

the SWP and its supporters are frequent enough that they often go unreported to any central body.

**B. Government Harassment of the SWP Continues to Be Persistent.**

Draft B also minimizes recent government harassment of the SWP by mischaracterizing the record presented by the SWP, stating that the SWP “provides *one* allegation of government harassment, and several incidents involving private parties and local police officers.” Draft B, at 15 (*emphasis added*). In fact, the SWP has provided evidence of fourteen (14) incidents of government harassment, that include evidence of government harassment by federal agents as well as police officers from major metropolitan areas throughout the U.S. *See Request*, at 43-50.

Contrary to Draft B’s allegation that the “SWP asserts ... that in six of the[] seven cities or towns, local ordinances did not require a permit,” Draft B, at 10, the SWP did not only assert this, it also provided evidence, in the form of copies of the local ordinances that explicitly state that no permit is required. *See Request*, at 58-63 and exhibits cited therein.

Draft B’s assertion that there was “little evidence that the police officers” in the thirteen (13) demonstrated instances of harassment “were acting out of animus towards the SWP” is contrary to the evidence. Draft B, at 16. In nearly fifty percent (50%) of these examples, there is direct evidence of anti-SWP animus. In two instances, the police issued a summons *only* to the SWP table and not to other tables located nearby. Ex. 18-19. In a third instance, the police officer, after looking at some of the SWP materials, warned the SWP candidate for Mayor of Philadelphia and campaign supporters that “We can put you on the no-fly list. Report you to Homeland Security” – clearly not a statement that would be made to the typical vendor. Ex. 16. In a fourth instance, after looking at SWP materials, a police officer took an SWP supporter’s driver license and told him that he would be “tracked.” Ex. 17. In two other instances, the police

told the SWP supporters or candidates to take down their tables, despite being informed by the SWP of a specific provision of law that allowed them to distribute their materials. Exs. 21 (summons issued after police officer called superior) and 23.

Draft B's unfounded assertion that "there is no indication ... that the alleged interference with pamphlet distribution, represent systematic harassment rather than isolated behavior by individual officers," Draft B at 17, completely turns a blind eye to both the historical and current record. The fact is that SWP supporters continue to be asked to take down their distribution tables from the same cities, and in some instances, the same locations, year after year, despite, in several instances, informing the police officers of the relevant provisions of law that allow them to distribute. Compare AO 2009-01 Request, at Exs. 42, 50, 72 (Boston), 51 (Philadelphia) and 56 (Chicago) with 2012-38 Request, at Exs. 17, 24, 26 (Boston), 16 (Philadelphia) and 18 and 22 (Chicago). Additionally, as shown above, in almost half of the instances detailed in the Request, it is clear that the police officers were acting out of animus toward the SWP. Barring explicit statements from the police, which the police are usually savvy enough not to provide, this is as clear evidence of a pattern of anti-SWP behavior as a minor party can reasonably be expected to provide and surely satisfies the Supreme Court's evidentiary standard.

In the past, even where direct evidence or statements detailing anti-SWP animus has not been available, the Commission still considers these incidents in the "totality of evidence," AO 2003-02, at 10, when making its determination whether to grant exemption. See, e.g., AO 1996-46, at 5.

**C. Contrary to Draft B's Assertion, the SWP Does Not Need to Show that It Suffered Adverse Consequences Apart from Improperly Being Ordered to Take Down their Tables.**

Draft B also applies the wrong legal standard by suggesting that the SWP need prove that, in addition to showing that the police improperly required the SWP to take down their tables, often times exhibiting a direct anti-SWP animus, there were other "adverse consequences." Draft B, at 17. To our knowledge, nowhere in the well-settled case law does any court or Commission decision impose this requirement. The SWP need not show that both there was a pattern of the police improperly ordering – and often times singling out – the SWP to take down their tables and they received a ticket or they received a ticket that a judge would not dismiss or they reported the incident to the police department and the police department would not do anything (as Draft B insinuates). This is so because it is the pattern of the police's improperly ordering the SWP to take down their tables that is the "adverse consequence" that harms minor parties.

In any event, it is clear that the "adverse consequences" were not only the pattern of improper conduct by the police but also the fact that, in several instances, potential SWP supporters or other members of the public viewed these incidents, thus providing further basis for any "reasonable fear" of harassment by the government for associating with the SWP.

Draft B's assertion that "[t]here is no indication that the SWP attempted to obtain permits or provide advance notice for its activities in other venues before undertaking them" is completely off point. As detailed in the Request, in only one of seven locations was a permit required. As for the other six locations, no such advance notice is required in order for the SWP supporters to exercise their First Amendment rights.

**D. The SWP Supporter's Harassment at the Canadian Border Unequivocally Provides Evidence of a Reasonable Probability that Association with the SWP Will Subject SWP Supporters to Harassment.**

Draft B misses the point in dismissing the interrogation of an SWP candidate at the Canadian border as inconclusive as to whether the Canadian authorities have access to information provided by the U.S. government, Draft B, at 8. However the information about Ms. DeLuca's association with the SWP was obtained by the Canadian government, it undoubtedly led to harassment of her at the border. Under U.S. law, the standard is whether there is a "reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties" without limiting the government officials to U.S. government officials, and for good reason. *Buckley*, 424 U.S. at 74. Clearly, if the disclosure of an SWP supporter's identity would subject that person to harassment by foreign government officials when he or she travels abroad, this very well may reasonably convince this potential supporter not to support the SWP, thus further undermining the financial stability of this minor party. *See Hall-Tyner*, 678 F.2d at 420 ("If apprehension is bred in the minds of contributors to fringe organizations by fear that their support of an unpopular ideology will be revealed, they may cease to provide financial assistance. The resulting decrease in contributions may threaten the minority party's very existence.")

***i. Contrary to Draft B's Assertion, the Information Obtained by the Canadian Government Was Not "Long Dormant."***

Draft B's statement at p.15 that the Canadian government's information, even if obtained from the U.S. government, "could have been long dormant information" is belied by the facts presented by the SWP. The dossier that the Canadian official reviewed included information about her speaking at a political meeting in Canada soon after her entry into Canada. *Compare*

Draft B, at 15, *with Request*, at Ex. 15. It also included information about her membership on the National Committee of the SWP and a reporting trip to Cuba. *See Request*, at Ex. 15. Ms. DeLuca only became a member of the National Committee of the SWP in the summer of 2010 and her reporting trips to Cuba were in 2012 and 2007. Additionally, Ms. DeLuca is only approximately 33 years old, *see* Leslie Slape, "Socialist Workers Party vice presidential candidate campaigns in Longview," Longview Daily News, available at [www.tdn.com](http://www.tdn.com) (last visited April 17, 2013); so it would have been impossible for the information to be "long dormant."

*ii. Draft B Mischaracterizes the SWP Candidate's Interrogation at the Canadian Border as an "Inconvenience."*

Draft B's characterization at p.15 of the SWP candidate's interrogation at the Canadian border as an "inconvenience" is part of a pattern that runs throughout Draft B of dismissing through trivialization what the courts and the FEC have concluded is anything but trivial in the controlling law on compelled disclosure of political affiliations, and what also is the common experience of most persons, reflected in the record before the Commission – that these experiences are far from minor or trivial. *See, e.g.*, Draft B, at 18. The "result" at the Canadian border was not "nothing more than the inconvenience of an inquiry and a temporary delay in crossing the border," as Draft B asserts at 15, it was proof that the SWP remains an active concern, and subject of continued surveillance by government officials, and further evidence that the fear of current and potential SWP supporters that they will be subject to surveillance, threats, violence and harassment if their support of the SWP were disclosed are reasonable.

Indeed, contrary to Draft B's unfounded assertion, it is self-evident that most people would consider being stopped at the border, realizing that the government has a sizeable political dossier on them, being interrogated about their constitutionally-protected political activities,

delayed by more than two hours and then threatened with non-entry, to be much more than a minor inconvenience. This is especially true for Ms. DeLuca who, like other political activists, knew of another former SWP leader's widely-publicized experience at the Canadian border in which he was interrogated for 7 hours by U.S. and Canadian officials, subjected to a demeaning strip-search and ultimately denied entry. See Ex. 66.

**F. Draft B's Suggestion that the SWP Must Provide Evidence that Its Current Supporters or Vendors Would Refrain from Contributing or Providing Services If There Were Disclosure Is Without Basis In Law. In Any Event, Applicant Does Provide Such Evidence.**

As shown above, the SWP has already provided ample evidence that many potential SWP supporters do not support the SWP for fear of harassment because of an association with the SWP. See *supra*, at Point I(B). Nonetheless, Draft B suggests that the SWP must provide evidence that one or more of its current contributors "would refrain from supporting SWP in the future absent an extension of the partial disclosure exemption ... or [one or more of its current vendors] would refrain from engaging in future business with SWP without the exemption." Draft B, at 1-2 and 19.

Draft B does not rely upon any case law to support this new, heretofore unknown, requirement. The Commission has never required that the SWP provide such evidence, nor does the SWP know of any prior Supreme Court, or other federal court case, that has ever imposed such a requirement.

Nonetheless, as detailed below, the SWP provides evidence of two SWP supporters, who have donated more than \$200 to the SWP during the 2012 presidential campaign, who "may refrain from supporting SWP in the future absent an extension of the partial disclosure exemption."

**F. Draft B Contains a Number of Additional Errors of Fact.**

***i. Draft A and B Mis-State the Number of Incidents Included in the Record.***

The SWP notes that the statement in both Draft A and B that "Exhibits 1 and 2 are identical, accordingly the 57 exhibits show 56 incidents" is wrong. As detailed in the SWP's November 7, 2012 request, pages 38-39 and Exhibits 1 and 2, the declaration of Lisa Potash contains two incidents of harassment. Instead of including these two incidents in two separate declarations by the same declarant, the SWP included both incidents in one declaration and included two copies so that the Commission could properly count the number of incidents.

***ii. Draft B Incorrectly Describes the Department of Justice Inspector General's Report.***

Draft B incorrectly states that the "SWP is *excluded* from the list" of domestic advocacy groups included in a 2010 report by the Justice Department's Inspector General and then suggests that "the omission of the SWP suggests ... a lack of current governmental interest in the SWP." See Draft B, at 15-16 (emphasis added). However, no such inference can be drawn from this report. As the report states in its Introduction, the Inspector General's office limited its review to only "five groups and one individual because they were among those mentioned in ... news articles and congressional inquiries related to the release of FBI documents [pursuant to a FOIA request]." Request, at Ex. F, 1-2 (naming The Thomas Merton Center of Pittsburgh, PA; People for the Ethical Treatment of Animals (PETA); Greenpeace USA; The Catholic Worker; Glen Milner, (an individual); and, The Religious Society of Friends (the "Quakers")).

This is an important distinction, as the Inspector General's report was expressly not meant to be exhaustive and, in fact, could never be, as no doubt scores and scores of covert surveillance operations continue to be conducted by the federal government. Indeed, exhibits presented here concerning FBI and other government agencies surveilling political activists

involved in anti-war activities in Boston and labor support activities in Washington State are cases in point. *See* Exs. 63-64. Moreover, the fact that such well-known, mainstream organizations as the Quakers may be the subject of federal government surveillance, surely makes reasonable the belief of a current or potential SWP supporter that their association with the SWP, with a long-history of government surveillance and beliefs outside of the mainstream, will subject them to surveillance by the federal government.

Draft B's dismissal of the SWP's evidence of ramped up surveillance efforts by the government because the SWP has not "present[ed] evidence that the SWP has been under surveillance" under these programs is without basis for two reasons. *See* Draft B, at 6-7. First, evidence of government surveillance of groups, which engage in activism concerning issues that are also the subject of SWP activism, provides a strong indication that the government is also currently surveilling the SWP. This is further supported by recent evidence of government surveillance of events close in time and focus to events in which the SWP actively participated. For example, here, the SWP provides evidence that: (a) in October 2008, the Boston Police Department openly photographed and recorded individuals and political organizations engaged in lawful political activities in the Boston area, including in the days immediately before and after the SWP candidate spoke at an anti-war demonstration in Boston on October 11, 2008; and (b) in between July and December 2011 in Longview, Washington, police conducted surveillance of union protests and picket lines, in which the SWP actively participated.

Second, evidence of government surveillance of groups that engage in activism concerning issues that are also the subject of SWP activism also supports the fact that there is a "reasonable probability" that association with the SWP "will subject [SWP supporters] to threats,

harassment or reprisals from either Government officials or private parties.” *Valeo*, 424 U.S. at 74.

Moreover, Draft B’s reliance upon *Citizens United v. FEC*, 130 S. Ct. 876 (2010), at 16, to try to establish the irrelevance of the government’s known surveillance of other domestic organizations clearly demonstrates just how untenable Draft B’s assertion is. In sharp contrast to the plaintiff in *Citizens United*, which, as Draft B recognizes, “had offered no evidence that its members may face similar threats or reprisals” to these instances of private harassment detailed by amici and “... ha[d] identified no instance of harassment or retaliation,” *Citizens United*, 130 S. Ct. at 915, the SWP has provided voluminous evidence not only of a long history of government harassment and reprisals, but also recent evidence of the same. *See supra*, Points I(B) and III(B).

**G. Draft B’s Argument that *The Militant* “Contains Mainstream Viewpoints on National Issues and Provides News Coverage Well Within the Scope of the National Debate on the Issues of the Day” Is Completely and Utterly Misrepresentative.**

With all due respect, Draft B blinks at reality and the record by arguing that *The Militant* “contains mainstream viewpoints on national issues and provides news coverage well within the scope of the national debate on the issues of the day.” Draft B, at 16 n. 11 (relying upon an issue of *The Militant* newspaper, dated February 11, 2013). For more than eighty years, both the SWP and *The Militant* have openly called for the establishment of a workers and farmers government that will abolish capitalism in the United States and join in the worldwide struggle for socialism. They call for the immediate and unconditional withdrawal of all U.S. military forces from Afghanistan, Korea, Guantánamo Bay Naval Base, the Pacific, Atlantic, and other oceans, and everywhere else in the world. They present Cuba’s socialist revolution as an example for working people in the U.S. and across the earth to emulate and defend. These are hardly “mainstream”

positions, as is evident from both the name and content of every issue of *The Militant* newsweekly as well as the policies of the Socialist Workers Party itself.

**IV. Draft B Has Not Identified Any Compelling Government Interest in Disclosure.**

Disclosure under the Federal Election Campaign Act “must be justified by a compelling governmental interest and there must be a ‘substantial relation’ between the government interest and the information required to be revealed.” *Hall-Tyner*, 678 F.2d at 421 (quoting *Buckley*, 424 U.S. at 64). There is simply no compelling government interest in disclosure in this case and, even if there were, there is not a “substantial relation” between that interest and the information sought to be revealed.

The Supreme Court in *Buckley* specified three governmental interests thought to be served by the disclosure requirements: (1) disclosure assists voters in placing a “candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches”; (2) it deters corruption by exposing large contributions that might otherwise influence the recipient to deliver secret post-election favors should he/she win the election; and (3) it facilitates the detection of violations of the FECA contribution limitations. *Buckley*, 424 U.S. at 66-68.

None of these three interests applies to the SWP, as conceded by both Drafts A and B. The political viewpoints of SWP candidates are definite and publicized. There is no chance of corruption, as the SWP neither receives large contributions, nor has it ever won an elected position. And, under prior FEC exemptions, the SWP is still required to maintain information, otherwise exempt from disclosure, so as to be able to provide this information to the Commission in connection with an investigation. *See, e.g.*, AO 2009-01, at 13.

Although not asserting that any of these three governmental interests applies to the SWP and recognizing that the government's interest in disclosure is "somewhat low," Draft B imposes an additional requirement that the SWP establish that it would not "be used in the future as a vehicle for diversion." Draft B, at 21.

However, this argument is completely backwards, as Draft A recognizes, at p.17. The Commission cannot deny the SWP the protections guaranteed by the First Amendment merely because of some completely speculative conjecture that has absolutely no historical or current support. Draft B provides absolutely no evidence, as Draft A recognizes at 17, that an SWP candidate has ever been used as a diversion, by, for example, "being encouraged by major-party interests in order to divert votes from other major-party contenders," serving as a spoiler or receiving an unexpected influx of donations from non-traditional supporters, *Buckley*, 424 U.S. at 70, nor can it. *See Ex. 65* (declaration demonstrating that the SWP has never been used to divert votes from another party's candidates.) Therefore, even if this were a "compelling government interest," there is no basis whatsoever for considering it to be a factor here, nor that there is a substantial relation between this interest and the information that would be required to be disclosed by the SWP.

Indeed, over the last 22 years in which the Commission has considered and granted the SWP's exemption requests, the Commission has never imposed such a requirement and no such requirement should be imposed now. It is totally at odds with *Buckley*, by suggesting that there is always a compelling governmental interest in disclosure because there is always the theoretical possibility of a minor political party being used as a "vehicle for diversion."

#### **V. Additional Evidence to Support Granting Exemption.**

The SWP provides the following additional evidence in support of its Request.

58. A declaration from an SWP supporter, who had donated more than \$200 to the SWP during the 2012 presidential election campaign, stating that “[i]f the party didn’t have [an FEC] exemption, I am not certain whether or not I would continue my financial support of the SWP, not because I support their platform any less, but because I would be concerned that my name as a contributor would become public and I would be subject to threats, harassment or violence by the government or private persons. There is well documented history of decades of government spying and harassment of SWP supporters --from fire bombings to physical attacks.” She also stated that, as a production manager in a book design firm, she “would also be concerned for [her] safety and also for [her] job.”

59. A declaration from an SWP supporter, who had donated over \$750 to the SWP National Campaign Committee for their 2012 presidential election, stating that “[i]f the SWP loses its FEC exemption I am not certain whether I would continue my financial contributions to the SWP. I would still support the party’s platform but I would be concerned that my name as a contributor would become public and I would be subject to threats, harassment or violence by the government or private persons. ... It is well known that publicizing names of individuals who support political causes which may not be popular at a particular time, is a way to bring on personal harassment and attack.” He also states that “[he] would also be concerned for [his] job which is in the aircraft industry and my safety. ... Making [his] financial contributions public could well affect [his] ability to make a living. This could [also] affect [his] relationship with [his] wife who does not share all [his] views, and it could open her up for harassment as well.”

60. While petitioning in Omaha, Nebraska, on February 12, 2013 to put SWP candidate Maura DeLuca on the ballot for Mayor, an SWP campaign supporter asked for a signature from a person who responded by saying, “I’m a patriot, there’s is no way I’m going to

vote for a commie." Shortly thereafter, the man started yelling, "You deserve to die you commie bastard. Go back to Cuba." He said he was going to call his militia friends to come down and "beat the shit out of" the SWP supporter. He then called one of his friends and said to this person on the phone, "Come down right away, I have a commie bastard down here; he's white, wearing a baseball hat, dark coat, and is around six feet tall. We need to beat the shit out of him." He also said he was going to call the cops. The SWP supporter walked away to avoid confrontation and went inside a grocery chain. The man followed him in. The SWP supporter eventually found another supporter and drove off.

61. A declaration from the editor of *The Militant* newspaper, which has offered editorial endorsement to the candidates of the SWP, including the presidential ticket of James Warren for president and Maura DeLuca for vice president in 2012, in which he states that, in the course of his responsibilities as editor, he "maintain[s] a file of threatening mail that the paper receives to evaluate threats we get on the phone, in the U.S. mail and on-line." Examples of such threats include the following:

- a. An individual who identified himself as "Mr. T," stated "Oh yes. I am loving it. I can't wait until OUR revolutionary forces line you fuckers up against the wall" and
- b. Another, entitled "congratulations," reads, in part: "The beautiful thing about guys like your hero Stalin is that all who helped him were the first to be executed ... funny how that communism works. You are working so hard to bring about communism that you will undoubtedly be one of the first communist hemorrhoids to be cut. Then You can dance in hell with the charming likes of Lenin, Marx, Engels, Stalin, Mao, Guevara and a lovely host of others."

62. A declaration from the editor of *The Militant* newspaper, in which he describes five (5) instances of individuals who have been quoted in articles in *The Militant* posted online, who have written the paper to say that they have encountered difficulty in maintaining or getting a job because employers have found their quotes in *The Militant* when searching their name on

the internet. These individuals asked that their names be removed for fear that they will continue to encounter difficulties in getting or keeping a job because of their association with *The Militant*.

63. On October 11, 2008, Ted Leonard, the SWP candidate for state senate, 2nd Suffolk District, spoke at an anti-Iraq and Afghanistan war march and rally which took place on the Boston Common. Based on documents released during a lawsuit brought by the ACLU of Massachusetts and the National Lawyers Guild, Massachusetts Chapter, the SWP now knows that the Boston Police Department was surveilling an anti-war rally in the Boston Common on October 1 and December 28, 2008. See "Policing Dissent: Police Surveillance of Lawful Political Activity in Boston." Based on Mr. Leonard's experiences speaking with potential supporters, he believes that people considering contributing to or supporting the SWP campaign will decline to do so for fear they too will be subject to threats, violence and/or harassment by the government and private persons. They will reasonably conclude that because the government is surveilling these protests, in which the SWP has and continues to participate, the government is also surveilling the SWP and SWP supporters will also be subject to harassment.

64. Between July and December, 2011, Mary J. Martin, the SWP candidate for School Board in the City of Seattle in 2011, and other SWP supporters participated in dozens of protests and picket lines in support of the International Longshore and Warehouse workers Union (ILWU) Local 21 in Longview, Washington. According to both published news reports and personal accounts conveyed to Ms. Martin by unionists, Occupy activists and residents of Longview, the government was spying on the labor movement's public activities in support of the ILWU. Based on Ms. Martin's experiences speaking with potential supporters, she believes that people considering contributing to or supporting the SWP campaign will decline to do so for

fear they too will be subject to threats, violence and/or harassment by the government and private persons. They will reasonably conclude that because the government is surveilling these union support rallies, in which the SWP has and continues to participate, and the government and private persons are harassing these union supporters, the government is also surveilling the SWP and SWP supporters will also be subject to harassment.

65. A declaration of the chairman of the Socialist Workers National Campaign Committee stating that the SWP has never received a large or unexpected donation from a non-traditional donor in close election races or otherwise, nor has the SWP ever been approached by a major party contender, or anyone else, in an attempt to have the SWP divert votes to aid their campaign.

66. A declaration demonstrating that Ms. DeLuca's distress during the incident at the Canadian border was reasonable, given the well-known history of harassment of another SWP leader at the Canadian border in 1987. In that incident, the SWP candidate was interrogated for 7 hours, subjected to a demeaning strip search and denied entry.

#### **VI. Extension Through December 31, 2016 Is Warranted.**

Since granting exemptions to the SWP, the Commission has always granted such exemption to cover at least one presidential cycle, implicitly recognizing that much of the SWP's activities are conducted during a presidential year and therefore many of the instances of threats, violence and harassment also occur during this time. *See, e.g.*, Advisory Opinion 1990-13, at 6 ("this exemption is to last through the next two presidential year election cycles"); AO 1996-46 (six-year exemption); 2003-02 (six-year exemption); 2009-01 (four-year exemption).

For this same reason, the SWP respectfully requests that the exemption period in Draft A

be extended to four years.<sup>4</sup>

### CONCLUSION

Based on the foregoing, and on the SWP's filing dated November 7, 2012, the SWP respectfully requests that the Commission approve Draft A, altering the end date of the partial reporting exemption until December 31, 2016, instead of December 31, 2015.

Thank you for your attention to this matter.

Sincerely yours,

  
Michael Krinsky  
Lindsey Frank

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<sup>4</sup> Draft A incorrectly states that AO 2009-01 was for three years. See AO 2009-01, at 3

**EXHIBIT 58**

## **DECLARATION**

**I, Jane Doe, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates for the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.**

**I make this statement on the basis of my personal knowledge.**

- 1. During the 2012 presidential election campaign I donated over \$200 to the SWP National Campaign Committee.**
  - 2. I was comfortable doing so because I know the SWP has an exemption from the FEC requirement to disclose name of contributors.**
  - 3. If the party didn't have this exemption, I am not certain whether or not I would continue my financial support of the SWP, not because I support their platform any less, but because I would be concerned that my name as a contributor would become public and I would be subject to threats, harassment or violence by the government or private persons. There is well documented history of decades of government spying and harassment of SWP supporters --from fire bombings to physical attacks. I would also be concerned for my safety and also for my job. I work as a production manager in a book design firm.**
- 1. I declare under penalty of perjury that the foregoing is true and correct. Executed in Seattle, WA, on Feb. 11, 2013.**

**Jane Doe  
Seattle, WA**

## DECLARATION

I, Mary J. Martin, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates for the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge.

1. I am the person who tailored to and got Jane Doe's enclosed declaration. Although this individual declines to give her name for fear of harassment, threats or retaliation by her employer, I can attest that her declaration is genuine and accurate.
2. I declare under penalty of perjury that the foregoing is true and correct.  
Executed in Seattle, WA on Feb. 11, 2013.



Mary J. Martin

**EXHIBIT 59**

## DECLARATION

I, John Doe, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates for the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge.

1. I donated over \$750 to the SWP National Campaign Committee for their 2012 presidential ticket.
2. I did this because I understood the SWP had an exemption from the FEC from disclosing names of contributors because of potential harassment from government agencies and others who target supporters of the SWP because of their political views and activities.
3. I have supported confidentiality for political financial and electoral activity for the SWP and others because it is an important political safeguard not just for myself but for anyone who desires to be politically involved. It is well known that publicizing names of individuals who support political causes which may not be popular at a particular time is a way to bring on personal harassment and attack, as has been the case with the SWP. This tactic was used against the NAACP by those who opposed civil rights.
4. If the SWP loses its FEC exemption I am not certain whether I would continue my financial contributions to the SWP. I would still support the party's platform but I would be concerned that my name as a contributor would become public and I would be subject to threats, harassment or violence by the government or private persons. In light of a history of government spying and harassment of the SWP and its supporters -- from firebombing to physical attacks, I would also be concerned for my job which is in the aircraft industry and my safety.
5. Aircraft assembly is a cyclical industry. During times of layoff I have to apply for other jobs. Making my financial contributions public could well affect my ability to make a living. This could affect my relationship with my wife who does not share all my views, and it could open her up for harassment as well.
6. I declare under penalty of perjury that the foregoing is true and correct.  
Executed in Seattle, WA on Feb. 12, 2013.

John Doe  
Feb. 11, 2013

## DECLARATION

I, Mary J. Martin, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates for the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge.

1. I am the person who talked to and got John Doe's enclosed declaration. Although this individual declines to give his name for fear of harassment, threats or retaliation by his employer, I can attest that his declaration is genuine and accurate.
2. I declare under penalty of perjury that the foregoing is true and correct.  
Executed in Seattle, WA on Feb. 11, 2013.

  
Mary J. Martin

**EXHIBIT 60**

## DECLARATION

I, Frank Forrestal, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the Socialist Workers Party, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to exemption from certain disclosure provisions of the Federal Campaign Act.

I make this declaration on the basis of my personal knowledge.

1. While petitioning in Omaha, Nebraska, on February 12 to put Socialist Workers Party candidate Maura DeLuca on the ballot for Mayor in front of the Douglas County Treasurer (Department of Motor Vehicles) office, I asked for a signature from a person leaving the DMV. He responded by saying, "I'm a patriot, there's no way I'm going to vote for a commie." He then left.
2. A few minutes later he came back and went into the DMV office and came out with one of the managers. She asked me to leave. I said OK. She went back inside.
3. This guy then started yelling, "You deserve to die you commie bastard. Go back to Cuba." He said he was going to call his militia friends to come down and "beat the shit out of me." He then called one of his friends and said to this person on the phone, "Come down right away, I have a commie bastard down here; he's white, wearing a baseball hat, dark coat, and is around six feet tall. We need to beat the shit out of him." He also said he was going to call the cops. I took his threats seriously.
4. I walked away. I then went to the grocery chain store next door and went inside. He followed me in. I left the store, got another supporter of the SWP campaign who was petitioning there, and drove off.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed February 13 in Omaha, Nebraska.



Frank Forrestal  
February 13, 2013

**EXHIBIT 61**

## DECLARATION

I, Doug Nelson, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the Socialist Workers Party, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to exemptions from certain disclosure provisions of the Federal Campaign Act.

I make this declaration on the basis of my personal knowledge.

1. I am the editor of the *Militant* newspaper, which has offered editorial endorsement to the candidates of the Socialist Workers Party, including the presidential ticket of James Harris for president and Maura DeLuca for vice president in 2012.
2. In the course of my responsibilities as editor, I maintain a file of threatening mail that the paper receives to evaluate threats we get on the phone, in the U.S. mail and online.
3. One threatening email received at the *Militant* came from an individual who identified himself as "Mr. T," who stated the following: "Oh yes. I am loving it. I can't wait until OUR revolutionary forces line you fuckers up against the wall."
4. Another email in the file, entitled "congratulations," reads, in part: "The beautiful thing about guys like your hero Stalin is that all who helped him were the first to be executed..funny how that communism works. You are working so hard to bring about communism that you will undoubtedly be one of the first communist hemorrhoids to be cut. Then You can dance in hell with the charming likes of Lenin, Marx, Engels, Stalin, Mao, Guevara and a lovely host of others."

I declare under penalty to perjury that the foregoing is true and correct. Executed February 10 in New York, New York.



Doug Nelson  
February 10, 2013

**EXHIBIT 62**

## DECLARATION

I, Doug Nelson, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the Socialist Workers Party, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to exemption from certain disclosure provisions of the Federal Campaign Act.

I make this declaration on the basis of my personal knowledge.

1. I am the editor of the *Militant* newspaper. I have worked as a volunteer staff member on the paper since 2007.
2. In the last five years, since the beginning of 2008, I am familiar with at least five instances where individuals who have been quoted in articles in the *Militant* posted on-line, accurately and with their name cited, who have written to the paper to say they have encountered difficulty in getting or maintaining a job because employers have found their quotes in the *Militant* when searching their name on the internet.
3. The authors of these letters have said that they fear they will continue to encounter difficulties in getting and keeping a job for this reason and requested that their name be removed from the on-line edition of the *Militant*.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed in New York, New York, on April 15, 2013.



Doug Nelson  
April 15, 2013

**EXHIBIT 63**

**I, William Leonard, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.**

- 1. I make this statement on the basis of my personal knowledge.**
- 2. I was the Socialist Workers Party candidate for Massachusetts State Senate, 2<sup>nd</sup> Suffolk District, and listed on the ballot in the 2008 general election.**
- 3. On Saturday, October 11, 2008, supporters of my campaign and I participated in a demonstration and rally on the Boston Common opposed to the wars in Iraq and Afghanistan, and I spoke to the rally as the SWP candidate. Did they participate in any way in any of the other events that were definitely under surveillance by the BPD (and for which MA ACLU and NLG have records)?**
- 4. My campaign, which called for the immediate withdrawal of all U.S. forces from Iraq and Afghanistan, participated in efforts to build the demonstration.**
- 5. Documents obtained by the Massachusetts American Civil Liberties Union and the National Lawyers Guild Massachusetts chapter, and released publicly in a report released in October 2012, indicate that the Boston Police Department was gathering information on the rally and its participants in the days before October 11, 2008. The October 2012 report by the ACLU and NLG titled "Policing Dissent: Police Surveillance of Lawful Political Activity in Boston" indicates that the Boston Police Department also openly photographed and recorded individuals and political organizations engaged in lawful political activities in the Boston area.**
- 6. Based on my experiences speaking with potential supporters, I believe there are people considering contributing to or otherwise supporting the SWP campaign who will decline to do so for fear they would come to the attention of the authorities and be subject to threats, violence and/or harassment by the government for that association. They will reasonably conclude that because the**

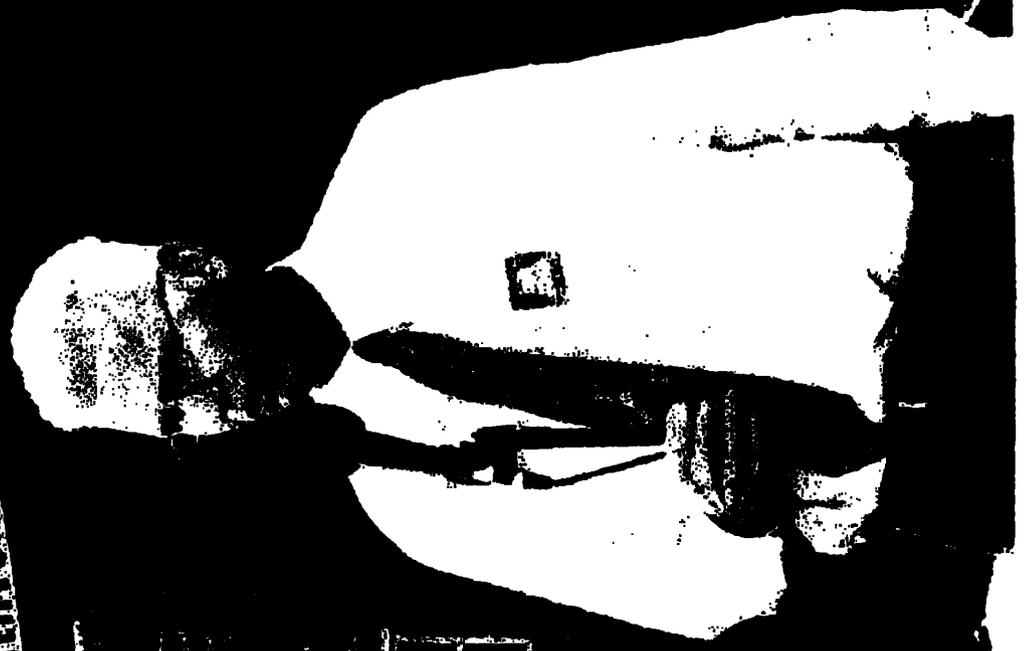
**government is surveilling these other legal, political protests,  
including those that the SWP has and continues to participate in,  
the government is also surveilling the SWP and its activities.**

**I declare under penalty of perjury that the foregoing is true and correct.  
Executed in Boston, Massachusetts, on February 12, 2013.**



**William Leonard**

BRING ALL THE TROOPS HOME NOW!



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**Boston Police Department**

**Intelligence report**

<b>Submitted dt</b>	<b>Criminal Act</b>	<b>File #</b>
10/01/2008	HomeSec-Domestic	(None)

Database record ID number: 2293

On Saturday October 11, 2008, activists from Massachusetts and Rhode Island will be taking part in the annual fall Anti-War Rally that will be held on the Boston Common. October 11th was picked for this year's rally because the "Iraq War Resolution" was signed on Oct. 11, 2002. The rally is scheduled to run from 12:00 pm - 4:00 pm. In the past, this event has drawn up to several thousand participants who are generally peaceful. Last year's event drew an anarchist "Blac Bloc" of about 200-250 people.

This year's event will also feature a [REDACTED] element. The [REDACTED] will meet in Copley Sq @ 12:00 pm and eventually end up on the Commons. The anti-war movement, which interest in had been somewhat waning, has been revived in recent months. Activists are hopefully that an Obama victory in November will speed up the withdrawal from Iraq. Activists are also hopeful that current financial / housing crisis will increase the number of participants at this years rally.

**Links:**

**Groups:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Stop The Wars Coalition

United For Justice With Peace

[REDACTED] [REDACTED]



**POLICING DISSENT:**  
Police Surveillance of  
Lawful Political Activity in Boston

10/2012

ACLU OF MASSACHUSETTS  
NATIONAL LAWYERS GUILD,  
MASSACHUSETTS CHAPTER

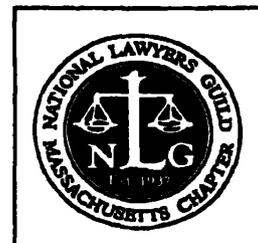


# **POLICING DISSENT:**

Police Surveillance of Lawful  
Political Activity in Boston

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Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

**The First Amendment to the U.S. Constitution**

The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth. The right of free speech shall not be abridged.

**Article 16 of the Massachusetts Declaration of Rights**

## I. OVERVIEW

The Boston Police Department (BPD) and its fusion spying center, the Boston Regional Intelligence Center (BRIC), have for years been tracking and creating criminal "intelligence reports" on the lawful political activity of peace groups and local leaders, including a former Boston City Councilor and the late Boston University Professor Howard Zinn, according to documents obtained by the ACLU of Massachusetts and the National Lawyers Guild, Massachusetts Chapter (NLG). Officers monitor demonstrations, track the beliefs and internal dynamics of activist groups, and document this information with misleading criminal labels in searchable and possibly widely-shared electronic reports. This collection and retention of data regarding people's constitutionally protected speech and beliefs — with no link to terrorism or a crime — violates federal privacy regulations and the BRIC's own privacy policies.

Documents and video surveillance tapes obtained by the ACLU and the NLG — after suing for access on behalf of six groups and four activists<sup>1</sup> — show that officers assigned to the BRIC are collecting and keeping information about constitutionally protected speech and political activity. The documents provide the public with its first glimpse into the political surveillance practices of the Boston Police Department. They show that police officers assigned to the ERIC create and retain "intelligence reports" detailing purely non-criminal political acts — such as handing out flyers and attending anti-war rallies — by well-known peace groups, including Veterans for Peace, Stop the Wars Coalition and CodePink. The videotapes, which include hours of footage of peaceful protests, confirm that police are often watching when members of the public speak their minds.

These revelations come on the heels of a report by a bipartisan US Senate subcommittee, which found that the federal government's work with state and local fusion centers — among them the BRIC — "has not produced useful intelligence to support Federal counterterrorism efforts."<sup>2</sup> "Fusion centers" were created in the aftermath of 9/11, ostensibly so the federal government could "share terrorism-related information with states and territories."<sup>3</sup> One of two "intelligence fusion centers" in Massachusetts,<sup>4</sup> the BRIC

<sup>1</sup> CodePink of Greater Boston; Veterans for Peace — Chapter 9 Smedley D. Butler Brigade; Greater Boston Stop the Wars Coalition; Boston Coalition for Palestinian Rights; Political Research Associates; United for Justice with Peace; Susan Barney, Ridgely Fuller, Patrick Keane and Richard Colbath-Hess.

<sup>2</sup> Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Majority and Minority Staff Report, "Federal Support for and Involvement in State and Local Fusion Centers," at 2, Oct. 3, 2012, at [http://www.hsac.senate.gov/download/report\\_federal-support-for-and-involvement-in-state-and-local-fusion-centers](http://www.hsac.senate.gov/download/report_federal-support-for-and-involvement-in-state-and-local-fusion-centers) (herein "Congressional Fusion Centers Report").

<sup>3</sup> *Id.* at 5.

<sup>4</sup> The other center is the Commonwealth Fusion Center in Maynard, Massachusetts, which is operated by the Executive Office of Public Safety and the Massachusetts State Police. For more information, see [here](#) and "When We Are All Suspects."

was created in 2005 as "a way to further integrate the intelligence capabilities of Boston, local, state and federal law enforcement partners."<sup>5</sup> Since then, it has received millions of dollars in federal funding and operated entirely absent independent public oversight or accountability.<sup>6</sup>

According to the Senate subcommittee report released earlier this month, the lack of accountability at fusion centers nationwide has translated into poor results: the report found that the millions of dollars poured into centers like the BRIC have failed to uncover a single terrorist plot.<sup>7</sup> Instead, fusion centers have "forwarded 'intelligence' of uneven quality — often times shoddy, rarely timely, sometimes endangering citizens' civil liberties and Privacy Act protections, occasionally taken from already-published public sources, and more often than not unrelated to terrorism."<sup>8</sup> When they were related to terrorism, intelligence reports produced by fusion centers "duplicated a faster, more efficient information-sharing process already in place between local police and the FBI-led Terrorist Screening Center."<sup>9</sup> One Department of Homeland Security (DHS) official told investigators that fusion centers produce "a lot of... predominately useless information," and at times, said another, "a bunch of crap."<sup>10</sup>

That shoddy intelligence gathering does not just waste taxpayer money. It undermines our most cherished democratic values and at times violates the law. The Code of Federal Regulations provides that federally-funded surveillance projects may collect and maintain information on individuals "only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity."<sup>11</sup> The regulations also state that surveillance teams "shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group . . . unless such information directly relates to

<sup>5</sup> Boston Police Department, 2005 Annual Report, at 9. According to the BPD's 2005 Annual Report, the BRIC's membership expanded within its first year to include "the MA State Police, the MA Transit Police, the MA Department of Correction, the Suffolk County Sheriff's Office and the Brookline and Cambridge Police Departments" as well as a private sector liaison with the business community. It later grew to include Chelsea and Revere and a daily telephone call with nine cities and towns in what is known as the Urban Areas Security Initiative.

<sup>6</sup> For example, in 2009, the BRIC received \$1.29 million in a federal grant to hire ten analysts at the BRIC, including two analysts who specialize in "social network analysis intelligence." City of Boston, "Boston Receives Nearly \$2-million in Federal Funding for Public Safety," Sept. 11, 2009, at <http://www.cityofboston.gov/news/default.aspx?id=4477>; BRIC also receives funding from the state's Homeland Security Grant Program, which is funded by the Federal Emergency Management Agency, at <http://www.cityofboston.gov/perm/about/homelandsecurity.asp>

<sup>7</sup> Congressional Fusion Centers Report, at 2.

<sup>8</sup> Congressional Fusion Centers Report, *supra* n.2, at 1.

<sup>9</sup> Congressional Fusion Centers Report, at 42.

<sup>10</sup> Congressional Fusion Centers Report, at 3.

<sup>11</sup> Department of Justice, 28 C.F.R. § 23.20(a) (2011). (Note: These federal regulations have the force of law. 42 U.S.C. §§ 3782(a), 3789g(c). Under the Privacy Act of 1974, federal agencies are subject to similar restrictions. 5 U.S.C. § 552a(e)(7).)

criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity."<sup>12</sup> The BRIC's own guidelines, also released at the request of the ACLU and NLG, expressly include the same mandate — to investigate crimes rather than speech.<sup>13</sup>

These rules are vitally important because they erect a dividing line between the permissible investigation of crime and the impermissible investigation of people based on their ideas and beliefs. As the Senate subcommittee report on fusion centers explained, monitoring ordinary people is a "sensitive task" that can interfere with "individuals' rights to associate, worship, speak, and protest without being spied on by their own government."<sup>14</sup> The records we received from the BPD show that officers at the BRIC are not managing that "sensitive task" appropriately.

The documents show that surveillance officers from the BRIC, local and state police, and the FBI have worked together to monitor and record the non-criminal activities of Boston-area peace groups and activists. Officers created and retained electronic "intelligence reports" on groups and individuals where there is no demonstrated link to crime or terrorism. The BRIC files list the non-violent actions of peace groups and activists under the heading "Criminal Act," with labels such as "Extremists," "Civil Disturbances," and "HomeSec-Domestic" in reports that track groups and people who are not engaged in crime but are merely exercising their constitutional right to peaceful dissent.

In one "intelligence report," officers describe plans for a talk on March 23, 2007 at the Central Congregational Church in Jamaica Plain, writing that "this engagement was arranged by Boston City Councilor Felix Arroyo [Sr.]" The report notes that a "BU professor emeritus/activist" — it was the late Howard Zinn, although his name is blacked out in the document — and Cindy Sheehan, a member of Gold Star Families for Peace whose son was killed in Iraq, "will be speaking at the March 24 demonstration." Although nothing in the report suggests even a fleeting connection to criminal activity, it nonetheless labels the March 23<sup>rd</sup> presentation and subsequent anti-war rally as a "Criminal Act" with the sub-heading "Groups-Extremists," and creates searchable links to the individuals and peace groups discussed therein.

Worse still, the BPD's inappropriate intelligence collection about peaceful activists in the City of Boston may contribute to improper storage of information about them at the federal level. The documents we received from the Boston Police Department provide evidence that local officers and federal law

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<sup>12</sup> *Id.* § 23.20(b).

<sup>13</sup> "The BRIC will not seek or retain and originating agencies will agree to not submit information about individuals or organizations solely on the basis of their religious, political, or social views or activities; their participation in a particular noncriminal organization or lawful event; or their races, ethnicities, citizenship, places of origin, ages, disabilities, genders, or sexual orientation." *BRIC Privacy, Civil Rights, and Civil Liberties Protection Policy*, Fall 2010, §E2.

<sup>14</sup> Congressional Fusion Centers Report, *supra* n.2, at 28.

enforcement agents exchange information about Boston area activists. (That information sharing is unsurprising given that facilitating information sharing among different levels of government is part of the BRIC's mission.) One report refers to an FBI source who provided information to the Boston police on protesters' plans to "pass out fliers promoting their cause." The documents also describe communications between municipal police departments concerning First Amendment expression. Another report references a phone call between officers from BRIC and the Metro DC Intelligence Section during which the officials discuss how many activists from the Northeast attended a Washington, DC peace rally.

Due to the secretive nature of the BRIC's operations, we don't know precisely how Boston Police "intelligence reports" are shared with outside entities. We know that the BRIC is involved in several federally-managed reporting schemes, including the Suspicious Activity Reporting Initiative<sup>15</sup> and Homeland Intelligence Reports,<sup>16</sup> but we don't know what other means the Center has at its disposal to transfer information from local officers to shared government or private databases.

We therefore cannot easily trace the way "intelligence reports" like those describing our clients' First Amendment activity move through "intelligence" databases. Even if we had access to a complete list of those databases and information sharing systems, it may remain impossible to determine exactly where information generated at the BRIC ends up because the systems are difficult to audit. Therefore, erroneous information filed in reports crafted in Boston could find its way into untold numbers of further reports in departments and agencies nationwide. It is difficult to imagine a mechanism that could reel in errors in a locally-generated report because that report could end up in a police database 3,000 miles away, simply at the click of a button. Exacerbating the problem, the BRIC does not possess appropriate accountability mechanisms that would ensure the purging of inaccuracies or outdated information in its own files.<sup>17</sup>

That lack of functional oversight has resulted in predictable abuse, the released records show. While BRIC guidelines state that officers may create "interim reports" about an anticipated event or incident with potential for criminal conduct, they further require the destruction of these interim reports within 90 days if no criminal conduct occurs.

Nevertheless, in response to our lawsuit, the BRIC produced "intelligence reports" that did not reference any criminal activity dating back as far as 2007. These reports were retained for years when they

<sup>15</sup> Boston is one of twelve pilot cities in the federal Suspicious Activity Reporting (SAR) Initiative.

<sup>16</sup> These reports are "the primary method DHS uses to publish and distribute the raw intelligence it gathers [from local fusion centers] to federal intelligence and law enforcement agencies." Congressional Fusion Centers Report, *supra* n.2, at 18.

<sup>17</sup> Worse still, BRIC guidelines state it will not confirm the existence of a Suspicious Activity Report if asked.

should have been destroyed after 90 days, pursuant to the BRIC's own rules.<sup>18</sup> We do not know how pervasive is this violation of the Center's retention limits, but the documents we received highlight the fact that abuse occurs absent appropriate oversight and accountability. Had the ACLU and the National Lawyers Guild not started to recover these documents, the public — and perhaps even the BRIC — may never have known these files were retained in violation of the department's guidelines.

The BRIC admits that these "intelligence reports" were kept for too long. But they shouldn't have been written in the first place. The lack of effective oversight and accountability with regard to the BRIC's surveillance operations created an environment in which there was no meaningful check on the monitoring that led officers to create the unlawful reports about our clients.

These abuses demonstrate what can happen when policing procedures are shrouded in secrecy. It seems clear that despite having implemented rules designed to prevent abuses, the BRIC cannot effectively police itself. We are unaware of any officers facing discipline for violating the BRIC's own policies and putting our clients — and other innocent people — at risk of continued government surveillance or worse forms of harassment.

Political spying absent a nexus to criminal activity undermines effective law enforcement by wasting scarce tax dollars. The City of Boston faces real threats to public safety and shouldn't waste precious police resources investigating peace rallies. The Senate subcommittee report on fusion centers found that DHS may have allocated over a billion dollars towards the construction of offices like the BRIC nationwide. Its investigation also found that the states spent four times what the federal government contributed towards the development of these "fusion centers." Scarce police resources would be better allocated towards building community trust and solving actual crimes than intimidating and harassing petitioners for change in government policy.

When law enforcement officers start investigating protected ideas rather than crimes, they threaten our right to free expression and assembly protected by the First Amendment to the Constitution and Article 16 of the Massachusetts Declaration of Rights. The unchecked political surveillance our lawsuit uncovered undermines our core values by chilling the speech of people who wish to participate in our democracy, which is a laudable exercise that our government should encourage and promote. It would weaken the First Amendment if would-be speakers were to remain silent out of fear that they would be falsely labeled an "Extremist" or potential threat in a secret government database. Upon learning that the police had

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<sup>18</sup> The Boston Police attributes this particular impropriety to a computer glitch. In a letter to the ACLU, the BPD's lawyer explained that, "of the thirteen reports provided, approximately eleven of them should have been purged from the Department's database prior to your request. However, an error in the Department's software prevented this from occurring. That software error has since been corrected." Without an independent system of auditing and accountability, there is no way to know if the BRIC continues to keep certain reports longer than 90 days.

intelligence files containing information about him, one of our clients, peace activist Richard Colbath-Hess, said, "People are scared...If the police are monitoring us, who wants to take a risk?"

The organizations and individuals involved in the lawsuit against the Boston Police Department release these records to shine a light on counterproductive surveillance practices in our city. We call on the Boston Police Department to cease its political surveillance operations. The BRIC's political surveillance constitutes both a waste of public resources and a threat to our democracy. Rapidly advancing technologies enable government databases to log, store and share information — including false information — about people accused of no crime. Massachusetts should lead the nation and implement binding accountability, transparency and oversight mechanisms to ensure that police practices remain firmly within the confines of the law and the Constitution.

**There is no room in a democracy for the policing of dissent.**

## II. DOCUMENTS AND FINDINGS

A police presence is commonplace at political rallies and events, where officers are called on to keep order, help marchers get through the Boston streets and ensure public safety. Documents released by the BPD reveal that, in at least three ways, police now do much more than that.

First, officers actively monitor and videotape events and demonstrations, retaining the footage, and writing the "intelligence reports" on peaceful protesters. Second, officers investigate the beliefs and communications of peaceful demonstrators, giving them labels like "extremists" even when the officers could not plausibly suspect them of any crime. Third, the BPD and the BRIC improperly retained this information for years, even though it never should have been collected.

### A. The documents reveal that police surveillance teams have been monitoring and tracking Boston activists for years.

Videos taped at public demonstrations and "intelligence reports" written by officers assigned to the BRIC show pervasive monitoring of peaceful demonstrations. Nine out of the 13 reports obtained by the ACLU and NLG discuss only political activity, never mentioning criminal or even potentially criminal acts; two reference non-violent civil disobedience. Nonetheless, all of the reports include the category "Criminal Act" and use labels such as "Extremist," "Civil Disturbance" or "HomSec-Domestic."

***BPD "intelligence reports" show tracking and monitoring of political groups having no involvement in violence or access to criminal activity.***

- Officers monitored "an anti-war group made up of older veterans." 3/11/2008 Intel. Rpt.
- "Detective Creed and Trooper Favale went to the Boston Common to monitor the anti-war demonstration." 3/20/2008 Intel. Rpt.
- Another report states that "Detectives Creed and Kelley of the BRIC monitored a(n) anti-war demonstration" at the Park Street MBTA station. Nothing criminal occurred, and officers acknowledged that the demonstration was "generally peaceful." 3/26/2008 Intel. Rpt.
- Agents monitored preparations for an unusual anti-war rally on the Boston Common, noting that "in the past, this event has drawn up to several thousand participants who are generally peaceful." 10/01/2008 Intel. Rpt.
- "Sgt. Det. Brian McMasters and Det. William Dickinson monitored a protest organized by [redacted] . . ." 5/18/2009 Intel. Rpt.

***The monitoring is long-term.***

- Officers were able to say which people "have been showing up recently at anti-war and other far left" events. 3/20/2008 Intel. Rpt.
- Officers could say which demonstrators had attended "all of the recent" demonstrations and which demonstrators had attended only "several" of them. 1/8/2009 Intel. Rpt.

***"Intelligence reports" falsely categorize peaceful protests in a "Criminal Act" database with labels such as "Civil Disturbance," "HomeSec-Domestic" and "Extremists."***

- A Howard Zinn speaking engagement arranged by Councilor Felix Arroyo, Sr., was filed under "Extremists." 3/28/2007 Intel. Rpt.
- The groups Veterans for Peace, United for Justice with Peace and Stop the Wars Coalition are also categorized as "Extremists." 3/20/2008 and 3/26/2008 Intel. Rpts.
- Two "intelligence reports" filed under "Groups—Civil Disturbance" make no mention of any such disturbance. In one report, the only documented disruption occurred when protesters caused "some traffic delays and sometimes [blocked] pedestrian passage on the sidewalk." Officers simply moved protesters along. 5/18/2009 Intel. Rpt.
- None of the reports filed under "HomeSec-Domestic" discuss the possibility of any future safety concerns, security concerns, terrorism (domestic or otherwise), or any other type of threat. 4/02/2007, 1/03/2008, 10/01/2008, 3/18/2010 and 4/13/2010 Intel. Rpts.

***BPD officers take video recordings of peaceful events, retaining them for unknown periods of time.***

- In response to our requests for video of specified events, the BPD turned over hours of footage, which captures thousands of demonstrators expressing their views in public areas. These tapes are retained even though they do not constitute evidence of any crime. Activists report seeing police officers with hand-held cameras at rallies and events. The BPD also deploys stationary cameras in open areas.

**B. The documents reveal that Boston Police officers track and record the internal dynamics and political beliefs of peaceful groups and individuals.**

Police surveillance of peaceful demonstrators is not limited to watching them when they participate in peaceful public protests. "Intelligence reports" also reveal investigation of the ideas and communications of peaceful groups.

*The "intelligence reports" describe the monitoring of constitutionally-protected speech and ideas having no plausible connection to any crime.*

- Officers reported that local activists had tried "to get 'celebrity guest speakers'" such as Sean Penn and Susan Sarandon. 3/28/2007 Intel. Rpt.
- Officers monitored one group's "infighting" about whether it "should stop its anti-war actions during the election year in an effort not to harm the Democratic Party." 3/11/2008 Intel. Rpt.
- Officers questioned someone about "the reason for the demonstration" and whether "he was part of [it]." 3/26/2008 Intel. Rpt.
- An intelligence report described one group's internal debate about whether "to plan for an increase in anti-war actions leading up to the November elections." 6/10/2008 Intel. Rpt.
- "Activists are hopeful that an Obama victory in November will speed up the withdrawal from Iraq." 10/1/2008 Intel. Rpt.
- When the Tea Party brought Sarah Palin to town, officers investigated whether "counter-demonstrators" would hold an "impromptu march," even though prior Palin events had involved "no major incidence of violence." 4/13/2010 Intel. Rpt.

*The tracking of groups and peace activists by police includes monitoring of on-line forums, such as:*

- Facebook. 4/13/2010 Intel. Rpt.
- Email distribution lists. 3/20/2008 Intel. Rpt.
- "[C]hatter" on local activist message boards." 3/27/2007 Intel. Rpt.

*Boston Police officers seek informants to spy on the peace activist community.*

- The Boston officers have relied on outside intelligence on constitutionally protected activities, such as the "FBI's source" who said that 10 people from a certain group might try to pass out flyers at the Palin rally. 4/13/2010 Intel. Rpt.
- Officers have also tried to get activists to spy on each other. One report states: "Over the weekend, Lt. McDermott spoke with a source in the activist community who stated that the various anti-war groups are hoping for a large turnout this weekend." 3/27/2007 Intel. Rpt.

*Activists accused of minor infractions are interrogated about their First Amendment activities rather than their infractions.*

- Activists arrested at one demonstration were moved for "processing," which included questioning by surveillance officers about what group "the arrested activists were associated with." 3/20/2008 Intel. Rpt.

- Activists arrested for trespassing at a consulate were interviewed by three surveillance officers "in the hopes that those activists may reach out to the officers in the future." 1/08/2009 Intel. Rpt. They were asked about their organizing efforts and for the names of other organizers. When the National Lawyers Guild asked the BPD for records of this interrogation, the BPD responded that there were none. The lawsuit proved that these records existed after all.

**C. The documents reveal that the Boston Police Department is retaining and possibly sharing "intelligence reports" in violation of privacy rules.**

Federal privacy regulations and the BRIC's own policies forbid collecting and retaining information based solely on political activity. Yet this is precisely what has been happening.

*Boston Police have improperly created and retained intelligence records.*

- Under federal law and BRIC's policies, information and First Amendment activity should not be collected unless the police have reasonable suspicion of a crime. 42 U.S.C. §§ 5782(a), 3789g(c); 28 C.F.R. § 23.20. The "intelligence reports" released by BPD show widespread violation of these rules.
- BPD reports were not purged in accordance with its own guidelines.

*BPD surveillance appears to be part of a broader effort to collect and share information.*

- Each "intelligence report" is assigned a "Database record ID number."
- The reports reflect information obtained from the FBI, including FBI sources and the National Instant Criminal Background Check System. 3/20/2008 and 4/13/2010 Intel. Rpts.

**D. The documents show that domestic surveillance lacks transparency and accountability.**

While the BRIC privacy policy states that it "will be open with the public in regard to information and intelligence collection practices," BRIC operates in secrecy, without external oversight or public accountability. There appear to be no consequences for BRIC's violation of its own policies, such as record retention and intelligence gathering.

Individuals have no meaningful way to challenge false information collected about them. While the BRIC privacy Policy outlines a process to make complaints, the process is not known to the public. In addition, to the extent that information about an individual relates to terrorism, the BRIC will neither confirm nor deny the existence of information on the individual.

### III. RECOMMENDATIONS

Routine police surveillance and investigation of peaceful demonstrations, and of the people who engage in them, is illegal, a misuse of police resources, and an affront to the First Amendment. Yet the Boston Police Department and the Boston Regional Intelligence Center have routinely and intentionally collected information about peaceful demonstrations and demonstrators, and have not purged that information in a timely manner.

These practices should come to an immediate and public end. Accordingly, the ACLU of Massachusetts and the National Lawyers Guild, Massachusetts Chapter make the following recommendations:

1. **The BPD should cease the routine surveillance and recording of public demonstrations and the routine monitoring and investigation of groups and individuals who engage in them. Under federal regulations, those police actions should occur only when officers reasonably suspect criminal activity. When officers do reasonably suspect criminal activity by a specific group or person, any surveillance or investigation must relate to the suspected crime. The BPD should create an independent and public auditing system to ensure that it abides by the reasonable suspicion standard and adequately protects civil rights and civil liberties in all of its intelligence operations.**
2. **Given the findings of the US Senate subcommittee report and the abuses uncovered by the ACLU and the NLG, the Commonwealth of Massachusetts should immediately cease funding Massachusetts' two fusion centers, the BRIC and its state police counterpart, the Commonwealth Fusion Center. Any future allocation of funds should be contingent on a demonstration that neither fusion center is conducting political surveillance, that they are actually using taxpayer dollars to promote public safety and that they have implemented meaningful measures of accountability and oversight.**
3. **The Massachusetts state legislature should adopt legislation to prevent abuses that inhibit freedom of expression. Such legislation should, at a minimum: prohibit law enforcement from collecting information about lawful First Amendment-protected activity without reasonable suspicion that it directly relates to criminal activity; establish rigorous standards for the integrity, security, and the use of any information collected about First Amendment-protected activity; and require routine public audits of information systems that contain such information.<sup>19</sup>**

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<sup>19</sup> See, e.g., *An Act to protect privacy and personal data*, Senate Bill 1194, 187<sup>th</sup> General Court of the Commonwealth of Massachusetts, at <http://www.malegislature.gov/Bills/187/Senate/S01194>.

**EXHIBIT 64**

## **DECLARATION**

**I, Mary J. Martin, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates for the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.**

**I make this statement on the basis of my personal knowledge.**

- 1. I was the Socialist Workers Party candidate for School Board in the City of Seattle in 2011 along with John Naubert who was the party's candidate for Port Commissioner in Seattle.**
- 2. Between July and December, I and other campaign supporters and supporters of the Socialist Workers Party participated in dozens of protests and picket lines in support of the International Longshore and Warehouse workers Union Local 21 who were in a labor dispute with the EGT Corporation in Longview, WA until the unionists prevailed and were re-instated in Jan. of 2012.**
- 3. Support activities for the union took place in Washington State including in Portland, Longview, Seattle, and Tacoma as well as cities in California. Our support to the union and our election campaigns were received well at these union support activities. The record of our participation is reflected in articles in the pages of the Militant Newspaper throughout this period.**
- 4. Recently revelations of government spying on the Occupy movement as made public in an article in the New York Times indicate that the spying was directed specifically at the labor movement's public activities in support of the ILWU.**
- 5. At the time I heard personal accounts from unionists, Occupy activists and residents of Longview about police harassment, spying and assaults carried out against them while on the picket line, while on their way to and from the picket line or work, or while at home in their houses, from local police and other police agencies. As well there was concerted misquoting and misrepresentation of the union and its spokespersons and supporters in the local paper, Investor Business**

Daily and other press. Today a civil suit by the union against police agencies regarding these police actions is still being argued in court.

6. Based on my experiences speaking with potential supporters, I believe that there are people considering contributing to or supporting the SWP campaign who will decline to do so for fear they will be subject to threats, violence and/or harassment by the government and private persons. They will reasonably conclude that because the government is surveilling these union support rallies, in which the SWP has and continues to participate, and the government and hostile private persons are harassing these union supporters, the government is also surveilling the SWP and SWP supporters will also be subject to harassment.
7. I declare under penalty of perjury that the foregoing is true and correct. Executed in Seattle, WA on Feb. 11, 2013.

A handwritten signature in cursive script that reads "Mary J. Martin". The signature is written in black ink and is positioned above the printed name.

Mary J. Martin

## F.B.I. Counterterrorism Agents Monitored Occupy Movement, Records Show



WASHINGTON — The Federal Bureau of Investigation used counterterrorism agents to investigate the Occupy Wall Street movement, including its communications and planning, according to newly disclosed agency records.

The F.B.I. records show that as early as September 2011, an agent from a counterterrorism task force in New York notified officials of two landmarks in Lower Manhattan — Federal Hall and the Museum of American Finance — “that their building was identified as a point of interest for the Occupy Wall Street.”

That was around the time that Occupy Wall Street activists set up a camp in Zuccotti Park in Lower Manhattan, spawning a protest movement across the United States that focused the nation’s attention on issues of income inequality.

In the following months, F.B.I. personnel around the country were routinely involved in exchanging information about the movement with business, local law-enforcement

agencies and universities.

An October 2011 memo from the bureau's Jacksonville, Fla., field office was titled Domain Program Management Domestic Terrorist.

The memo said agents discussed "past and upcoming meetings" of the movement, and its spread. It said agents should contact Occupy Wall Street activists to ascertain whether people who attended their events had "violent tendencies."

The memo said that because of high rates of unemployment, "the movement was spreading throughout Florida and there were several Facebook pages dedicated to specific chapters based on geographical areas."

The F.B.I. was concerned that the movement would provide "an outlet for a lone offender exploiting the movement for reasons associated with general government dissatisfaction."

Since the Sept. 11, 2001, attacks, the F.B.I. has come under criticism for deploying counterterrorism agents to conduct surveillance and gather intelligence on organizations active in environmental, animal-cruelty and poverty issues.

The disclosure of the F.B.I. records comes a little more than a year after the police ousted protesters from Zuccotti Park in November 2011. Law-enforcement agencies undertook similar actions around the country against Occupy Wall Street groups.

Occupy Wall Street has lost much of its visibility since then, but questions remain about how local and federal law-enforcement officials monitored and treated the protesters.

The records were obtained by the Partnership for Civil Justice Fund, a civil-rights organization in Washington, through a Freedom of Information request to the F.B.I. Many parts of the documents were redacted by the bureau.

The records provide one of the first glimpses into how deeply involved federal law-enforcement authorities were in monitoring the activities of the movement, which is sometimes described in extreme terms.

For example, according to a memo written by the F.B.I.'s New York field office in Au-

gust 2011, bureau personnel met with officials from the New York Stock Exchange to discuss "the planned Anarchist protest titled 'Occupy Wall Street,' scheduled for September 17, 2011."

"The protest appears on Anarchist Web sites and social network pages on the Internet," the memo said.

It added: "Numerous incidents have occurred in the past which show attempts by Anarchist groups to disrupt, influence, and or shut down normal business operations of financial districts."

A spokesman for the F.B.I. in Washington cautioned against "drawing conclusions from redacted" documents.

"The F.B.I. recognizes the rights of individuals and groups to engage in constitutionally protected activity," said the spokesman, Paul Bresson. "While the F.B.I. is obligated to thoroughly investigate any serious allegations involving threats of violence, we do not open investigations based solely on First Amendment activity. In fact, the Department of Justice and the F.B.I.'s own internal guidelines on domestic operations strictly forbid that."

But Mara Verheyden-Hilliard, executive director of the Partnership for Civil Justice Fund, said the documents demonstrated that the F.B.I. had acted improperly by gathering information on Americans involved in lawful activities.

"The collection of information on people's free-speech actions is being entered into unregulated databases, a vast storehouse of information widely disseminated to a range of law-enforcement and, apparently, private entities," she said. "This is precisely the threat — people do not know when or how it may be used and in what manner."

The records show little evidence that the members of the movement planned to commit violence. But they do describe a discussion on the Internet "regarding the Occupy Wall Street movement about when it is okay to shoot a police officer" and a law-enforcement meeting held in Des Moines because "there may potentially be an attempt to stop the Iowa Caucuses by people involved in Occupy Iowa."

There are no references within the documents to agency personnel covertly infiltrating Occupy branches.

The documents indicate, however, that the F.B.I. obtained information from police departments and other law-enforcement agencies that appear to have been gathered by someone observing the protesters as they planned activities.

The documents do not detail recent activities by the F.B.I. involving Occupy Wall Street.

But one activist, Billy Livsey, 48, said two F.B.I. agents visited him in Brooklyn over the summer to question him about planned protests at the Republican National Convention in Tampa, Fla., and about plans to celebrate the first anniversary of Occupy Wall Street in September.

The agents, Mr. Livsey said, told him they knew he was among a group of people involved in the Occupy Wall Street "direct action" group that distributed information about the movement's activities.

He said he felt unnerved by the visit.

"It was surprising and troubling to me," Mr. Livsey said.

# The Partnership for Civil Justice Fund

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## FBI Documents Reveal Secret Nationwide Occupy Monitoring

[See the released documents here](#)

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FBI documents just obtained by the Partnership for Civil Justice Fund (PCJF) pursuant to the PCJF's Freedom of Information Act demands reveal that from its inception, the FBI treated the Occupy movement as a potential criminal and terrorist threat even though the agency acknowledges in documents that organizers explicitly called for peaceful protest and did "not condone the use of violence" at occupy protests.

Issue: Free Speech Gov't Transparency

Case: Occupy Crackdown FOIA Requests

The PCJF has obtained heavily redacted documents showing that FBI offices and agents around the country were in high gear conducting surveillance against the movement even as early as August 2011, a month prior to the establishment of the OWS encampment in Zuccotti Park and other Occupy actions around the country.

"This production, which we believe is just the tip of the iceberg, is a window into the nationwide scope of the FBI's surveillance, monitoring, and reporting on peaceful protestors organizing with the Occupy movement," stated Mara Verheyden-Hilliard, Executive Director of the Partnership for Civil Justice Fund (PCJF). "These documents show that the FBI and the Department of Homeland Security are treating protests against the corporate and banking structure of America as potential criminal and terrorist activity. These documents also show these federal agencies functioning as a de facto intelligence arm of Wall Street and Corporate America."

"The documents are heavily redacted, and it is clear from the production that the FBI is withholding far more material. We are filing an appeal challenging this response and demanding full disclosure to the public of the records of this operation," stated Heather Russo, staff attorney with the PCJF.

- As early as August 19, 2011, the FBI in New York was meeting with the New York Stock Exchange to discuss the Occupy Wall Street protests that wouldn't start for another month. By September, prior to the start of the OWS, the FBI was notifying businesses that they might be the focus of an OWS protest.
- The FBI's Indianapolis division released a "Potential Criminal Activity Alert" on September 15, 2011, even though they acknowledged that no specific protest date had been scheduled in Indiana. The documents show that the Indianapolis division of the FBI was coordinating with "All Indiana State and Local Law Enforcement Agencies," as well as the "Indiana Intelligence Fusion Center," the FBI "Directorate of Intelligence" and other national FBI coordinating mechanisms.
- Documents show the spying abuses of the FBI's "Campus Liaison Program" in which the FBI in Albany and the Syracuse Joint Terrorism Task Force disseminated information to "sixteen (16) different campus police officials," and then "six (6) additional campus police officials." Campus officials were in contact with the FBI for information on OWS. A representative of the State University of New York at Oswego contacted the FBI for information on the OWS protests and reported to the FBI on the SUNY-Oswego Occupy encampment made up of students and professors.
- Documents released show coordination between the FBI, Department of Homeland Security and corporate America. They include a report by the Domestic Security Alliance Council (DSAC), described by the federal government as "a strategic partnership between the FBI, the Department of Homeland Security and the private sector," discussing the OWS protests at the West Coast ports to "raise awareness concerning this type of criminal activity." The DSAC report shows the nature of secret collaboration between American intelligence agencies and their corporate clients - the document contains a "handling notice" that the information is "meant for use primarily within the corporate security community. Such messages shall not be released in either written or oral form to the media, the general public or other personnel..." (The DSAC document was also obtained by the Northern California ACLU which has sought local FBI surveillance files.)

- Naval Criminal Investigative Services (NCIS) reported to the DSAC on the relationship between OWS and organized labor for the port actions. The NCIS describes itself as "an elite worldwide federal law enforcement organization" whose "mission is to investigate and defend against criminal, terrorist, and foreign intelligence threats to the United States Navy and Marine Corps ashore, afloat and in cyberspace." The NCIS also assists with the transport of Guantanamo prisoners.
- DSAC issued several tips to its corporate clients on "civil unrest" which it defines as ranging from "small, organized rallies to large-scale demonstrations and rioting." It advised to dress conservatively, avoid political discussions and "avoid all large gatherings related to civil issues. Even seemingly peaceful rallies can spur violent activity or be met with resistance by security forces. Bystanders may be arrested or harmed by security forces using water cannons, tear gas or other measures to control crowds."
- The FBI in Anchorage reported from a Joint Terrorism Task Force meeting of November 3, 2011, about Occupy activities in Anchorage.
- A port Facility Security Officer in Anchorage coordinated with the FBI to attend the meeting of protesters and gain intelligence on the planning of the port actions. He was advised to request the presence of an Anchorage Police Department official to also attend the event. The FBI Special Agent told the undercover private operative that he would notify the Joint Terrorism Task Force and that he would provide a point of contact at the Anchorage Police Department.
- The Jacksonville, Florida FBI prepared a Domestic Terrorism briefing on the "spread of the Occupy Wall Street Movement" in October 2011. The intelligence meeting discussed Occupy venues identifying "Daytona, Gainesville and Ocala Resident Agency territories as portions ... where some of the highest unemployment rates in Florida continue to exist."
- The Tampa, Florida FBI "Domestic Terrorism" liaison participated with the Tampa Police Department's monthly intelligence meeting in which Occupy Lakeland, Occupy Polk County and Occupy St. Petersburg were discussed. They reported on an individual "leading the Occupy Tampa" and plans for travel to Gainesville for a protest planning meeting, as well as on Veterans for Peace plans to protest at MacDill Air Force Base.
- The Federal Reserve in Richmond appears to have had personnel surveilling OWS planning. They were in contact with the FBI in Richmond to "pass on information regarding the movement known as occupy Wall Street." There were repeated communications "to pass on updates of the events and decisions made during the small rallies and the following information received from the Capital Police Intelligence Unit through JTTF (Joint Terrorism Task Force)."
- The Virginia FBI was collecting intelligence on the OWS movement for dissemination to the Virginia Fusion Center and other intelligence divisions.
- The Milwaukee division of the FBI was coordinating with the Ashwaubenon Public Safety division in Green Bay Wisconsin regarding Occupy.
- The Memphis FBI's Joint Terrorism Task Force met to discuss "domestic terrorism" threats, including, "Aryan Nations, Occupy Wall Street, and anonymous."
- The Birmingham, AL division of the FBI sent correspondence to HAZMAT teams regarding the Occupy Wall Street movement.
- The Jackson, Mississippi division of the FBI attended a meeting of the Bank Security Group in Biloxi, MS with multiple private banks and the Biloxi Police Department, in which they discussed an announced protest for "National Bad Bank Sit-In-Day" on December 7, 2011.
- The Denver, CO FBI and its Bank Fraud Working Group met and were briefed on Occupy Wall Street in November 2011. Members of the Working Group include private financial institutions and local area law enforcement.
- Jackson, MS Joint Terrorism Task Force issued a "Counterterrorism Preparedness" alert. This heavily redacted document includes the description, "The document...the Occupy Wall Street Movement."

You can read the FBI - OWS documents below where we have uploaded them in searchable format for public viewing.

The PCJF filed Freedom of Information Act demands with multiple federal law enforcement agencies in the fall of 2011 as the Occupy crackdown began. The FBI initially attempted to limit its search to only one limited record keeping index. Recognizing this as a common tactic used by the FBI to conduct an inadequate search, the PCJF pressed forward demanding searches be performed of the FBI headquarters as well as FBI field offices nationwide.

The PCJF will continue to push for public disclosure of the government's spy files and will release documents as they are obtained.

[Click here](#) to see the FBI documents obtained by the PCJF.

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# THE MILITANT

Vol. 77/No. 1    January 14, 2013

## **FBI documents reveal US rulers' motives for spying against 'Occupy'**

(front page)

**BY JOHN STUDER**

Recently released FBI documents show the extent of its spying against "Occupy" protest activities, as well as the involvement of other police agencies and private cops in these operations, and their special concern about any support among Occupy activists for labor fights and other social struggles in the interests of working people.

After a year of stonewalling, the FBI turned over dozens of heavily redacted documents to the Partnership for Civil Justice Fund, a civil liberties law firm, concerning spying and monitoring of Occupy activities.

On Dec. 21 the government released 99 pages—out of 387 they claim they "reviewed"—in response to a PCJF Freedom of Information Act request.

"This production, which we believe is just the tip of the iceberg, is a window into the nationwide scope of the FBI's surveillance, monitoring, and reporting on peaceful protestors organizing with the Occupy movement," Mara Verheyden-Hilliard, PCJF executive director, said in a statement released with copies of the files.

"Domestic Terrorism" was the FBI's inference on many of the files. "We do not open investigations based solely on First Amendment activity," FBI spokesman Paul Branson told the *New York Times* when asked why the agency had targeted Occupy groups across the country.

The FBI started generating reports on Occupy in August 2011, the month before the group began its first action in Zuccotti Park near Wall Street in New York City.

The files turned over to PCJF contain reports of cop spying in 32 cities, including New York; Anchorage, Alaska; Albany, N.Y.; Memphis, Tenn.; Biloxi, Miss.; Portland, Maine; Des Moines, Iowa; and Tampa, Fla.

Dozens of federal agencies, state and local cop outfits, university police and security forces for banks and businesses across the country are listed as participating in meetings with the FBI about planned protests and Occupy activists.

They include FBI-police Fusion Centers and local affiliates of the Joint Terrorism Task Force—both collaborative efforts combining FBI and other federal spy agencies with intelligence or “anti-terrorism” divisions of local police departments; the Domestic Security Alliance Council, which the government calls “a strategic partnership between the FBI, the Department of Homeland Security and the private sector”; and the Naval Criminal Investigative Service, which says it is “an elite worldwide federal law enforcement organization” whose “mission is to investigate and defeat criminal, terrorist, and foreign intelligence threats to the United States Navy and Marine Corps ashore, afloat and in cyberspace.”

### **Targets West Coast port protests**

One central target of the spying was protests planned at ports up and down the West Coast in December 2011.

A Domestic Security Alliance Council “Liaison Information Report,” which states its purpose “is to raise awareness concerning this type of criminal activity,” reports that Occupy groups are organizing to hold peaceful protests at ports in Los Angeles; San Diego; Houston; Portland, Ore; and Seattle, Tacoma and Vancouver, Wash.

The report is particularly concerned about potential cooperation between the protesters and members of the International Longshore and Warehouse Union. “The Naval Criminal Investigative Service has stated that the actions of the OWS [Occupy Wall Street] Movement may or may not be coordinated with organized labor actions at the affected ports,” the anonymous DSAC author writes.

The Occupy actions at the ports included slogans in support of ILWU workers in Longview, Wash., who at the time were involved in a bitter fight against a lockout by EGT Development.

DSAC includes recommendations for executives of its business affiliates: “Avoid all large gatherings related to civil issues. Even seemingly peaceful rallies can spur violent activity or be met with resistance by security forces.”

An Oct. 19, 2011, “Domestic Terrorism” memo warns about the emergence of Occupy chapters in northern Florida. The FBI’s counterterrorism program coordinator there explains his concern that these are “territories” where “some of the highest unemployment rates in Florida continue to exist.”

An “Intelligence Briefing” issued in Los Angeles Oct. 20 reports on a meeting the FBI organized with local county sheriffs and L.A. Transit Security Bureau cops. The bureau’s special agent notes that there is a rise in confrontations with “verbally abusive” people on mass transit who confront cops about beatings of prisoners in L.A. Sheriff’s Department jails.

The FBI agent expresses concern for what would happen if “‘Occupy Wall Street’ protesters mix with the more violent individuals upset about the alleged mistreatment of prisoners in the LASD jails.”

An Oct. 25 document reports the FBI "disseminated two intelligence products from the Campus Liaison Program to sixteen (16) different campus police officials" in the Albany, N.Y., area.

The authors of these files, whose names are all redacted out, work hard to present some potential for violence that justifies their investigation. Some note the participation of anarchists. One memo says Occupy would provide "an outlet for a lone offender exploiting the movement for reasons associated with general government dissatisfaction."

They also strain to give the appearance that the FBI is not running informers or provocateurs inside the Occupy groups.

"The documents indicate, however, that the FBI obtained information from police departments and other law-enforcement agencies," the *Times* wrote, "that appear to have been gathered by someone observing the protesters as they planned activities."

Attorneys for the PCJF say they "will continue to push for public disclosure of the government's spy files and will release documents as they are obtained."

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# Latest Batch of DHS Occupy Documents Contains New Details About Monitoring of Protest Movement

February 13, 2013

By [Jason Leonard](#), [JA Myerson](#), [Yana Kunichoff](#) and [Mike Ludwig](#), *Truthout* | Report

The Department of Homeland Security (DHS) released another batch of documents Thursday morning in response to Truthout's wide-ranging Freedom of Information Act (FOIA) request pertaining to the agency's role in monitoring the Occupy Wall Street (OWS) protest movement.



The materials show that DHS and other federal law enforcement agencies under DHS's control received and disseminated numerous internal intelligence reports and threat bulletins about OWS's activities and monitoring of the group was widespread. (Photo: [Alex Wellerstein / Flickr](#))

The heavily redacted documents total 335 pages (28 pages were released in full). The letter DHS sent to this reporter detailing the exemptions the agency applied in justifying the redactions can be read [here](#).

Truthout was the first news organization to file a FOIA request with DHS for OWS-related documents. In March, the agency released to Truthout nearly 400 pages of redacted documents that showed DHS officials (and in several cases, the Secret Service) closely monitored the eight-month old Occupy movement, gathered intelligence on the group and had disseminated internal threat assessments on OWS--actions which one DHS official characterized as

possibly unconstitutional, according to the documents.

The new batch of records show additional warnings leveled by DHS officials about unconstitutional surveillance pertaining to internal activities aimed at monitoring the protest group's movements. The documents DHS previously released to Truthout did not contain smoking guns proving DHS worked with local law enforcement and local government officials "in any wholesale manner," as noted by one DHS official, on the coordinated crackdown of Occupy encampments throughout the country last October.

However, DHS, as well as its sub-agencies, such as Immigration and Custom Enforcement (ICE), and officials stationed at fusion centers throughout the country, spent a considerable amount of time monitoring the protest movement, exchanging emails and "bulletins" about OWS, and discussing the group's plans with local law enforcement, according to the new documents.

For example, ICE sent a "special agent" on New Years Day to assist law enforcement authorities, if necessary, during an international meeting between members of Occupy Buffalo and Occupy Toronto and other regional Occupies on the famous Rainbow Bridge, where tourists can walk to each side of the Niagara Falls, according to a "significant incident report" issued by ICE.

The special agent's name was redacted, but that individual worked with ICE's Homeland Security Investigations unit, which investigates serious border crimes, such as human and drug smuggling. About 30 people showed up for the meeting, which remained peaceful and did not interrupt any border patrol procedures. ICE issued similar "significant incident reports" on actions at ports in Oakland and Portland and an rally in El Paso, Texas.

On November 11, 2011 a "watch officer" issued an email to dozens of Federal Emergency Management Agency (FEMA) officials and other DHS employees alerting them to be aware of a November 18 Occupy DC event called "occupy the evening commute," where protesters were expected to engage commuters

in the DC subway near the Occupy camp to tell them about the Occupy movement. The "watch officer," who's name was redacted from the document, works for FEMA's National Watch Center, which appears to spend a bulk of its time keeping an eye out for extreme weather, earthquakes and other natural disasters.

Moreover, ICE spokespeople disseminated an email advising that Occupy Atlanta would be heading towards the Stewart Detention Center, a privately run federal immigration prison in Stewart, Georgia, for a planned action.

"Just a heads up that local OPA/ERO in ATL received word that a few bus loads of 'Occupy Atlanta' protestors will be taking their show on the road and heading down to Stewart for an 'Occupy Stewart' demonstration at some point tomorrow," says a November 17, 2011 email written by Gillian M. Christensen, an ICE public affairs officer, that was sent to ICE press secretary Barbara Gonzalez among other ICE media representatives.

Emails also show considerable coordination between various agencies regarding the December 12, 2011, West Coast-wide OWS protest aimed at shutting down seaports in Anchorage, Los Angeles, San Diego, Oakland, Portland, Houston, Seattle and Tacoma. A request from DHS's Network Operations Center (NOC) went out on December 6 to Customs and Border Patrol (CPB), the US Coast Guard and ICE.

In preparation for these protests, a December 8, 2011 memo details DHS field offices in Houston, Los Angeles, San Diego, San Francisco and Seattle were "actively engaged with local law enforcement and trade partners to establish contingency plans" in case the protests affected CPB locations in those cities. Coordinated agencies included local police departments, the Coast Guard, the TSA (including Federal Air Marshals), US Marshals, the US Attorneys Office, and potentially others - the memo contains significant redactions.

It is not clear what ICE's response to the request to "provide what actions they

will be taking to prepare" for the shutdown contained or why it was thought necessary to have ICE detail its plans. The same RFI mentions placing San Francisco's Special Response Team (SRT) on notice. The SRT is a group of elite deputies with heavy training in special weapons and tactics. The Coast Guard provided a "general battle rhythm" and a list of its assets on patrol including boats and weaponry, though "In general," the memo stipulates, "no overt weapons will be displayed."

The previous port shutdown, which Occupy Oakland organized on November 2, had support from the air. An email contained in the documents assures DHS that "Air Station San Francisco has a B-0 aircraft ready to respond as well."

Other emails show that the decision to enforce curfews or evict Occupy protesters has been issued from different federal agencies and there is confusion among local law enforcement agencies as to which federal agency is responsible for giving these orders.

Indeed, on November 1, 2011 Portland protesters were removed from the federal Terry Shunk Plaza by Federal Protective Services (FPS) and the Portland Police Bureau. But less than a week later it was unclear whether FPS or the General Services Administration (GSA), the agency that approves permits for protests on federal property, would be handling arrests. FPS is part of DHS. It is a "federal law enforcement agency [that] provides integrated security and law enforcement services to federally owned and leased buildings, facilities, properties and other assets," DHS's website says.

On November 6, 2011 Occupy protesters chained themselves to a 50-gallon drum at the plaza. An email from DHS spokesman Chris Ortman says that reporters from an unnamed agency "are asking if FPS will be arresting folks as they did last week." The Portland Police Department is also "telling reporters it's FPS' decision," the email states,

But, Ortman said, "GSA controls the permits and has asked FPS not to enforce the curfew at the park and the prohibition on overnight encampments."

At the same time, Ortman's email says that FPS is waiting for direction from DHS on whether they should initiate arrests.

"I've spoken to the FPS CRD on the ground and he says they are standing down and following GSA's request to only intervene if there is a threat to public safety until they hear otherwise from DHS," Ortman wrote.

Another email shows the White House approved talking points for DHS in which the agency denied to reporters that it had participated in a coordinated crackdown on Occupy encampments last year.

"Any decisions on how to handle specific situations are dealt with by local authorities in that location," states a November 16, 2011 email, which contained an on-the-record comment DHS spokesman Matthew Chandler said was apparently approved by the White House and later provided to CBS News. "If a protest area is located on Federal property and has been deemed unsanitary or unsafe by the General Services Administration (GSA) or city officials, and they make a decision to evacuate participants, the Federal Protective Service (FPS) will work with those officials to develop a plan to ensure the security and safety of everyone involved."

### **OWS Documents Sought From Other Law Enforcement Agencies**

In January, Truthout also filed, under New York's Freedom of Information Law (FOIL), a request for OWS documents, including video, audio, photographs, emails, and threat assessments, with the New York Police Department (NYPD) and its Joint Terrorism Task Force (JTTF). In a February 13 letter sent to Truthout, Lt. Richard Mantallino, a records access officer in NYPD's legal bureau, said, "Before a determination can be rendered, further review is necessary to assess the potential applicability of exemptions

set forth in FOIL, and whether the records can be located."

NYPD would not say when the department expects to complete its "review."

Last October, Truthout also filed a FOIA request with the FBI for OWS-related documents. But the bureau responded to our FOIA request by stating the agency was "unable to identify main file records responsive to the FOIA."

We immediately appealed the decision to the Justice Department's Office of Information Policy (OIP) and requested the FBI conduct a broader search for documents given that a report published last October by Gawker noted that Jordan T. Lloyd, a member of the FBI's cybersecurity team in New York, received dozens of emails about Occupy Wall Street and that Lloyd responded to at least one of the messages. On February 7, Justice Department attorney Sean R. O'Neill, denied our appeal and said the FBI conducted an "adequate" search.

"After carefully considering your appeal, I am affirming the FBI's action on your request," O'Neill wrote in a letter to Truthout. "I have determined that the FBI's action was correct and that it conducted an adequate, reasonable search for responsive records."

The documents DHS released Thursday show that the FBI's Strategic Information & Operations (SIOC) division had notified all of its field offices about a plan by Occupy protesters to shut down West Coast ports on December 12, 2011. The December 6, 2011 email was sent out by a "senior watch officer" from DHS's National Operations Center. It is addressed to "All."

"FBI SIOC advised us that they are also sharing this information with their field offices tonight," the email says. "The FBI does not currently intend to release a bulletin but they did say that this would be discussed further in the morning."

SIOC "was created in 1989 to monitor all major events held in conjunction with the inauguration of President George H.W. Bush. It replaced an ad hoc

emergency operations center that was created for specific crisis situations," according to a fact sheet posted on the FBI's website.

The FBI's discussion of the ports shutdown took place about a month after we filed our FOIA request with the bureau, which sought documents covering the August through October 31 timeframe. We've filed another FOIA request with FBI seeking documents from November 1, 2011 through the present.

Truthout also filed a separate FOIA request with the FBI for "processing notes" to determine how the agency handled our initial FOIA request for OWS documents. Furthermore, we also requested a copy of the administrative file from OIP related to the denial of our appeal.

Last week, the FBI sent the processing notes--two pages, including a search slip--which were heavily redacted and fails to provide any additional insight into the integrity of the search for responsive records by the bureau.

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

This article is a Truthout original.

# THE MILITANT

Vol. 76/No. 1 January 2, 2012

## **Longshore fight against union busting intensifies**

**BY MARY MARTIN**

**LONGVIEW, Wash.**— International Longshore and Warehouse Union Local 21 in Longview, Wash., is preparing for a large protest to meet the first ship scheduled to load at EGT Development's grain terminal in January.

EGT has refused to hire ILWU members at its terminal in violation of an agreement between the union and the Port of Longview. Instead, the bosses have hired members of Operating Engineers Union Local 701 through a subcontractor under inferior conditions and without a contract.

If EGT prevails, it would be the first West Coast terminal run without ILWU labor in eight decades.

The U.S. Coast Guard and Homeland Security will be overseeing the ship operation on the Columbia River. Coast Guard officials previously visited the union hall to "remind" longshore workers that their credentials could be revoked if union protests interfere with EGT operations.

The union faces substantial legal challenges and a concerted effort by government agencies to smear it as "violent" in order to open the door to attacks by cops and courts.

On Dec. 12 Judge Ron Marshall of the Cowlitz County District Court rejected motions from 45 longshore workers and supporters to dismiss trespass charges against them stemming from two September protests of incoming grain trains leading to the terminal.

"I was surprised at the ruling given how weak the prosecution's case was," Dan Coffman, ILWU Local 21 president, told the *Militant* at the union hall. "They presented contradictory statements. They could not pinpoint our location at the port or produce any documents stating where port property begins and public property ends. Those who have received citations will have trials next year."

Two union members who tried to stop a cop assault on members of the union's Ladies Auxiliary at a Sept. 21 peaceful protest and who were themselves beaten by cops, face felony charges of assaulting police officers.

During the interview Coffman paused to consult with a longshore worker who brought in a new trespass citation just received in the mail stemming from a union protest held last July.

Early next year the union will also be in court before a National Labor Relations Board arbitrator in Portland, Ore., for a suit brought by EGT charging the union with so-called unfair labor practices.

The union is facing \$315,000 in fines stemming from protests at the Port of Longview. In addition, future trespass citations against union members will carry fines of \$2,500 per person and \$5,000 fines for union officers, under terms of a Sept. 30 ruling by Federal Judge Robert Leighton.

Additionally, the courts are hanging over the union's head a suspended \$25,000 fine for alleged damage to the port stemming from protests on Sept. 7 and 8, which they threaten to impose if a judge deems future protests constitute trespassing.

### **Dec. 12 port shutdown actions**

In the context of the union's fight against the bosses, backed up by their courts, cops, and government—all looking for a pretext to tighten the screws and deal blows to the union—ILWU international president Robert McEllrath wrote a letter from the union's Coast Committee dissociating the union from port shutdown actions organized by "Occupy" protest groups.

The call for Dec. 12 port shutdowns was voted on by the Occupy Oakland general assembly on Nov. 18 in response to cop attacks on occupy encampments and in support of the Longview ILWU fight and the right of port truckers to organize.

A *New York Times* article quotes Boots Riley, rap musician and spokesperson for Occupy Oakland, arrogantly dismissing any value in having official ILWU support. "The organizers of this movement are the working class, and these are issues that belong to the working class. No one has a copyright on working-class struggles."

The character of the protests along the coast varied.

In Oakland, several thousand, including many young people, participated in pickets that closed the port during two shifts.

A Dec. 15 press release by Occupy Oakland hailed the protest as a success "despite concerted efforts . . . by Mayor Jean Quan, the ILWU International leadership (which mounted an international media campaign) and the Port itself."

Occupy Longview organized a port picket line of some 125. "If EGT succeeds in busting up the ILWU, who is next and where does it stop?" Occupy Longview press spokesperson Paul Nipper told the *Militant*. "We absolutely considered and organized our actions so as not to make legal problems for our neighbors." Although no one was blocked from entering the port, the Port of Longview decided to close for the day and no ILWU members worked.

In Seattle, supporting ILWU workers in Longview was one of six issues raised by some 500 protesters who blocked the port. Among the leading participants were anarchists with explicitly reactionary, anti-working-class views.

"Now the working class exists most predominately as the underbelly of its former self, as the excluded class," said one such statement handed out at the action. "It no longer holds the same power as it once did to shut down the economy from the workplace. Some of our potential comrades still work in the old world of production: longshoremen, port truck drivers, and others. The rest of us exist outside that world. . . . When we blockade the ports and staunch the flow of capital, we do it from the outside, as displaced people, no longer as workers."

The Seattle protest was met with a police assault with pepper spray and flash bang grenades.

Meanwhile, the ILWU continues to maintain its picket lines 24 hours a day as it has since June. "We have pledges of support from many unions and organizations to come to Longview for a protest when EGT's ship arrives," Coffman told the *Militant*. "We will continue to fight."

Local 21 provides propane fuel, heaters and coffee for the 24/7 picket lines. Financial contributions to help pay for ILWU Local 21's fight can be made out to "EGT Fighting Fund" and mailed to ILWU Local 21, 617 14th Ave. Longview, WA 98632.

*Betsy Stone contributed to this article.*

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# THE MILITANT

Vol. 76/No. 2 January 16, 2012

## **Wash. port workers win initial frame-up battles**

**ILWU calls mobilization to meet scab ship**

(lead article)

**BY MARY MARTIN**

**LONGVIEW, Wash.**—Three stalwarts of the International Longshore and Warehouse Union here have been cleared of trumped up charges aimed at derailing the union's battle against EGT Development. The three are the first to go to court out of more than 200 ILWU members and supporters charged by union-busting bosses and cops.

On Dec. 30, a jury deliberated just 12 minutes before finding Kelly Palmer, 44, not guilty of charges of disorderly conduct at the union picket line set up outside EGT Development's grain terminal. Palmer was accused of blocking a car July 25 that was being driven by Martin Herman, president of Specialty Response Corp., a private cop outfit hired by EGT.

Eyewitnesses explained that Palmer, who was on picket duty that day, merely crossed EGT's driveway to get better cell phone reception while on a call and did not block any vehicles. Herman did not attend the trial.

"I'm relieved," Palmer told the press. "I couldn't believe I was being arrested when I didn't do anything wrong."

A week earlier, ILWU member Shelly Ann Porter was acquitted of charges of assaulting an EGT officer who tried to take her photo at a July 22 union protest outside the company's terminal at the Port of Longview. Porter pushed away the boss's hand as he put his cell phone camera in her face.

Also on Dec. 30, prior to jury selection for a trial, prosecutors dropped their charges against ILWU member William Roberts, 42, who had been charged with disorderly conduct at the port.

EGT Development has refused to hire ILWU members at its terminal in violation of an agreement between the union and the Port of Longview. Instead, the bosses have hired members of Operating Engineers Union Local 701 through a subcontractor under inferior conditions and without a contract. If EGT prevails, it would be the first West Coast terminal run without ILWU labor in eight decades.

"I'm happy the jury saw the truth in these set-up charges," Dan Coffman, ILWU Local 21 president, told the *Militant*. Local 21 organizes longshore workers here in Longview.

"These acquittals show the support for the union," Coffman said. "There is a change of perception in what the union is up against with this Pinkerton type Specialty Response security agency and the public relations firm EGT has hired to spin their story."

Meanwhile, the union is preparing for a large protest when EGT brings in its first ship to load grain later this month. Several unions and other organizations have pledged to come to Longview for the protest, according to Coffman.

The Committee to Defend the ILWU, a rank-and-file committee within ILWU Local 10 in San Francisco, has announced it will organize a vehicles caravan to join the protest here when the ship arrives.

The San Francisco Labor Council issued a resolution endorsing the caravan and calling on other labor organizations to do the same.

Occupy Longview has put out a national call for other Occupy groups to join the protest in solidarity. On Dec. 12 Occupy Longview organized a protest at the port of Longview in support of the union's struggle.

At the same time, anarchists, many of whom are motivated by interests counter to those of the union battle and the working class in general, are planning to be at the port protest. An anonymous post to Anarchistnews.org, for example, called on anarchists to "bring black flags and storm the gates," adding that they did not need to be "weighed down by Occupy's moral stances on tactics."

"We need to fight EGT. If they break the ILWU, who's next?" Occupy Longview Spokesperson Paul Nipper told the *Militant*. "An injury to one is an injury to all. As the host Occupy group we are asking people to come here and participate in a peaceful protest exactly as our Dec. 12 protest was held. We want no arrests, no injuries, no confrontation other than the presence of our bodies and our voices."

Financial contributions to help pay for ILWU Local 21's fight can be made out to "EGT Fighting Fund" and mailed to ILWU Local 21, 617 14th Ave. Longview, WA 98632.

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# THE MILITANT

Vol. 76/No. 4 January 30, 2012

## **Back ILWU struggle against union busting!**

**Port workers prepare visible, disciplined protest**  
(lead article)

**BY MARY MARTIN**

**LONGVIEW, Wash.—**The International Longshore and Warehouse Union is preparing a large, disciplined and peaceful protest against EGT Development's union busting when the company brings in its first scab ship to load grain at their terminal here.

The union is getting the call out as widely as possible to unions and other supporters. Officials of ILWU Local 21 in Longview said they anticipate only days, possibly hours, notice of the ship's arrival, which is expected sometime in late January.

EGT refuses to hire ILWU workers in violation of the union's agreement with the Port of Longview. Instead, it has hired members of Operating Engineers Union Local 701 through a subcontractor, under inferior working conditions and wages, without a contract. If EGT prevails, it will be the first grain terminal on the West Coast run without ILWU labor in more than eight decades.

Federal and local officials are mobilizing a substantial force of police, Coast Guard ships and helicopters, and other government agencies to accompany the ship's arrival.

The Coast Guard has warned ILWU members they face revocation of government-issued work authorization credentials known as TWIC cards if it can inculpate the unionists' action as interfering "with the free flow of commerce."

The union has faced concerted harassment from cops and other government officials. In a Jan. 3 letter sent to all ILWU locals, union International President Robert McEllrath noted that "officers, rank and file, and union supporters have been aggressively arrested or summoned to court by the hundreds for demonstrating against EGT."

Over the last few weeks, many ILWU members have been victims of frame-up charges against them.

"Federal labor law...criminalizes worker solidarity," McEllrath wrote, "outlaws labor's most effective tools, and protects commerce while severely restricting unions."

In this context, the union also faces the challenge that some groups have been planning to protest at the port with their own political motives that run counter to those of the union struggle, including calls for a "community blockade" to shut down the port. "Bring black flags and storm the gates," an anonymous post to Anarchistnews.org urged.

The national *Investor's Business Daily* seized on this, equating any disruption to shipping with "piracy" that should be treated as such. The paper said it was time government officials and their cops "got tough" with anyone "interfering with the livelihoods of others without consequences to themselves."

"Please take extreme caution when dealing with supporters of non-ILWU sanctioned calls to action relative to EGT," McEllrath wrote ILWU members. "Everything is at stake for the community of Longview and our members."

### **ILWU builds protest**

"Here in Longview we are seeing government involvement in union busting under the guise of keeping the port safe," ILWU Local 21 president, Dan Coffman, told the *Militant*. "The ILWU is standing up for every worker in the world. That's why we keep fighting. We are in this for the long haul."

"My message to all who want to come stand with the ILWU at our protest is be peaceful like Gandhi, or don't come," Coffman added.

Columbia River pilots who guide ocean going vessels upriver to ports including Longview are under government pressure to facilitate the scab ship's operation.

"I can't believe they're making us cross the picket line of the ILWU," one river pilot told the *Militant*, speaking on condition of anonymity. "They say we are independent contractors, which is true, but we are also members of the Masters, Mates and Pilots Union," an affiliate of the International Longshoremen Association. Pilots risk losing their licenses if they decline to pilot a vessel.

The rules for pilots are clear, Kim Duncan told the press. She is the chairwoman of the Oregon Board of Maritime Pilots, a regulating agency. "The pilot must board the ship. It's unequivocal," she said. Calls to Duncan from the *Militant* were not returned.

Area unions that have pledged their support to Local 21's fight include the Association of Western Pulp and Paper Workers; United Brotherhood of Carpenters and Joiners; International Chemical Workers Union; Plumbers, Fitters and Welders; and locals of the United Food and Commercial Workers and the International Association of Machinists.

In Longview, worker-correspondents for the *Militant* found growing community support for the ILWU's fight.

"Watching a strong union stand up in a civil way puts a spotlight on what a union is and how the union makes peoples' lives better," Norma McKittrick, 33, a credit union worker, said. "When you go from being union to nonunion and you lose the protection you had, you really appreciate having a union." McKittrick said people should join the

union protest when the ship comes.

"This is probably one of the most important union fights in U.S. history," Lawrence Wagle, a retired school teacher, told the *Militant*. "If they break the Longshore union they can break any union, resulting in lowering the living standards of everyone."

ILWU Local 21, together with Local 4 in Vancouver, Wash., Local 8 in Portland, Ore., and Local 40, the ILWU clerks' union for the local region, have maintained picket lines outside EGT's gates 24 hours a day since June 2011. The union is limited to eight pickets.

As winter weather sets in, Local 21 has further reinforced its picket stations with insulated tents. Funds are needed to maintain these picket lines including expenses for heaters, propane fuel, coffee and portable toilets. Send messages of support and donations to ILWU Local 21, 617 14th Ave. Longview, WA 98632. Make checks out to "EGT Fighting Fund."

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**EXHIBIT 65**

## **DECLARATION**

**I, Steve Clark, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the Socialist Workers Party, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to exemption from certain disclosure provisions of the Federal Campaign Act.**

**I make this declaration on the basis of my personal knowledge.**

- 1. I am the chairman of the Socialist Workers National Campaign Committee and have been active in support of candidates of the Socialist Workers Party for more than forty years.**
- 2. The SWP has run candidates for President since 1948 and for other federal, state and local offices.**
- 3. In my experience, and based on my knowledge of the party's campaigns for public office, the SWP has never received a large or unexpected donation from a non-traditional donor, in close races or otherwise.**
- 4. In my experience, and based on my knowledge of the party's campaigns for public office, the SWP has never been approached by a major party contender, or anyone else, in an attempt to have the SWP divert votes to aid their campaign.**

**I declare under penalty of perjury that the foregoing is true and correct.  
Executed in New York, New York, on April 15, 2013.**



**Steve Clark  
April 15, 2013**

**EXHIBIT 66**

## DECLARATION

I, Maura DeLuca, make this declaration in support of the application to the Federal Election Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to exemption from certain disclosure provisions of the Federal Campaign Act.

I make this declaration on the basis of my personal knowledge.

1. I am currently running as the Socialist Workers Party candidate for Mayor of Omaha, Nebraska. Last year I ran as vice-presidential candidate for the party, on a ticket with James Harris for president.
2. I submitted a declaration October 9, 2012, in support of the application by the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP for continued exemption from certain disclosure provisions of the Federal Campaign Act. As part of that declaration, I reported on being stopped and interrogated by a Canadian border agent concerning my political activities.
3. "Within seconds of scanning my passport, she had all kinds of information—some of which she questioned me about, including the fact that I had been to Cuba on a reporting trip for the *Militant* newspaper and that I am a member of the National Committee of the SWP. It seemed that she had accessed a searchable database on me, including some political information that would not be readily available on-line," I swore.
4. I have been provided with a copy of draft B of Advisory Opinion 2012-38 concerning the SWP application to continue exemption from certain FEC reporting requirements, which, concerning my harassment at the Canadian border, "It is possible, however, that the information was gathered by the Canadian government itself."
5. However, I knew then that there is a record of Canadian border agents having access to U.S. government files on U.S. citizens, which is common knowledge among political activists. The SWP application for extension of its exemption contained an exhibit documenting this fact (Exhibit R), "Do databases cross a line in border checks," an article which appeared in the April 21, 2010, *USA Today*.
6. Draft B goes on to say "even had the Canadian immigration authorities obtained some or all of the information from the U.S. government, it could have been long dormant information." But, as I swore in my

declaration, they produced information on a political meeting that I was scheduled to speak at that very weekend, as well as other information on my political activities in the campaign and over the last year.

7. This section of Draft B concludes, "the result was nothing more than the inconvenience of an inquiry and a temporary delay in crossing the border into Canada."
8. To the contrary, I was quite apprehensive that I was going to be excluded from Canada and/or otherwise harassed.
9. I was familiar with experiences other candidates and leaders of the SWP had had in previous visits to Canada, from both Canadian and U.S. border personnel, based on their U.S. political activities.
10. In particular, I knew about the harassment and expulsion from Canada in 1987 of Mac Warren, an SWP leader who ran for office for the party, including for president in 1988 and 1992.
11. On September 19, 1987, Warren, who is African-American, travelled to Canada and was pulled out of line by Canadian customs agents and subjected to a seven-hour ordeal.
12. When Warren presented his identification to border agents after landing in Canada, he was told to step aside. He was questioned by agents, who they began to go through his belongings, where they found political material, including a book, a pamphlet, a copy of a recent injunction in the case *SWP vs. Attorney General* barring government spying on the SWP, and the text of a political report Warren had delivered to a recent party gathering.
13. Warren's bags were searched a total of five times by both Canadian Customs authorities and, later, by U.S. customs agents, who got involved. He was then offered a choice—stay in detention over the weekend and then see a judge or let another agent review his entry request.
14. When Warren opted for the latter, he was subjected to further harassment, including a demeaning strip search.
15. After some time, Warren was told that because of "computer problems" it would take too long to complete the check and he would be denied entry and sent back to the U.S.
16. Warren was turned over the U.S. Customs Service agents in the departure area of the airport. Warren overheard Canadian agents tell the U.S. agents

that he was a leader of the Socialist Workers Party. He was scheduled to be sent back to the U.S. on a 5:30 p.m. flight.

17. However, agents from both countries took Warren back to the detention room he had been interrogated in earlier and started a new round of questioning. "What are you doing in Canada? Do you have a branch here? Are you trying to recruit people here?" were among the questions they demanded he answer.
18. After this further harassment, Warren was taken back to the departure area, where the 5:30 p.m. flight had already departed. After further harassment, including intimating to others in the waiting area that Warren was a drug smuggler, he was placed on a later flight out of the country.
19. I have attached an article from the October 2, 1987, *Militant* reporting on this incident.
20. Warren was later able to travel to Canada a few weeks later only after the intervention of Leonard Boudin, attorney for the SWP, and protest from political figures in Canada, including members of parliament there.
21. For these reasons, I was quite concerned about what would happen to me next when I was taken aside and interrogated about my political activities and plans.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed February 11 in Omaha, Nebraska.

Maura DeLuca  
February 11, 2013



# Canadian, U.S. cops victimize socialist at border

BY HARRY KING

Max Warren, a leader of the Socialist Workers Party and veteran Black rights activist, was victimized by Canadian immigration officials acting in complicity with their U.S. counterparts.

On September 18 Warren was illegally denied entry into Canada, held in custody for more than seven hours, and denied his rights while being held.

To slip off the abusive treatment, he was subjected to a strip search mostly of the South African police.

The outrageous incident occurred at a time when the Canadian government and media are whipping up a racist campaign directed against subwhite immigrants. Major events have been organized on political refugees, and the Canadian Parliament is weighing enactment of a blanket anti-immigrant law.

A central leader of the Socialist Workers Party, Warren is currently based in Des Moines, Iowa.

He was denied entry into Canada and subjected to treatment even though there was not a shred of evidence suggesting anything improper about his planned visit to Montreal.

Like thousands of U.S. visitors pass through Canadian airport customs with a minimal check. ID is presented, a few routine questions answered, and the visitor is waved through.

Not so with Warren. When he presented his driver's license as ID, the clerk glanced



Max Warren

at it, looked at him, and told him to step aside.

The only thing that distinguished Warren from the others going through was the fact that he is Black.

He was taken first to an office, then to a detention cell. He was questioned about the purpose of his visit. His bags were searched. They contained nothing that could be considered subversive. At that point there was absolutely no reason to detain him further.

Yet the situation escalated. What began as an act of racist discrimination became an episode in political witchhunting.

A consensus against Warren and the various Communist Party

# U.S. fires on Iran ship threatens new attack

The September 21 sneak attack by a U.S. military helicopter on an Iranian ship, resulting in the killing of several Iranians and the seizure of 26 others, deserves sharp condemnation by all working people.

Washington's determination to continue escalating military attacks on Iran was signaled the next day when a U.S. warship

## EDITORIAL

Next on an Iranian aircraft. With the help of European allies, the Pentagon has built up a massive naval and air armada in the Persian Gulf — the largest such mobilization since the Korean War in the early 1950s. A central goal of the operation has been to provoke situations in which U.S. warships and planes could strike at Iranian ships, planes, or territory.

The attack on the Iranian ship was planned well in advance and completely approved. We tipped the Iranian ship for days until just the U.S. warship, the USS Johnston, was in the area.

In the dead of night and without warning a U.S. military helicopter opened fire on the Iranian ship. Five crewmen were killed, according to Iranian radio broadcasts. U.S. officials said there were killed.



Iranian crewmen, bound and under armed guard, are held on U.S. warship after U.S. attack on Iranian ship.

U.S. forces then boarded and hijacked the ship, seizing 26 survivors.

U.S. officials claimed that the Iranian crew were not prisoners, but a front-page New York Times photograph showed them lying on their backs, their hands and feet bound, under armed guard.

U.S. officials portrayed the attack as "defensive." This is an outrageous lie.

Washington has a false halfway view of the situation. It is not a "half-defense." The attack is a

# Nicaragua lifts wartime censor

BY HARVEY McARTHUR

MANAGUA, Nicaragua — The Nicaraguan government has announced that major new steps in its campaign to implement the Guatemala accord and peace for an end to the U.S.-organized contra war.

On September 19 the government announced the right-wing daily *La Prensa* to resume publication. Before it was closed by the government in June 1986, *La Prensa* functioned as a voice of Washington and the contra war effort, and was controlled by the CIA. Its coverage, often based on false or misleading stories, aimed at undermining confidence in the Nicaraguan government, the defense effort, and the economy.

A joint communique issued by the government and the owners of *La Prensa* stated that the paper would not be controlled and would live by journalistic ethics rather than those imposed by responsible journalism.

Violet Chamorro, owner of *La Prensa*, told reporters that her government's decision "taught me by surprise," and that the paper would start printing by October 1. "We have freedom of the press for our newspaper," she admitted.

On September 22 Nicaraguan President Daniel Ortega announced that the government had authorized Radio Caribbeo to resume broadcasting. Radio Caribbeo, which had been closed by the government in January 1986 for repeatedly violating the law, disobeying government censorship regulations and funding draft evaders.

This step-by-step, Minister of the Interior Tomás Borge announced that the government will lift censorship from all the news media. Censorship had been in effect since 1982 as part of the emergency law implemented in response to the escalating contra war.

While the emergency laws remain in effect, the government has decided not to apply the pressure that the law gives us to shut the country," Borge said. He called

on the media to work responsibly, and to make sure, "each media respects the desire of the revolution, the people, and the international community not to destabilize this peace process and not to provoke the political or economic destabilization of Nicaragua."

Ortega also mentioned that Nicaragua

would unilaterally achieve an effective monetary reform.

As a first step, it was announced in a law. All Nicaraguans will be withdrawn!

# Maine strikers fight tak pressed by Internationa

BY GREGG LINDGREN

JAY, Maine — This small New England town in southwestern Maine is at the center of an important labor battle.

Since June 16, 1150 members of Local 14 of the United Paperworkers International Union (UPIU), alongside 100 members of Local 246 of the Process and Color, have been on strike here against International Paper.

The Jay strikers are working with paperworkers at three other IP mills — in Lehigh Haven, Pennsylvania; in Dallas, Birmingham and Mobile, Alabama — in a fight to end the line against IP's latest effort to squeeze open concessions from the workers.

This corporate giant is the largest paper company in the United States. It owns vast timberlands throughout the country and operates dozens of mills and plants in the United States, Europe, Latin America, and Asia. Along with the rest of the paper industry, it is enjoying record profits. In 1986 alone it netted \$600 million, more than double the year before.

To maintain and increase these profits, IP wants to lower wages and cut the number of workers in the mills while speeding up production, reducing benefits, and generally weakening union strength on the job.

The Jay strikers are leading the fight against these concessions!

Pulp and paper milling is the biggest industry in Maine, with the related lumber

and wood-product

alone second. Maine has just as much as millions of abundant rivers, with quantities of water for the papermaking process.

Maine is dotted with Jay that grows up at IP. Scott Paper, E. I. du Pont, and other mills are about the only jobs to be had. People will come for work in the mills, and work in the mills.

The Jay mill — one of the Androscoggin mills — opened relatively modern mill, which changed its mill, as well as working, which is 1,300 jobs of great pay.

This is the first time at the Jay mill where members have faced in recent years harsher terms than Maine.

The IP's 100,000 workers are members of the

BY HARRY KING

Last winter, in Montreal, a group of Chinese conducted a hunger strike to protest the government's refusal to accept them into Canada.

Their action was prompted by a new Canadian immigration regulation that left 88 Chinese refugees stranded in Buenos Aires, Argentina. The 88 had booked passage to London via Montreal. The Canadian government said they had made it known that they intended to get out of the plane in Canada and seek refuge there. Under a Canadian regulation issued February 20, they were denied the right to board the plane for London unless they had a Canadian transit visa.

In response to the hunger strike and the support it evoked, Canada's Immigration Minister Joseph Bouchard announced that on humanitarian grounds, six of the 88 refugees would be permitted to enter Canada. These included three women and their children. The three women had husbands already in Canada.

For the rest of the 88, Bouchard admitted, an investigation showed they would not be in danger if they returned to the land of the murderous Pinochet dictatorship.

**Sixths imprisoned**

In July there was a marine victimization of 88ths fleeing from India. A fighter they arrived on was seized and 174 refugees were held in concentration-camp conditions at an army base in Halifax. Their legal rights were ignored.

Government officials and the media joined in justifying this by "blaming" the 88ths as potential terrorists.

Earlier, in January, Bouchard announced that from then on immigrants from Turkey and four African nations — Sierra Leone, Tanzania, Mandinka and Omani — could enter Canada as visitors only if they had an entry visa.

This was done, it was asserted, to stem a "flood" of refugees from entering the country. Earlier, some 1,700 Turks had reported to the government.

Some of them told immigration officials they had been held there by acts in the Turkish press asserting that Canada needed 125,000 new workers. Such acts are often used to stave a surplus of job applicants and consequent driving down of wages.

**New immigration restrictions**

The message being sent against immigrants has been such that at one time a government official was compelled to announce a ban on immigration had been ordered on the behavior and conduct of Canada's 35,000 Chinese.

Immigration applications, particularly from Third World countries — changed they were subjected to derogatory remarks and biased decisions by some of the judges.

Meanwhile, in February, the drastic law

immigration regulations were issued, and in May an anti-immigrant bill was introduced in Parliament.

Reporting the immigration of them, an Associated Press dispatch commented ironically that they came just as students after Canada was giving a United Nations medal for aiding refugees.

Entrapped to the United States, the Canadian complained, up to now, immigrants

prior to the February regulations, Canada had a list of 19 countries from which refugees would be automatically granted work permits. These were valid for a year, with processing of their claims for asylum afterward. The list included governments deemed to be "communist," as well as such nations as Guatemala and El Salvador where there are armed conflicts.

The policy that obtained before the list was scrapped had not been the product of pure generosity on the part of the Canadian government.

An Christopher Taylor, Canada's director of immigration policy, told a U.S. reporter "It is one of the fields for which we are trying to take more immigrants because there is growing concern about population decline, or negative population growth, in Canada in the past 15 or 20 years."

"But the number of refugee claimants are unprecedented."

**Increased immigration**

True enough there has been a recent increase in the number of people seeking refuge in Canada. In good measure this is due to the results of the reactionary anti-immigrant laws recently enacted in the United States.

Fearing a greater threat of deportation under the new law, undocumented Salvadoran and Guatemalan refugees in the United States decided it would be wiser to move on to Canada.

But under the new Canadian regulations, hundreds of these victims of repression in their homeland are being denied entry into the country. The law "limits" in what amounts to refugee camps on the U.S. side of the border. They continue to face the



Chinese on hunger strike in Montreal still being denied entry into Canada. Government's campaign has led to substantial tightening of immigration restrictions.

threat of deportations that could mean their very lives. They are expected to seek at the border while Canadian immigration authorities ponder their entry applications.

In turning these refugees back, the capitalist politicians in Canada aim at a double purpose. One is to limit the entry of Third World immigrants. The other is to give a backhanded assist to the U.S. war drive in Central America.

Canada's action gives credence to the lying claim by Washington that there is "democracy" in El Salvador and Guatemala and that those who flee these countries are not "political" refugees.

This theme — separating the "genuine" refugees from the alleged fakes — is a central part of the propaganda justifying the current moves in Canada.

With the scrapping of the list of countries from which people are given automatic entry, the regulations now require that those who want to come to Canada first obtain a visa in their own country. In countries like El Salvador and Guatemala doing so can mean the end of your life.

**Bill C-84 and C-85**

Two pending laws, labeled bills C-84 and C-85, are even more harsh.

If enacted, Bill C-85 would prevent a board that would screen applications from refugees within 72 hours of their arrival. Within 72 hours, those deemed to be "false" refugees could be deported to their homeland or to a "safe" third country. Appeals of such deportation orders could be

made only from outside Canada.

Under Bill C-84, introduced in August, refugees lacking proper identity papers could be held for up to 21 days. Those tagged as "security risks" could be also held.

Within a 24-mile limit, ships bearing refugees could be boarded and turned back, thus denying them on board even the right to a hearing of their claims.

Like the new U.S. law, the bill would make it a criminal offense, with appropriate prison terms and fines, to help an undocumented refugee enter the country.

It is estimated that from 60 to 85 percent of those seeking refuge would have their claims denied.

Both measures have been opposed by a broad range of labor, church, solidarity, and student-aid organizations.

Ed Broadbent, a leader of the New Democratic Party, Canada's "liberal" party, called Bill C-84 as a "travesty of justice."

And the Canadian Labour Congress has called for "amending" Bill C-85.

These bills not only do a grave injustice to those seeking refuge, but harm to all working people in Canada. They are aimed at promoting racism and treating as "illegal" sector of the working class even more vulnerable to exploitation. That leads to driving down the living standards of all workers.

And the drive against "illegal" immigrants also means knocking on the rights of all those who cross the Canadian border.

# Cops victimize socialist at border

Continued from page 1  
Warren's material in Warren's bag — a book, a pamphlet, a copy of a recent journal naming U.S. government victimization of the SWP; and the text of a political report Warren had delivered to a recent party gathering.

When Warren asked what right the agent had to read his personal material, the agent became agitated and abusive.

"You have no rights in this country," he shouted, adding, "hit down on a dog's up!" But the problem was not simply a slight whip, racial customs agent. At least two customs inspectors were involved in the victimization of Warren, plus uniformed customs cops.

Even Warren's request to return a plane call was denied for a number of hours.

During his detention, Warren's bags were searched a total of five times by Canadian and U.S. customs personnel. U.S. law enforcement officials were contacted. But this only confirmed that Warren had no plane ticket.

Meanwhile, Warren's Canadian friends who had been waiting for him verified he had been on his scheduled flight and correctly deduced he must be at customs. They called a lawyer who succeeded in getting through by phone to where Warren was being held.

Warren was permitted to speak to the lawyer briefly. Then the customs supervisor and on the phone talking the lawyer a message to Warren.

He said that Warren had refused to cooperate with a customs agent and had de-

manded to leave the country because he didn't like the way he was being treated.

During a short time, Warren explained this was a first for him and demanded to speak to the lawyer again. This was denied.

Later he was permitted to speak on the phone to SWP National Secretary Jack Barnes and then to make another phone call.

Warren was then offered a choice. Stay in detention over the weekend and then see a judge, or agree to typical questioning by a different agent, of his right to enter.

This new round was the prelude for further harassment and victimization, culminating in the trip south.

After while, Warren was told that because of "computer problems" it would take too long to complete the check and he would be returned to the United States.

He was then taken to the departure area for a SWP plane. There, U.S. Customs Service agents joined with the Canadian in harassing and abusing him. (At one point Warren overheard a Canadian agent telling one of the U.S. people that he was an SWP leader.)

Harassing by the U.S. and Canadian agents continued until the plane took off without him.

He was taken back to the detention mill and subjected to political questioning. "What are you doing in Canada? Do you have a branch here? Are you trying to recruit people here?"

Because back to the departure area for a later flight, there was renewed harassment

and threats by U.S. and Canadian agents.

This culminated with a U.S. agent inquiring — in a voice that might be an other language — "What did you find on him, a kilo?" When Warren challenged this, the agent backed off for the damage was done.

With this provocative charge to counter Warren as a drug dealer, he was permitted to leave the plane, which took him to New York.

The action of Canadian immigration was a setback enough already on Warren's rights. U.S. customs agents even more greedy to what was done.

Warren said that because of the damage, now say for the Socialist Workers Party, was making the initial step of sending a letter to U.S. and Canadian immigration officials, demanding a full explanation.

Warren was scheduled to return to Canada September 24 to establish that his legal rights will be respected — including his right to enter Canada on the same basis as any other U.S. citizen. He was to be accompanied by John Studer, executive director of the Political Rights Defense Fund, and by a Canadian attorney.

A group of concerned Canadian citizens planned to meet Warren at the port of entry and a press conference was slated to focus on what had happened and what lessons there will be a suspension.

Warren plans to meet with several members of Canada's Parliament and others to inform them of what had happened and to solicit their support in the matter.

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