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just news

ACT UP strip search produces federal suit

Marshals in rubber gloves ordered the men to lift their genitalia and the women their breasts, and to "spread your cheeks"

Lambda Legal Defense and Education Fund announced that the Portland, Oregon chapter of ACT UP (AIDS Coalition to Unleash Power), an international AIDS protest group, filed suit on September 19, in the Federal District Court of Oregon against the U.S. Marshal for the District of Oregon, Kernon Bagley.

The lawsuit alleges that federal marshals in Portland strip searched 10 ACT UP demonstrators following their arrest for nonviolent civil disobedience at a Portland protest regarding Food and Drug Administration AIDS policies, specifically, bureaucratic delays in the approval of drug treatments for ailments associated with AIDS that are safe as well as promising, but which have not been scientifically proven effective to the satisfaction of the F.D.A. in strictly controlled drug trials. Some of these drugs are licensed in Europe or Asia, but remain unapproved for use in the United States.

The demonstrators, all lesbians and gay men, claim the strip search was unjustified and that the marshals violated their fourth amendment right to be free from unreasonable searches. The lawsuit seeks money damages and injunctive relief against future strip searches of demonstrators under similar circumstances.

The lawsuit stems from a February 27, 1989 protest at which the demonstrators blew whistles and chanted slogans in the hallway outside F.D.A. offices in a federal office building in Portland. The F.D.A. office had been closed in anticipation of the demonstration. Over 100 ACT UP demonstrators circled the building on the sidewalk carrying picket signs with messages critical of government policy. Twelve demonstrators were arrested. Eleven were taken into federal custody for creating the noisy disturbance in the hallway. A 12th was taken into custody by Portland police after throwing himself in front of the marshal's van transporting other arrestees. He was held briefly in a police car, given a citation and released. He later paid a \$25 fine.

The protestors arrested on federal charges claim they were subjected to a pat search at the scene, handcuffed and transported in a van to the United States courthouse for processing by the marshal's office. There, they were charged with creating a disturbance in a federal office building, a petty offense under federal law. Each was photographed, fingerprinted, asked to present identification, given a citation and released within three hours. However, prior to their release, the AIDS activists claim that the marshals, who were

wearing rubber gloves, subjected each demonstrator to a degrading and intrusive strip search in which the men were ordered to lift their genitalia and the women their breasts. All were ordered to bend over and spread their buttocks for inspection. Several of the searches were conducted in full view of other officers and detainees.

"The question the government will have to explain to the jury is why. Why were these people strip searched? I can think of no legitimate reason," said Tom Steenson, a Portland attorney representing the demonstrators.

"There was no reason to believe the arrestees would bring contraband or weapons into the holding area. This was nonviolent civil disobedience. The government knew that in advance from pre-demonstration discussions with ACT UP representatives. Those who were arrested were given a citation — more or less a traffic ticket — and released," said Wayne Harris, an ACT UP spokesperson. "The fact is that these demonstrators were perceived to be gay men and lesbians," Harris continued. "I think that's the real reason they were forced to put up with this harassment. It was designed to humiliate them, to make them think twice before speaking out again."

Most of the arrestees settled the charges by paying the government \$50. One arrestee went to trial and was fined \$50. In that trial, U.S. Magistrate George Juba rejected the federal prosecutor's attempt to force the demonstrator to pay restitution for clean up costs to remove red paint from the exterior of the building and stickers from its walls on the grounds that the government failed to present evidence linking the individual defendant to any activity beyond noise making.

"The F.D.A. limits access to potentially life-saving treatments for people with AIDS. AIDS activists are fighting for their lives and the lives of their loved ones," said David Barr, an attorney at Lambda Legal Defense and Education Fund, which is co-counsel on the case. "This case will send a clear message to law enforcement officials throughout the nation that we will not allow them to trample on our constitutional rights." Lambda is the nation's oldest and largest legal advocacy working to further the rights of lesbians, gay men and people with AIDS.

ACT UP is an international organization with more than 50 chapters throughout the United States, Great Britain and Canada. Its members are dedicated to ending the AIDS crisis through nonviolent direct action.

**Gay, lesbian
journalists sought
for study**

A study to examine the treatment and role of gay and lesbian journalists in the newsrooms of the nation's daily newspapers is being undertaken by the American Society of Newspaper Editors. The year-long study will also look at coverage of issues affecting gays and lesbians in newspapers today.

The study will survey gay and lesbian journalists about how their lifestyles have affected their careers and roles and about the environment in their newsrooms.

The study group, chaired by Leroy Aarons, senior vice president/news at the Oakland [California] Tribune, will also examine coverage, terminology and the portrayal of gays and lesbians in news and feature stories.

For more information, to complete an anonymous questionnaire, or to work on the project as a researcher or interviewer, write Aarons at the Tribune, PO Box 24304, Oakland CA 94623.