

APPENDIX "B"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SIDNEY CLIETT, JR., et al.,
Plaintiffs

v.

THE CITY OF PHILADELPHIA,
et al.,
Defendants

CIVIL ACTION NO. 85-1846

NOTICE OF
PROPOSED SETTLEMENT

TO: PERSONS STOPPED, SEARCHED, TAKEN INTO CUSTODY AND/OR
CHARGED WITH A CRIME BY THE PHILADELPHIA POLICE AS A
RESULT OF "OPERATION COLD TURKEY" (MEMBERS OF THE
PLAINTIFF CLASS)

This is a notice that a proposed settlement has been submitted
to the Court pursuant to Rule 23 of the Federal Rules of Civil
Procedure and that a hearing will be held on , 1986
to consider approval of the proposed settlement.

The proposed settlement, which is explained in more detail
below, provides for: (a) payment of damages to each member of
the plaintiff class by the City of Philadelphia, (b) overturning
of all convictions and other consequences of criminal charges
connected to "Operation Cold Turkey", and expungement of all
arrest records, except where there is an independent basis,
(c) continuance of the Consent Decree prohibiting "Operation
Cold Turkey" and similar police action, for a period of at least
two (2) years from the date of Final Order approving the Decree,

after which the City may apply for modification or dissolution based upon a showing of such compliance providing a basis for a reasonable assurance that such sweeps shall not recur, (d) adoption of a policy directive by the Police Department embodying a prohibition of such sweeps, and (e) payment of costs and counsel fees by the City of Philadelphia.

1. THE LAWSUIT. This lawsuit was filed on April 2, 1985, by persons who claimed that their constitutional civil rights were violated when they were stopped, searched, and/or arrested by police officers of the City of Philadelphia pursuant to a large police action called "Operation Cold Turkey", which began on March 27, 1985. The plaintiffs sought an injunction prohibiting the police action, damages, and costs and counsel fees. On April 22, 1985, a Decree of this Court, entered upon consent of plaintiffs and defendants, ordered that the Philadelphia police "shall not stop, frisk, question, search, interrogate, detain, or arrest any person without meeting the requirements of the Constitution of the United States... [and] shall not take any of the[se] actions... based only on a person's presence in a high crime location or designated area."

On October 17, 1985, the Court ordered that the lawsuit would proceed as a class action. The class consists of persons who were stopped, frisked, and/or questioned and those who were charged with criminal offenses as a result of or in carrying out "Operation Cold Turkey". You were previously notified, as a member of the plaintiff class, of the Court's determination, and you were offered the opportunity to opt out of the class action.

All Orders and Opinions of the Court and all papers filed in this case are available for your inspection at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, Room 2609 United States Courthouse, 601 Market Street, Philadelphia, PA.

2. THE PROPOSED SETTLEMENT. The terms of the proposed settlement are as follows:

a. The Court's Decree on April 22, 1985 prohibiting the specific conduct outlined above shall remain in full force and effect and the Court shall retain jurisdiction to enforce it. After two (2) years, the City may apply to the Court to modify or dissolve the Order. The Police Department shall immediately adopt a policy directive prohibiting such sweeps or dragnets.

b. The City of Philadelphia shall pay to the members of the plaintiff class the total sum of \$500,000.00. Members of the class shall be divided into three categories, each of which shall receive the amounts indicated below:

Category 1. Persons stopped, frisked,
searched and/or questioned. \$ 100.00

Category 2. Persons charged with
summary offenses. \$ - 882.31

Category 3. Persons charged with
misdemeanors. \$1,250.00

c. All open or pending criminal charges, bench warrants and ARDs connected with "Operation Cold Turkey" will be dropped, withdrawn, or dismissed by the District Attorney within forty-five (45) days from the date of this Order, and any records of arrest shall be expunged. Misdemeanors and summary convictions

and/or guilty pleas will be overturned and all arrest records expunged in a "Post-Conviction Hearing Act" proceeding to be filed by the Public Defender, except for cases where there was a basis for prosecution that was independent of "Operation Cold Turkey". Any member of the class may find out which category they are in by calling _____, at _____.

d. The City of Philadelphia shall pay all counsel fees and costs in connection with this matter.

3. YOUR CLAIM. You do not have to return any form or take any action in order to participate in the settlement. If the settlement is approved by the Court, your portion of the settlement fund will be mailed to you directly by the City of Philadelphia by Certified Mail with a Return Receipt Requested. The certified letter containing your check, with a return receipt attached to it, will be delivered to your home address in the regular mail, but you must sign for the letter before you receive it. If you are at home at the time the post office delivers the letter with your regular mail, you may sign for it then. If not, a notice like the blank one attached to this Appendix as Attachment 1 will be left with your mail, and you must go to the post office to pick up your letter and the enclosed check.

In addition, a Notice will be enclosed with your settlement check which should be presented if you have any problem in cashing your check.

If you have any problem or question regarding the check or cashing it call _____ at _____.

You may contest the settlement if you wish at a hearing

as described below. If the settlement is approved by the Court after the hearing, it will bar any present or potential future claims by you arising from this matter.

4. HEARING. Pursuant to this Court's Order of _____, 1986, a hearing will be held before the Honorable Donald W. VanArtsdalen, District Judge, in Courtroom A, 14th Floor, United States Courthouse, 601 Market Street, Philadelphia, PA, at _____ A.M. on the _____ day of _____, 1986. At this hearing, the Court will consider whether settlement of this action in the manner and on the terms set forth above shall be approved as fair, reasonable and adequate, and whether the settlement of attorneys' fees and costs shall be approved, all pursuant to Rule 23 of the Federal Rules of Civil Procedure.

At that hearing, any member of the class who wishes to oppose the settlement of this action on the terms described herein may present evidence or argument relevant to the issues to be heard.

You must file an objection to the settlement in writing if you wish to show cause why the settlement in the manner and on the terms set forth is objectionable, or why attorneys' fees and other expenses should not be approved. If you wish to appear and argue at the settlement hearing announced herein above, you must file notice of such intention in which you must state your objections. All such papers must be filed with the Clerk of the United States District Court for the Eastern District of Pennsylvania, Room 2609 United States Courthouse, 601 Market Street, Philadelphia, PA, 19106 on or before _____, 1986.

Copies of all such notices, objections or other papers must be served in person or by mail upon David Kairys, Esquire, 1425 Walnut Street, Philadelphia, PA 19102; Stefan Presser, Esquire, American Civil Liberties Union, Room 680, The Bourse Building, 21 S. Fifth Street, Philadelphia, PA 19106; and Ralph J. Teti, Divisional Deputy City Solicitor, 1530 Municipal Services Building, 15th Street and John F. Kennedy Boulevard, Philadelphia, PA 19102-1692. A certificate indicating service on each of the aforementioned persons must accompany all notices, objections or other papers filed with the Clerk.

If you have any questions concerning this Notice or concerning the hearing or settlement, your inquiries may be addressed to counsel for plaintiffs: Stefan Presser, Esquire and David Kairys, Esquire, at the addresses listed above.

MICHAEL E. KUNZ, CLERK

DATE: _____