

Jersey High Court Backs Police Files on Activists

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TRENTON, June 1—The New Jersey Supreme Court today upheld the compiling by the police of secret intelligence dossiers on civil rights activists and other protesters that had been ordered destroyed last year by a lower court in Hudson County.

In a unanimous decision here by the court, the state's highest; Chief Justice Joseph Weintraub maintained that state and local law enforcement agencies had the right to collect and maintain intelligence files on persons suspected of taking part in civil demonstrations despite charges that such information violated guarantees of freedom of speech and assembly under the First Amendment.

"Lawlessness has a tyranny of its own," the state court ruled, "and it would be folly to deprive the government of its power to deal with that tyranny merely because of a figment of a fear that government itself may run amok."

The files, which remained intact under an injunction that superseded the order to destroy them, were challenged by the Jersey City branch of the National Association for the Advancement of Colored People and members of the Students for a Democratic Society.

The case was handled by the

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American Civil Liberties Union in a suit that is believed to be the first major court test in the United States of the constitutionality of current police practices of collecting and maintaining intelligence information.

Stephen Nagler, the executive director of the New Jersey chapter of the A.C.L.U., expressed "shock" at today's ruling and said it would be appealed to the United States Supreme Court.

"I regret the court did not understand the scope or depth of the issue involved," Mr. Nagler said. "It apparently has lost touch with what's going on in New Jersey."

The case involves a new state intelligence system that

began in 1968 under the impetus of Arthur J. Sills, then the State Attorney General. The system was formulated in the wake of Negro rioting in Newark and Plainfield in 1967. It was designed to enable local policemen to improve their surveillance and preparation for potential civil disorder in the future.

The intelligence system was based on a lengthy memorandum from Mr. Sills on the use of two state police security forms—one dealing with potential incidents and the other with intelligence information on persons taking part in them.

On one form, local policemen are advised to report on any civil disturbance, rally, protest, demonstration, march or confrontation. The form gives as examples such types of protest as pacifist, religious, right-wing, left-wing, civil rights, militant, nationalistic, black power, Ku Klux Klan and extremist.

The form says that the incident may either be planned, taking place or have already occurred.

The other form deals with persons taking part in the demonstrations and calls for exhaustive information on suspected participants, including details on their employers. Their immediate families, organizations, finances, habits and traits, places frequented and past activities.

Opinion of Court

In today's decision, the State Supreme Court said: "Plaintiffs envision that a mere rally, protest, demonstration or march of a pacifist group will precipitate a police dossier on everyone who attends, including his butcher's and banker's opinion of his credit."

The court ridiculed such fears, which it described as "hypothetical horrors" that saw "each citizen harried amid his family, friends and business associates."

"There is not an iota of evidence," the court said, "that anything of the kind has occurred or will, or that any persons have been deterred by the prospect."

Despite the amount of information requested, the court here said that there was "no evidence that the Attorney General intended to intimidate anyone." In fact, the court added, the state's power to investigate is "basic."

Jersey Supreme Court Upholds Police Dossiers on Activists

"The basic approach must be that the executive branch may gather whatever information it reasonably believes to be necessary to enable it to perform the police roles, directional and preventive," the court said.

The court went on to note that the President's National Commission on Civil Disorders

had recommended in 1968 that the local police could head off new disorder by effective surveillance of potential danger spots.

"In the current scene," the court said, "the preventive role requires awareness of group tensions and preparations to head off disasters as well as to deal with them if they appear."

"The police interest is the explosive possibilities and not in the merits of the colliding philosophies."

Furthermore, the court said, "we think it preposterous to suppose that the memorandum was intended or understood to recommend round-the-clock surveillance of every person who attends an antiwar meeting."

"No doubt there may be situations in which judicial intervention is warranted," the court added, but it said it saw no reason to act before such situations were reported.

The police security forms had been called the tools of a "Gestapo-like network of police spies" by the A.C.L.U.

Superior Court Judge Robert A. Mathews, who had ordered the security forms destroyed, said they would have a "chilling" effect on anyone who wanted to advocate "social and political change."

The judge said in his ruling—upset by today's decision: "It is not difficult to imagine the reluctance of an individual to participate in any kind of protected conduct which seeks publicly to express a particular or unpopular political or social view because of the fact that by doing so he might now have a record or because his wife, his family, or his employer might also be included."

—TIMOTHY NOMINEE