

The Honorable Alberto Gonzales

Page Two

April 25, 2005

- An officer testified in December, "We picked him [the demonstrator] up and we carried him while he squirmed and screamed. . . . I had one of his legs because he was kicking and refusing to walk on his own." The prosecutor abruptly dropped the charges in the case when the defense produced a videotape depicting the protestor plainly walking under his own power down the steps of the New York Public Library, contradicting the account of the officer, who was nowhere in the picture. Nor was the officer present in the arrests of four other people at the library against whom he signed complaints.
- In one case, there were two versions of the same police tape. The tape to be used as evidence by the prosecution had been edited in two spots, removing images that showed the protestor behaving peacefully. When given a more complete version of the tape, prosecutors immediately dropped the charges and said that a technician had cut the material by mistake.
- In a large number of cases, videotapes demonstrated that the protestors had followed the instructions of senior officers to walk down certain streets, only to have another official order their arrests.

Importantly, neither the police nor prosecutors have denied these facts.

This conduct could implicate serious criminal and civil provisions of federal civil rights laws. Section 242 of title 18, United States Code, makes it a federal criminal offense to deprive someone of their constitutional rights under color of law. More specifically, a person acting under color of law, such as a law enforcement officer or prosecutor, cannot willfully deprive a person of their constitutional right against unreasonable searches, right to due process, or right to a fair trial. Penalties for violations of section 242 include a fine and imprisonment for up to one year, or both. In the present case, New York police officers and prosecutors may have willfully and knowingly offered false testimony and falsified evidence in violation of these rights.

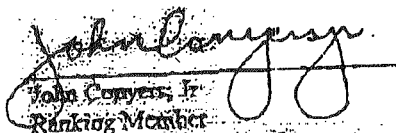
Second, section 14141 of title 42, United States Code, establishes a civil cause of action for patterns and practices of police civil rights violations. To bring a case against such abuses, section 14141 requires that the Justice Department demonstrate that a municipality or police department has engaged in "a pattern or practice of conduct by law enforcement officers . . . that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States." Section 14141 gives the Justice Department the power to issue injunctions against police departments repeatedly engaging in misconduct. In this case, New York law enforcement may have engaged in a pattern of permitting and possibly encouraging perjury and evidence tampering, violating defendants' rights against unreasonable searches and seizures under the Fourth Amendment, to due process under the Fifth Amendment, and to fair trials under the Sixth Amendment.


The Honorable Alberto Gonzales
Page Three
April 25, 2005

The conduct of the New York City Police Department and prosecutors warrants your immediate attention and investigation, particularly since videotapes bolstered the prosecution's case in a number of the 162 convictions obtained to date.

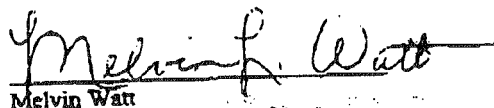
Thank you for your attention to this matter. Please reply through Perry Apelbaum or Ted Kalo of the Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax: 202-225-4423).

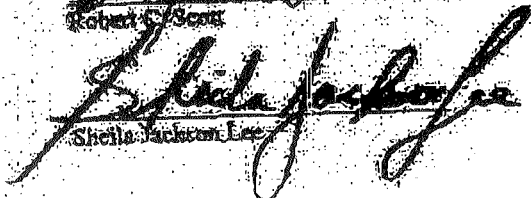
Sincerely,

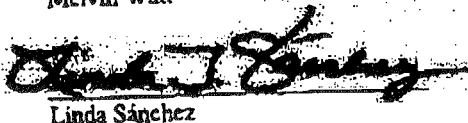

John Conyers, Jr.
Ranking Member


Harold Nadler


Robert C. Scott


Melvin Watt


Sheila Jackson Lee


Linda Sanchez

cc: Hon. William E. Moschella
Hon. F. James Sensenbrenner, Jr.

The New York Times

Copyright © 2005 The New York Times

NEW YORK, TUESDAY, APRIL 26, 2005

Metro Briefing

NEW YORK

DEMOCRATS URGE INQUIRY INTO POLICE CONDUCT

A group of Democrats on the House Judiciary Committee, including the ranking minority member, John Conyers Jr. of Michigan, are urging the Justice Department to investigate the New York Police Department's conduct during the Republican National Convention last summer. In a letter dated yesterday to the United States attorney general, Alberto R. Gonzales, the Democrats called for "immediate federal scrutiny" of "troubling reports" of police misconduct and perjury in connection with the arrest and prosecution of hundreds of demonstrators. The Democrats, who included Representative Jerrold L. Nadler, whose district includes parts of Manhattan and Brooklyn, noted that 91 percent of the 1,670 cases brought against the demonstrators have either resulted in dismissal of the charges or a not guilty verdict after trial.

(NYT)