



AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF COLORADO

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NEWS RELEASE

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ACLU and Denver Officials Agree to Resolve Lawsuit over Denver Police Spy Files

The American Civil Liberties Union Foundation of Colorado (ACLU) announced a settlement today of its landmark lawsuit challenging the Denver Police Department's practice of monitoring and recording the peaceful protest activities of Denver-area residents and keeping criminal intelligence files on the expressive activities of law-abiding advocacy groups, some of which were falsely labeled as "criminal extremist."

"Denver has agreed to put an end to its decades-long practice of monitoring and keeping files on peaceful critics of government policy who have no connection to criminal activity," said Mark Silverstein, ACLU Legal Director. "The end of this political spying enhances the professionalism of the police department and is a victory for the First Amendment and for the civil liberties of all people in Denver.

"This agreement is particularly significant at this time," Silverstein continued, when the White House falsely claims that Americans must sacrifice their civil liberties if they are going to be safe from terrorism. As this agreement demonstrates, effective law enforcement does not require giving up our Constitutional rights."



“Denver has committed itself to a wholesale reform of the police department’s intelligence unit,” said Lino Lipinsky, of McKenna Long & Aldridge, who litigated the Spy Files case as an ACLU volunteer cooperating attorney. “Under this agreement, the Denver police will focus on catching criminals instead of tracking how individuals choose to exercise their First Amendment rights.”

The litigation over the Denver “Spy Files,” which sought changes in policies and practices rather than monetary damages, began shortly after the ACLU revealed the existence of the files in March, 2002.

The settlement agreement provides that the Denver Police Department (DPD) will, for the first time, adopt an official policy on intelligence-gathering that will be distributed to all officers. The new policy:

- Forbids the intelligence unit from collecting or maintaining information about how individuals exercise their First Amendment rights, unless that information is directly relevant to criminal activity and there are specific facts indicating that the individual is involved in that criminal activity.
- Applies to all forms of collecting intelligence information, including photographing and videotaping demonstrators, recording license plate numbers at peaceful rallies, intercepting email, and using undercover officers to infiltrate organizations that organize peaceful protests.
- Limits the intelligence unit to collecting information about serious criminal activity and expressly forbids collecting information on individuals who are suspected of nothing more than nonviolent civil disobedience that amounts only to a misdemeanor offense.
- Establishes limits and strict procedures governing the dissemination of information from the criminal intelligence files.
- Specifies internal safeguards, such as training, supervisory review, and thorough documentation of an audit trail.
- Requires quarterly and then annual audits by an independent agency whose reports will be submitted to the Public Safety Review Commission.

In addition, the settlement agreement also provides that Denver will:

- Purge all of the existing intelligence files that do not meet the rigorous criteria of the new policy.
- Permit individuals and organizations, for a 90-day period, another opportunity to obtain copies of their purged intelligence files. The DPD had stopped honoring such requests at the end of January.
- Provide letters from the Chief of Police to the subjects of all purged intelligence files, stating that the police have no information that justifies maintaining a criminal intelligence file.
- Provide notice of the purge to other law enforcement agencies that may have received information from Denver's intelligence files.
- Submit to quarterly audits for the first year and subsequent annual audits, with the auditor initially selected, for the first two years, jointly by the Plaintiffs and the Mayor;
- Pay the plaintiffs' attorney's fees and costs, in an amount to be determined by the Court.

The agreement calls for the lawsuit to be "administratively closed" for 12 months before being formally dismissed. During that period, the ACLU could move to re-open the lawsuit if the audits show that the DPD is violating the new intelligence policy.

Attorneys representing both sides of the lawsuit appeared in open court before Magistrate Judge Craig Shaffer this morning to confirm the outlines of the agreement for the record. Before taking effect, however, the settlement must be submitted to United States District Court Judge Edward Nottingham for approval.

According to the ACLU, one unresolved issue is what will happen to the Spy Files after they are purged from the Denver Police Department's files. "The Colorado Historical Society is interested in keeping the Spy Files as an historical record, with safeguards to protect individual privacy," Silverstein said. "When the City of Chicago

resolved a similar lawsuit in the 1980s, the Chicago Historical Society took custody of the famous Red Squad files. But Denver officials want to destroy the Spy Files after one year, thus preventing the public from ever finding out the full extent of the Denver Police Department's political spying."

Plaintiffs participating in the ACLU's lawsuit are Sister Antonia Anthony, Vicki Nash, Stephen Nash, and three organizations: the American Friends Service Committee, Chiapas Coalition, and End The Politics of Cruelty.

Additional information about the Spy Files, including sample documents from the Denver intelligence files, is available on the ACLU web site, www.aclu-co.org

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The ACLU is a nationwide, non-profit, non-partisan organization dedicated to defending and preserving the principles of the Bill of Rights through litigation, advocacy and public education. The ACLU Foundation of Colorado works to protect the rights of all Coloradoans.