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FIRST AMENDMENT CASES ON DEMONSTRATIONS AND MARCHES

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I. OPPORTUNITIES TO ASSEMBLE AND ENGAGE IN EXPRESSIVE CONDUCT

The First Amendment provides in part:

> Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

United for Peace & Justice v. City of New York, 323 F.3d 175 (2d Cir. 2003)

1. Group opposing war with Iraq submitted a request for a permit to march past the United Nations on a certain date.
2. Organizers of the proposed march failed to provide the N.Y. Police Department with specific information about the probable number of participants and with the names of volunteers to serve as peacekeepers and marshals for the event.
3. As a result and due to a short (but unidentified) time frame between the submission of the permit request and the date for the proposed march, the city had insufficient time to prepare security volunteers or group leaders of the prospective marchers.
4. The city believed that a large crowd could lead to dangerous surges as participants vie to march up front, creating a continuing risk of injury to participants, especially children.
5. Consequently, the city denied the request for a parade permit but allowed a stationary rally.
6. The Second Circuit held that New York's decision to ban the march but to permit a stationary rally was narrowly tailored to address the risks and went no further than necessary to that end.
    a. A stationary rally with no limit on the number of participants would enable the group to communicate its message at a desirable location in close proximity to the U.N.

ACLU v. Denver, 569 F. Supp. 2d 1142 (D. Colo. 2008)

1. The First Amendment reflects a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.
2. The protection of speech on public issues is one of "central importance."
3. Traditional fora – public streets, sidewalks, and parks – have long been recognized as places in which assembly, communication of thoughts between citizens, and discussion of public issues should be welcomed. The government's ability to restrict expressive activity in such public fora is very limited.
4. Despite their importance, the rights conferred by the First Amendment are not absolute.

5. Even in a traditional public forum, the government may impose reasonable restrictions on the time, place, and manner of protected speech.

    a. Such restrictions are constitutional if: (i) they are justified without regard to the content of the speech; (ii) they are narrowly tailored to serve a significant governmental interest; and (iii) there are ample alternative channels for communication of the desired message.

    b. The party asserting the First Amendment violation has the burden to prove that the restrictions affect protected expression in a traditional public forum. Once that burden is satisfied, the burden shifts to the government to establish the three elements set forth in preceding paragraph.

6. The level of scrutiny applied to a governmental burden on First Amendment rights depends on whether the regulation affecting speech is content-neutral.

7. The government may not regulate speech either because it favors or disagrees with the message the speech conveys.

    a. A regulation on speech that discriminates against speakers based upon the content of their speech is subject to the highly exacting strict scrutiny review.

    b. Thus, the government must show that its regulation is necessary to serve a compelling state interest and must be the least restrictive means available to serve that purpose.

8. Regulations that are justified for reasons independent of the content of the speech they affect are subject to a less stringent review that is more deferential to the government.

    a. Content-neutral regulations do not pose the same inherent dangers to free expression that content-based regulations do.

    b. Thus, the government is granted more latitude in designing a regulatory solution to perceived problems.

9. In determining whether a restriction is content-neutral, a court focuses upon the government's purpose in imposing the restriction, not on the effect the restriction has upon a given speaker.

    a. If the justification for the restriction does not pertain to the content of the regulated speech, the restriction is considered content-neutral.

b. A content-neutral regulation is permissible even though it may operate to affect only certain speakers but not others.

10. To be constitutional, a content-neutral restriction on speech must also be narrowly tailored to serve a governmental interest.

    a. To determine whether a restriction is narrowly tailored, courts focus on two components: (i) whether there is a governmental interest that is significant; and (ii) whether the restriction is narrowly tailored to serve that interest.

    b. Among governmental interests that courts have found to be sufficiently significant to justify limitations on public speech are the following: (i) protecting public fora such as city streets and parks from excessive noise; (ii) maintaining public places in an attractive and available condition for the enjoyment of the general population; (iii) preserving order and public safety, such as by ensuring the free flow of traffic on streets and sidewalks; and (iv) maintaining physical security of persons and property involved in a high profile event.

11. To be considered "narrowly tailored" to serve a particular governmental interest, the restriction must not burden substantially more speech than is necessary to further the stated interest.

    a. The essence of such narrow tailoring is that the regulation focuses on the source of the evils the government seeks to eliminate without significantly restricting a substantial quantity of expressive conduct that does not create the same evils.

    b. The court determines whether the regulation is a sufficient "fit" to the problem that it is intended to prevent.

    c. The court then determines whether the regulation burdens more speech than is necessary to achieve that fit.

    d. Courts are not free to speculate as to what other means a government might use to accomplish its objective.

    e. An otherwise content-neutral regulation is not rendered invalid simply because there is some imaginable alternative that might be less burdensome on speech.

    f. The test to determine whether content-neutral restrictions are narrowly tailored is not whether the government's interest could be adequately served by another marginally less restrictive alternative or what the court might perceive to be a

more appropriate method of satisfying that interest but instead whether the restriction is substantially broader than is necessary to achieve the purpose.

12. The restriction must also allow ample alternatives for the speaker to communicate his or her ideas.

    a. Considerations that may bear on whether alternatives for communication are ample and adequate: (i) whether the alternative permits the speaker to reach his or her intended audience; (ii) whether the location of the expressive activity is part of the expressive message; (iii) whether the alternative forum is susceptible to spontaneous outpourings of expression, or whether the resort to the alternative forum requires advance notice, registration, or some other burden to spontaneous speech or assembly; and (iv) the cost and convenience of the alternatives.

    b. The "ample alternatives" element is a multi-factor, fact-intensive inquiry.

    c. While it must give some deference to the speaker's desire to reach a particular audience or to speak at a particular place, the ample alternatives analysis does not require that the speaker have the ability to communicate in precisely the same means of expression in precisely the same location, nor does it require that the speaker have the ability to communicate in the same manner as he or she wishes.

    d. For example, adequate alternatives may exist even though the alternative channels do not necessarily permit the same quantity of speech, prohibit the preferred method of communication, or reduce the size of the potential audience.

    e. Ultimately, the alternatives analysis focuses on whether the speaker retains other reasonable opportunities to meaningfully communicate his or her message.

13. The district court in *ACLU v. Denver* reviewed several recent First Amendment cases and set forth lessons the court gleaned from those cases.

14. Instructive aspects of *Citizens for Peace in Space v. City of Colo. Springs*, 477 F.3d 1212 (10th Cir. 2007):

    a. Perhaps most importantly, it recognizes that the creation of a geographically large security zone to protect high-profile political gatherings against threats of terrorist attacks and

violent protests can withstand a First Amendment challenge from those whose ability to engage in speech activities inside the security zone is compromised.

b. It confirms the importance of a reasonably specific security-based justification for the closure of traditional public fora.

c. It instructs that the more important the governmental interest, the less exacting is the court's narrow tailoring analysis.

d. Types of alternative means of communication can include: (i) the ability to speak to attendees when they board buses; (ii) an enhanced opportunity to communicate to attendees as they travel towards the meeting site; (iii) the opportunity for any attendee wanting more information to return to the speakers; and (iv) the ability of speakers to reach the attendees and the public through other media channels such as television and print.

15. Instructive aspects of *Menotti v. City of Seattle*, 409 F.3d 1113 (9th Cir. 2005):

a. Most significantly, *Menotti* describes, in both a factual and legal sense, a security justification hinted at but not particularly developed in *Citizens for Peace in Space*: the threat posed by violent or unlawfully disruptive protestors.

b. Preventing such conduct by creating a large, sterile security zone that curtails some First Amendment opportunities can survive constitutional scrutiny.

c. *Menotti* rejects the argument that allowing persons eligible to enter the security zone to engage in expressive activity therein is a form of content discrimination prompting strict scrutiny.

d. The *Menotti* court focused not on whether some individuals enjoyed more expressive opportunities than others but on whether the restriction enabled the city to discriminate against ideas it disfavored.

e. *Menotti* appears to contemplate a more limited set of alternative communication channels as being sufficient than did *Citizens for Peace in Space*: So long as protestors had a reasonable ability to communicate with attendees at a distance, the lack of face-to-face opportunities did not warrant relief.

16. Instructive aspects of *Black Tea Society v. City of Boston*, 378 F.3d 8 (1st Cir. 2004):

a. It emphasizes that mere invocation of the need for "security" is insufficient to survive a narrow tailoring review.

b. Problems encountered in past events can inform security plans but will not, of themselves, justify extensive burdens on expressive opportunities.

c. Adequate alternative means of communication can include the opportunity to engage in expressive activity: (i) in other locations around the area even when such opportunities are not within "sight and sound" of the delegates; and (ii) through the media and other electronic dissemination.

17. Instructive aspects of *Coalition to March on the RNC and Stop the War v. City of St. Paul*, 557 F. Supp. 2d 1014 (D. Minn. 2008):

a. Disputes concerning parades are equally susceptible to the classic time, place, and manner analysis.

b. More importantly, *Coalition to March* recognizes a host of significant governmental interests that arise in the parade context, such as concerns: (i) about parades obstructing emergency vehicles' access to the convention grounds or clogging evacuation routes; and (ii) that demonstrators engaging in civil disobedience may attempt to shut down convention activities by blocking delegates' access.

c. *Coalition to March* finds adequate a mix of alternative communication channels similar to those in *ACLU v. Denver*.

d. It expressly considers the extent to which the time at which the parade is held to be essential to the communicative nature of the parade and weighs that factor among other concerns that militate in favor of requiring the parade to occur at a different time.

e. The speaker's ability to dictate the context of his or her message is significant but not controlling of the analysis.

f. The court in *Coalition to March* scrupulously avoided playing a "numbers" game – that is, attempting to divine some bright line rule that a distance of X feet between speakers and delegates is permissible but that a distance of Y feet is not. The mere fact that the parade in *Coalition to March* passed within 84 feet of the convention site and the fact that the protest in *Citizens for Peace in Space* was 300 yards from the building are not, in and of themselves, helpful to the analysis. Without an appreciation of the entire suite of security

measures, an understanding of the inherent topography of each site and knowledge of all the other factors that weigh in the balance, discrete measurements and other isolated facts from other events are not particularly illuminating.

18. There is a significant governmental interest in protecting attendees at high-profile political functions and the public in general against terrorist attacks and violent demonstrations.

19. The requirement of narrow tailoring does not mean that government is limited to development of security measures only in response to specific, known threats, nor are they required to lay bare their intelligence and assumptions when security measures are challenged. Maintaining a degree of secrecy as to threats anticipated and the means devised to thwart them serves a deterrent purpose. However, unrestrained deference to unidentified, unspecific, illusory, or remote security concerns tilts the scales too far to the government's favor at the expense of citizens' rights. To be narrowly tailored, there must be some reasonable fit between the clearly defined, stated concerns and the restrictions on speech. The more extensive the restrictions, the more precise the justifications for that restriction must be.

20. Although Denver's security plan is not perfect, it passes muster because the First Amendment does not require the defendants to create an ideal or even the least restrictive security plan. They are merely obligated to devise a scheme that does not significantly overburden First Amendment rights.

21. Websites of some protesters evince their intent to engage in violence.

22. Restrictions on public access are reasonably tailored to places where law enforcement personnel and delegates are most likely to be found: on the grounds of the convention site – making the restrictions a reasonable fit to the problem.

23. There is a significant governmental interest in ensuring free traffic flow of emergency vehicles.

24. The district court is not permitted to reject the city's security plan simply because the court thinks another might be better.

25. The phrase "sight and sound" does little more than restate the obvious – expressive speech is designed to communicate.

26. An acoustics expert testified as to whether delegates would be able to hear the protesters.

27. The court found that, despite its limitations, the Public/Demonstration Zone presents an adequate alternative channel of communication.

28. The location of the expressive activity can be part of the expressive message such that alternative locations may not be adequate.

    a. However, the First Amendment does not guarantee the right to communicate one's views at all times and places or in any manner that may be desired.

    b. Also, the Public/Demonstration Zone was designed to provide meaningful access to the delegates rather than to provide media-worthy views of the Pepsi Center.

    c. A speaker's desire to control all of the conditions that affect his or her message occasionally must yield where imperfect-yet-adequate alternatives exist.

29. Other alternative means that have been made available to the protesters at the 2008 Democratic National Convention include: (i) permits to hold events in public parks around Denver; (ii) permits to march in daily parades along the approved parade route; (iii) freedom to speak, demonstrate, or leaflet on any public streets in Denver outside the security perimeter (including outside Convention hotels); (iv) communication with delegates through the leaflet table; and (v) the myriad of traditional media channels that exist to disseminate ideas (*e.g.*, local radio, television, newspapers, the Internet) as well as the presence of thousands of outside media representatives coming to Denver to cover all aspects of the convention. Although none of those alternatives offers every advantage that access to the public streets around the Pepsi Center do; taken together they provide adequate alternative channels by which the plaintiffs can communicate their messages.

30. The same significant governmental interests apply to parades as to street closures.

31. Lingering effects from a parade could affect the ability of emergency vehicles to access the site after the parades have ended.

32. The court found the "incremental burden" on the plaintiffs' First Amendment rights arising from the city's terminating the parade route at a site different than that sought by the plaintiffs did not change the court's determination that the city's choice of the parade terminus was appropriately narrowly tailored to the problem addressed.

33. The city's decision not to allow the plaintiffs to conduct a parade immediately in front of the Pepsi Center the day before the convention was to begin was acceptable. The Secret Service was going to sweep that area for bombs prior to the proposed parade time and holding a parade after the sweep would require the Secret Service to conduct another sweep of the area.

34. The court upheld the city's decision not to allow the plaintiffs to conduct a downtown march on a route different that the approved parade route. The city justified its decision by reasons related to government interests in: (a) ensuring the smooth flow of traffic; and (b) a concern for public safety and order.

35. Denial of the parade permit does not preclude the protesters from assembling at the proposed end of the parade, nor from marching there so long as the protesters follow the requested route using public sidewalks and obeying traffic signals at intersections. Thus, the protesters' ability to communicate their message would not be diminished.

Buck v. City of Albuquerque, 549 F.3d 1269 (10th Cir. 2008)

1. At the start of the Iraq War in 2003, anti-war protesters gathered on the campus of the University of New Mexico.

2. The police arrested a number of protesters, some of whom sued the City of Albuquerque and various police officials for civil rights violations.

3. Buck was among those arrested for marching without a parade permit.

4. The defendants argued they had probable cause to arrest her due to the lack of a permit.

5. The plaintiffs, on the other hand, contended that several streets were closed before the demonstrators moved into those streets and police officers were directing the procession.

6. Thus, the plaintiffs argued that the police were actually permitting, if not sanctioning, the march and its flow into the streets.

7. Because the issue was raised on the defendants' summary judgment motion, the court was required to take the facts in the light most favorable to the plaintiffs.

8. The officers' conduct, if proven at trial, could amount to the grant of a *de facto* parade permit or a waiver of the permit requirement.

9. Consequently, the officers would not have had probable cause to arrest the demonstrators for participating in a non-permitted parade, in violation of an Albuquerque ordinance.

Amnesty Int'l v. Battle, 559 F.3d 1170 (11th Cir. 2009)

1. Advocacy group obtained a permit from the City of Miami to conduct a protest. About 10 – 12 members of the group gathered at the spot identified in the permit and attempted to begin a demonstration. Police created a police cordon 50 – 75 yards from the demonstrators and did not to allow anyone else to enter the area. People outside the cordon could not see or hear the demonstrators because the cordon kept them too far away. The demonstrators attempted to invite people into the demonstration area, to obtain media coverage of the demonstration, and to pass literature to persons outside the area; but the police prevented all of that.
2. The demonstrators filed a complaint against two police commanders, alleging violation of First Amendment rights.
3. The government filed a motion to dismiss the complaint.
4. The court "will not assume that the mere presence of a large number of people in the area that a level of danger existed justified the complete deprivation of Amnesty's right to pass out literature."
5. The court said there is a "right to be heard" inherent in the First Amendment.
6. The right to demonstrate would be meaningless if governments were entitled to isolate a demonstration so completely that no one could see or hear it.
7. A "potential" for violence does not justify a cordon that prevents all communication from passing through it.
8. The government must provide sufficient detail for the court to analyze the asserted government interest and whether the action was narrowly tailored to serve the interest.
9. The court determined that the government had not provided sufficient detail for the court to conduct that analysis.
10. Therefore, the court concluded that the police cordon was not narrowly tailored to serve a significant government interest and did not leave open ample alternative channels of communication.
11. Accordingly, the court held that the advocacy group had alleged a violation of its constitutional rights.

12. The court determined that Supreme Court case law had made clear that there is a First Amendment right to distribute pamphlets, citing to *Hill v. Colorado*, 120 S. Ct. 2480 (2000) and *Organization for a Better Austin*, 91 S. Ct. 1575 (1971).

13. The court also determined that the demonstrators' right to have an audience for the demonstration and be heard was clearly established, citing to *Saia v. People of State of N.Y.*, 68 S. Ct. 1148 (1948); *Ward v. Rock Against Racism*, 109 S. Ct. 2746 (1989); and an Eleventh Circuit case.

14. The court also said the police commanders could be liable under § 1983 on a theory of supervisory liability.

    a. Supervisors are liable under § 1983 when the supervisor personally participates in the alleged constitutional violation or when there is a causal connection between actions of the supervising official and the alleged constitutional violation.

    b. A causal connection can be established by, among other things, facts which support an inference that the supervisor directed the subordinates to act unlawfully or knew that the subordinates would act unlawfully and failed to stop them from doing so.

36. The complaint's allegation that the supervisors ordered the subordinate officers to form the cordon 50 – 75 yards from the demonstrators and not to allow anyone else to enter provided a causal connection between the supervisors' actions and the alleged constitutional violation.

II. FIRST AMENDMENT ISSUES REGARDING LOCAL ORDINANCES

Clark v. Community for Creative Non-Violence, 104 S. Ct. 3065 (1984)

1. A federal regulation provided in pertinent part:

> In connection with permitted demonstrations or special events, temporary structures may be erected for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities . . . . Temporary structures may not be used outside designated camping areas for living accommodation activities such as sleeping . . . .

2. Demonstrators wished to publicize the plight of the homeless and, in connection therewith, wished to camp on the National Mall and in a park near the White House.

3. However, there are no designated camping areas on the National Mall or in the park where the demonstrations were to be held.

4. The demonstrators challenged the regulation as violating their First Amendment rights.

5. The Supreme Court assumed without deciding that sleeping can be an expressive activity.

6. The Supreme Court acknowledged that allowing homeless persons to sleep on the National Mall or in the park could increase the likelihood that homeless persons would come to D.C. for the demonstration.

7. Nevertheless, the Supreme Court upheld the regulation.

    a. The regulation was content neutral.

    b. The government has a substantial interest in maintaining parks in the heart of the Capital in an attractive and intact presence. To permit camping would be totally inimical to these purposes and could lead to unfortunate consequences.

    c. Preventing overnight sleeping will avoid a measure of actual or threatened damage to the National Mall and the park. Thus, the regulation was narrowly focused to achieve the governmental interest.

A.C.O.R.N. v. City of Tulsa, 835 F.2d 735 (10th Cir. 1987)

1. Conduct that is intended and reasonably perceived to convey a message falls within the free speech guarantee of the First Amendment.

2. An ordinance that imposes a license requirement in order to engage in communicative conduct must include clear guidelines for the official who decides whether to issue a license.

3. Unfettered discretion in the licensing official raises concerns that a license may be denied for reasons unrelated to the government interest in regulating the conduct.

4. For example, the erection of some structures can qualify as expressive conduct.

***Thomas v. Chicago Park Dist.*,** 122 S. Ct. 775 (2002)

1. The purposes of the Park District's permit system are to coordinate multiple uses of limited space; to assure preservation of the park facilities; to prevent uses that are dangerous, unlawful, or impermissible under the park district rules; and to assure financial accountability for damage caused by an event.
2. To allow unregulated access to all park facilities could easily reduce rather than enlarge the park's utility as a forum for speech.
3. Regulations on the use of a public forum that ensure the safety and convenience of the people are one means of safeguarding the good order upon which civil liberties depend.

Vlasak v. Superior Court., 329 F.3d 683 (9th Cir. 2003)

1. Vlasak attended a circus to "educate the public to the cruelty that goes on behind the big top."
2. Vlasak brought to the circus a "bull hook" – a large piece of wood with a metal hook on the end – to exemplify training devices used to gain elephants' obedience.
3. Vlasak was convicted of violating a municipal code that prohibits carrying or possessing certain "demonstration equipment" – rectangular pieces more than ¼ inch thick and 2 inches wide or non-rectangular pieces thicker than ¾ inch.
4. Vlasak's bull hook exceeded the permitted dimensions.
5. Vlasak claimed the ordinance is unconstitutional because it violates her First Amendment right to freedom of speech.
6. One of Vlasak's arguments was that the ordinance is unconstitutional on its face due to overbreadth.
    a. A statute is not "viewpoint based" simply because its enactment was motivated by the conduct of partisans on one side of a debate.
    b. Here, the ordinance applies to demonstrators regardless of persuasion, viewpoint, or cause.
    c. The city has a substantial interest in safeguarding its citizens against violence.
    d. The self-avowed purpose of the ordinance is to protect both police and demonstrators; and the ordinance relates that in

prior demonstrations police officers had been injured by large wooden sign poles.

e. The ordinance makes parades and large public gatherings safer by banning materials that are most likely to become dangerous weapons, without depriving the city's residents of the opportunity to parade or protest with traditional picket signs.

f. The dimension restrictions in the ordinance are not substantially broader than necessary to achieve the governmental interest.

g. The ordinance does not prohibit: (i) signs on wooden sticks that do not exceed the identified dimensions; (ii) leaflets; (iii) photographs; (iv) mega-phones; or (v) other devices for getting attention.

h. The ordinance preserves the demonstrators' right to "reach the minds of willing listeners" through an "opportunity to win their attention."

7. Another argument was that the ordinance was unconstitutional as applied to Vlasak.

a. The government interest – the safety of police, demonstrators, and the public – is unrelated to the suppression of free expression. Therefore, the regulation is content-neutral.

b. The ordinance was narrowly tailored to accomplish its purpose because the potential hazards of wielding what is essentially a heavy wooden club in a crowd during demonstrations justified the relatively small burden imposed on Vlasak by the ordinance.

Camp Legal Defense Fund, Inc. v. City of Atlanta, 451 F.3d 1257 (11th Cir. 2006)

1. Ordinance provided that the mayor's chief of staff could impose "special limitations" on parades held in certain neighborhoods if in the opinion of the chief of staff special considerations are necessary.

a. The court held that this language did not grant "unbridled discretion" to the chief of staff to selectively impose content-based limitations on permit applicants. The reason was that the ordinance also stated that, to impose "special limitations," the chief of staff may consider "traffic, public safety, and

limitations contained in any Master Plan adopted by [the City] Council." Moreover, any such limitations must be noted in writing by the chief of staff.

b. The court held these limitations are content-neutral because they are established before the submission of a festival permit.

2. Regulations that are content-based are subject to strict scrutiny. Regulations that are content-neutral are subject to intermediate scrutiny.

3. To be content-neutral, a fee may not be based on the amount of hostility likely to be created by the speech based on its content.

4. A "prior restraint" is an administrative or judicial order forbidding certain communications when issued in advance of the time that such communications are to occur.

Sullivan v. City of Augusta, 511 F.3d 16 (1st Cir. 2007)

1. Protest organizers contended that Augusta's parade ordinance violated their free speech and assembly rights.

2. Protest street marches are forms of assembly and expressive speech and are protected by the First Amendment.

3. However, that protection is not absolute since the First Amendment rights must be harmonized with the existence of an organized society maintaining public order without which liberty itself would be lost.

4. A municipality's parade permit ordinance is not to be reviewed as a prior restraint but as a reasonable regulation of the time, place, and manner in relation to the other proper uses of the streets.

5. Augusta's parade ordinance provided: "The cost of the permit shall be one hundred dollars ($100), plus the costs of traffic control per city collective bargaining agreement and clean up costs, as estimated by the Police Department."

a. An ordinance of this type must furnish narrowly drawn, reasonable, and definite standards that are reasonably specific and objective and do not leave the decision to the whim of the administrator.

b. The court found the fee-setting authority assigned to the police department was not constitutionally excessive.

c. The police were not given discretionary authority to estimate and charge costs other than the costs of traffic control and clean-up; nor were they authorized to vary the character of the costs as between applicants.

d. Because the size and location of parades vary enormously, experienced, professional judgment is the most likely way to estimate how many extra officers will be needed.

e. Traffic control is a major responsibility of local police departments.

6. A government cannot profit from imposing licensing or permit fees on the exercise of a First Amendment right. Only fees that cover the administrative expenses of the permit or license are permissible.

7. Notice periods

a. Notice periods restrict spontaneous free expression and assembly rights safeguarded in the First Amendment. People may, in some cases, wish to engage in street marches in quick response to topical events. While even in such time-sensitive situations, a municipality may require some short period of advance notice so as to allow it time to take measures to provide for necessary traffic control and other aspects of public safety, the period can be no longer than is necessary to meet the city's urgent and essential needs of this type.

b. Advance notice requirements that have been upheld have most generally been of less than a week. However, even five days has been held too long in certain circumstances.

c. The City of Augusta stated its interest in having advance notice of a parade include controlling traffic, preventing scheduling conflicts, ensuring adequate facilities are available and assigning personnel to safely close the streets. Furthermore, its police force is small, with only 34 officers available for assignment to parade details.

d. Nevertheless, the court determined that Augusta's 30-day advance notice requirement was unconstitutional because the city must accommodate time-sensitive situations more quickly than in 30 days.

8. Mandatory ten-day period in which to discuss the parade permit with the police chief prior to submitting an application for a permit.

a. While acknowledging that face-to-face meetings between the police chief and applicants for parade permits is generally a

good way to resolve problems, the court held the provision is overbroad due to its unyielding language. An applicant for a parade permit must meet with the police chief prior to submitting an application.

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