



NEW YORK CITY LAW DEPARTMENT
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Press Release

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COURT FINDS CITY'S POLICING OF LARGE BIKE GROUPS CONSTITUTIONAL

FIRST AMENDMENT RIGHTS OF RIDERS NOT VIOLATED BY CITY'S EFFORTS TO MAINTAIN SAFER STREETS

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New York, February 16, 2010 – Today the U.S. District Court for the Southern District of New York found that the New York City Police Department's policing of the monthly Critical Mass bicycle rides did not violate the First Amendment rights of several bicyclists who had participated in such rides. The Court also denied a request by the bicyclists and a bicycle club to enjoin -- or prohibit -- the NYPD from requiring bicycle groups of 50 or more riders to obtain parade permits before riding together on the public streets. The decision followed a three-day bench trial in May 2009.

"We are pleased with today's decision," said Mark Muschenheim, Senior Counsel in the New York City Law Department's Administrative Law Division and the City's lead attorney on the case. "The Court recognized that the policing of Critical Mass rides was not based on any attempt to infringe First Amendment rights, but rather stemmed from Critical Mass bicyclists' lawless behavior, which included intentionally blocking traffic, riding through red lights, and cycling the wrong way on both one-way and two-way streets.

"The Court also recognized that asking large bicycle groups -- those consisting of 50 or more bicyclists -- to obtain parade permits with predetermined routes will ensure that the streets remain safe for the riders, pedestrians and motorists."

The plaintiffs -- a bicycle group, as well as individual bicycle riders, some of whom participate in the monthly Critical Mass bicycle rides -- had challenged as unconstitutional the requirement that Critical Mass and other group bike rides of at least 50 people must obtain a parade permit from the NYPD indicating the date, time and route of the ride. The plaintiffs also complained that the NYPD has targeted Critical Mass for enforcement in an effort to thwart the group's rides.

The City contended that the NYPD needs information on the date, time and route of large group bicycle rides to facilitate the flow of traffic and protect the safety of bicyclists, motorists and pedestrians. In addition, Critical Mass has violated numerous traffic laws during rides, and the NYPD has issued traffic tickets to riders and taken other actions when necessary to control an otherwise uncontrollable ride.

In the Court's decision, U.S. District Judge Lewis A. Kaplan ruled that the NYPD's enforcement was not only Constitutional, but intended "to ensure the safety of the public and the riders alike." He also noted that "a permitting system that informs the NYPD of the route to be traveled and other pertinent variables such as the anticipated number of participants reduces the department's need to rely on luck and enhances its ability to assign the appropriate resources to each event."

Assistant Corporation Counsel Nick Ciappetta, a City attorney who served as co-counsel on the case, said, "Without the information obtained with a permit, the Police Department cannot prevent an unruly group bicycle ride from causing traffic jams and otherwise endangering the public."

The rest of the City's legal team included Robin Binder, Tisha Magsino, and Christian Scherer.

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