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# Terror fears don't trump Constitution, court rules

## Panel: Protesters can't be forced through metal detectors

**ATLANTA, Georgia (AP) -- Fears of a terrorist attack are not sufficient reason for authorities to search people at a protest, a federal appeals court has ruled, saying September 11, 2001, "cannot be the day liberty perished."**

A three-judge panel of the 11th Circuit Court of Appeals ruled unanimously Friday that protesters may not be required to pass through metal detectors when they gather next month for a rally against a U.S. training academy for Latin American soldiers.

Authorities began using the metal detectors at the annual School of the Americas protest after the terrorist attacks, but the court found that practice to be unconstitutional.

"We cannot simply suspend or restrict civil liberties until the War of Terror is over, because the War on Terror is unlikely ever to be truly over," Judge Gerald Tjoflat wrote for the three-member court. "September 11, 2001, already a day of immeasurable tragedy, cannot be the day liberty perished in this country."

City officials in Columbus, Georgia, contended the searches were needed because of the elevated risk of terrorism, but the court threw out that argument, saying it would "eviscerate the Fourth Amendment."

"In the absence of some reason to believe that international terrorists would target or infiltrate this protest, there is no basis for using September 11 as an excuse for searching the protesters," the court said.

Police Chief Willie Dozier did not immediately return messages seeking comment left Saturday by The Associated Press.

Former Columbus Mayor Bobby Peters, who was in office when the decision was made to install the metal detectors, said the city attorney's office is considering appealing the ruling to the full 11th Circuit.

The city attorney declined to comment on the case until Monday.

Peters said he didn't believe anyone's freedom was restricted, and that the city had received a federal court's approval before setting up the checkpoints.

"I don't see the difference between that and everyone going into a public building," Peters said. "We didn't make them recite the Lord's Prayer once they were in there. Everyone that went to the event was scanned, same as a football game."

The Rev. Roy Bourgeois, a priest who founded the protest group called SOA Watch, praised the ruling for safeguarding essential rights.

"I felt that they were using 9/11 as an excuse, along with the Patriot Act, to interfere with our First Amendment rights," he

said. "They are using this to get around what the Constitution is really rooted in."

The metal detectors caused long lines and congestion outside the protest area, he said, comparing it to routing 10,000 people through a single security gate at an airport.

"It was not just an inconvenience, it was a nightmare. We couldn't get to the place of assembly in an orderly fashion," he said.

About 15,000 demonstrators attend the annual vigil, demanding the closing of the center formerly known as the School of the Americas. The facility at Fort Benning was reopened in January 2001 as the Western Hemisphere Institute for Security Cooperation.

The protests began in 1990. This year's demonstration is scheduled for November 20-21.

Michael Greenberger, law professor and director of the University of Maryland's Center for Health and Homeland Security, said the ruling could have broader implications if it is used to challenge aspects of the Patriot Act.

It was surprising, he said, coming from the conservative-leaning 11th Circuit, based in Atlanta, but the opinion was "very well-reasoned" and reflected "conventional application of constitutional principles."

First Amendment lawyer Floyd Abrams said that though there are steps the government can take to protect people from terrorism, "that doesn't mean we just dispense with the Bill of Rights as a consequence of 9/11."


"We don't yet live in a society in which everyone must always go through metal detectors everywhere we go."

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