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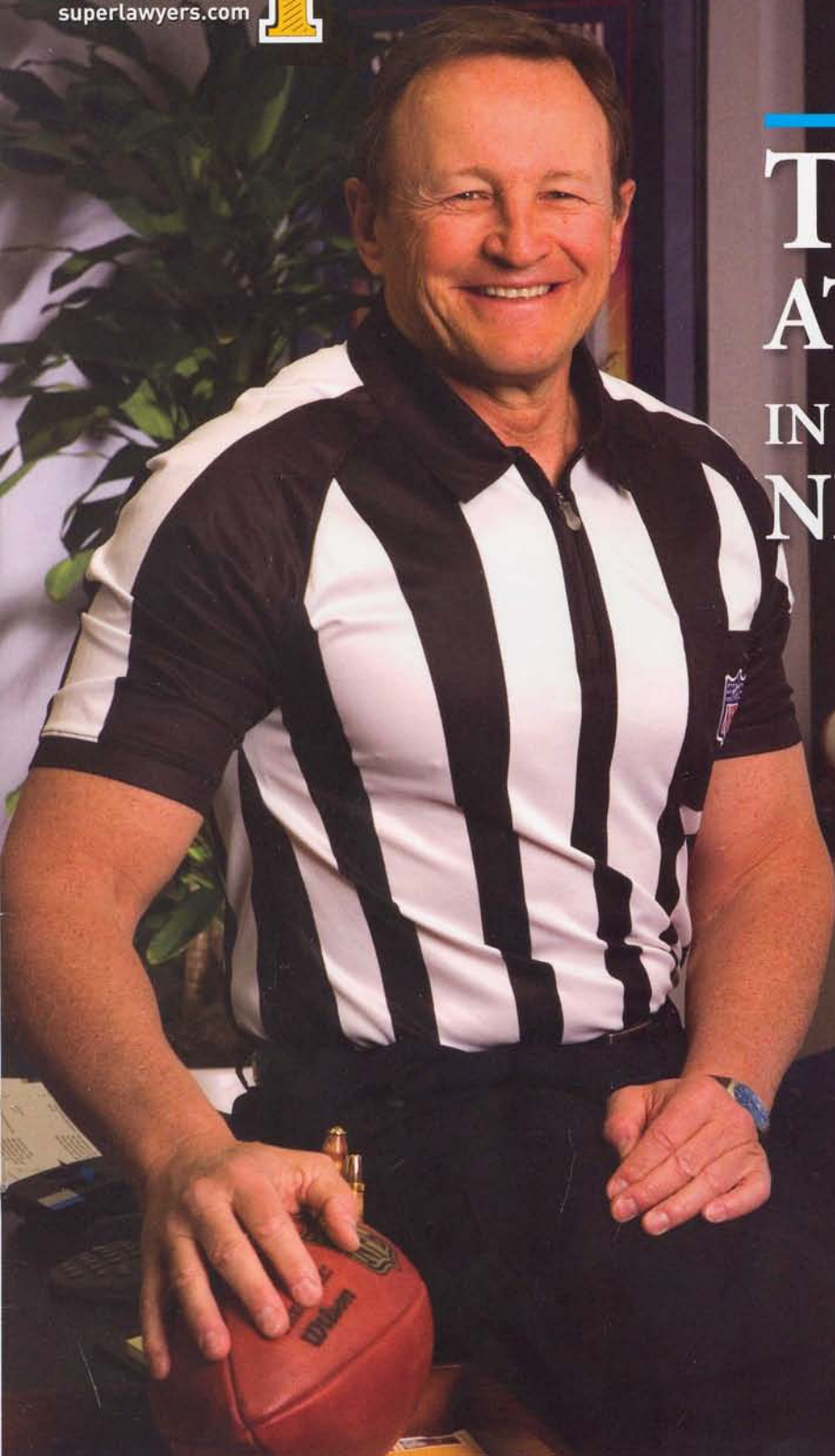
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THE AGITATOR

Trouble with the government?
Call Nancy Hollander



The Agitator

From accused spies to Gitmo detainees, criminal defense lawyer Nancy Hollander takes the cases nobody else wants

by ANIKA WARNER PHOTOGRAPHY BY CARY HERZ

Nancy Hollander will gladly tell you about her trouble with the law.

During her first semester at the University of Michigan in 1961, Hollander, age 17, was arrested at a fair housing demonstration at Ann Arbor's City Hall. Her second arrest, in 1964, took place at a sit-in on Wall Street to protest Chase Manhattan Bank's involvement in apartheid South Africa. Then, while in Chicago in 1969, a member of Students for a Democratic Society and co-authoring the controversial book *Uptown: Poor Whites in Chicago* with her first husband, activist Todd Gidlin, she was arrested yet again for taking pictures at City Hall during a political demonstration.

"That was," says Hollander, "my third and last arrest. It's all public—it's all on my bar application, it's all on my security clearance applications—but I guess you could say that I've always been pretty active politically and they were all for disorderly conduct."

Thirty years later, Hollander's conduct at Albuquerque's Freedman Boyd Daniels Hollander Goldberg & Ives can hardly be called disorderly. In fact, partners, associates and clients all describe the vibrant, forthright Hollander, 63, as "meticulous," "incredibly organized" and "focused." But her passion for politics, social change and the government's role in defining legal process remains an integral part of who she is.

Her cases are the stories that open nightly newscasts: the foreign espionage case against scientist Wen Ho Lee, terrorism in Ireland, an Islamic charity accused of channeling funds to extremists in the Middle East and the legal rights of a detainee at Guantanamo Bay. Throw in the rights of a religious group to drink hallucinogenic tea as part of its rituals, the defense of a Santa Fe Catholic priest accused of sexual molestation, a murder appeal that lasted 15 years and—Hollander's current favorite—an

American Civil Liberties Union suit against the government's National Security Agency for violations of the Foreign Intelligence Surveillance Act and the First and Fourth Amendments, and you get a sense of what Hollander is all about.

"Nancy is not a one-trick pony," says Charles Daniels, a partner at Freedman Boyd. "She's organized to the extreme and absolutely tireless in fighting for a fair system of law."

The key as an attorney, she says, is to not "accept the law as a stationary thing. You always have to keep moving and remembering that the law changes when we push it to change. You don't just accept it the way it is. If lawyers hadn't made the effort, we'd still have segregated schools."

Hollander had no intention of studying law after graduating from high school in Dallas. She enrolled at the University of Michigan as a pre-med student only to discover that a curriculum heavy in chemistry and lab courses was interfering with a different agenda.

"I switched to sociology as a major," Hollander explains, "partly because it was multidisciplinary but also because it had the least number of required courses and the most number of electives. I didn't have time for the lab courses and the war protests and my being politically active all at the same time."

One bachelor's degree, two marriages and a child later, Hollander moved to Albuquerque to take over as executive director at the New Mexico chapter of the ACLU. She spent the next four years working closely with legal advisers and clients on issues that revolved around privacy, racial profiling and civil rights.

Some of what she learned hit too close to home. While performing the same kind of annual credit report check on herself that the ACLU recommended to one of its clients, Hollander learned that the FBI had inquired into her own background and

finances. When her follow-up with the government agency didn't get her any straight answers, she filed a Freedom of Information Act request that yielded a large storage box filled with material amassed during her years as an activist in Chicago.

It was also while working at the ACLU and discussing with a friend whether to return to med school at age 30 that Hollander's "aha" moment happened. Forget medical school, her friend told her; enroll in law school. "She started talking to me about all the work I'd done at the ACLU and how I put together clients and cases and she said, 'You know, that's *really* the medicine that you do.' I went into work the next morning," Hollander says with a smile, "and said to my secretary, 'Would you find out what I have to do to go to law school?'"

Hollander graduated from the University of New Mexico School of Law magna cum laude in 1978. The same day she was admitted to the bar, Hollander began working at the New Mexico Public Defender's office. With 14 months and 22 felony jury trials under her belt, Hollander took an offer from Daniels, legal director at the ACLU and a partner at what was then Freedman Boyd Daniels, and made the switch from public to private practice—but kept her focus on criminal defense and civil liberties.

Hollander gained national recognition as the first female president of the National Association of Criminal Defense Lawyers in 1992 and as a board member on the International Criminal Defense

Attorneys Association (she is now its vice president) and on the governing council of the International Criminal Bar. In 1994, she co-authored *The Everytrial Criminal Defense Resource Book*, a must-have reference guide for attorneys that is now in its 12th edition. "This book was born out of frustration, panic and fear," Hollander says with a laugh. "Frustration at having to find the same citations, the files, the same memos at the beginning of every trial; panic in the midst of trial without the answers at our fingertips; and fear that we failed to know something that mattered to our clients."

Hollander's wins in difficult cases—and some remarkable pre-trial settlements—earned her an international reputation. She

recalls the first time she lent her expertise abroad, as the leader of a panel of attorneys traveling to Russia and Estonia. "We put on a little trial in one place," she says, "a little date rape trial that was very interesting, because the Russians didn't get it at all."

The concept of a trial? "No," sighs Hollander, "the concept of date rape. They were like 'What's wrong with this?' All the women voted guilty, all the men voted not guilty."

Hollander wound up teaching five five-day programs in Russia on jury trials during the course of the next few years. She also helped the United Nations re-evaluate the criminal code in Vietnam, and became involved with the International Criminal Bar.

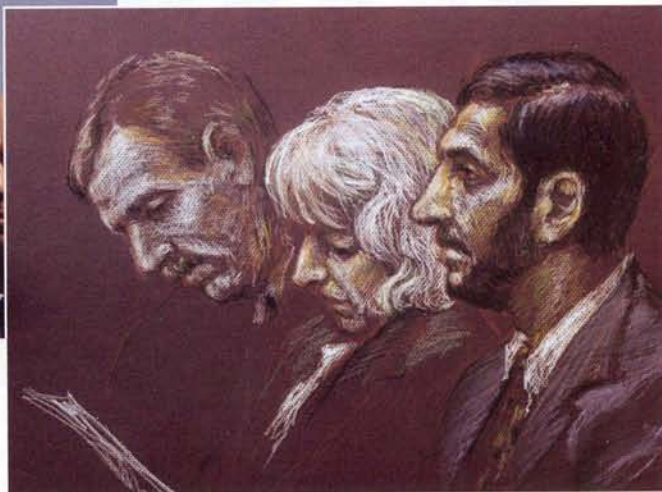


Hollander's large FBI file dates back to her days as a student activist in the 1960s.



Left: Fighting for religious freedom at the Supreme Court in 2005.

Below: With accused terrorist Imam Fawaz Damra during his 2004 federal court trial.



“She comes in curious, sociable, and doesn’t think that she knows it all,” says Montreal-based criminal defense attorney Elise Groulx, who is president of the International Criminal Defense Attorneys Association and has taught classes in international defense with Hollander at The Hague. “She knows that things will be different [in another country] and she’s open-minded, learning to work within the structure that exists as opposed to working against it.”

Hollander has worked on a number of cases abroad that involved American citizens, and, in a few cases, represented foreign-born citizens accused of breaking American laws. She was co-counsel on the high-profile espionage case brought against Wen Ho Lee, a Los Alamos-based research scientist accused of stealing classified materials. Born in Taiwan and a naturalized U.S. citizen, Lee was arrested in 1999 and imprisoned without bail for nearly 300 days before all but one of the 59 original charges against him were dismissed.

Hollander consulted with the defense on the first case tried in Ireland under the Directed Terrorism law; managed a successful Supreme Court religious freedom case involving the right of União do Vegetal—a Brazil-based religious organization with congregations in New Mexico—to use hallucinogenic tea in its worship; and, most recently, made headlines when she began her defense of a Guantanamo Bay prisoner, Mohammedou Ould Salahi, a Mauritanian accused of conspiring with Osama bin Laden and Islamic radicals.

The passion with which she defends the Gitmo detainee—and the rights of the detainee to even *have* a defense attorney—doesn’t surprise those who know her well.

“Nancy has an exquisite sense of justice and injustice and she has the willingness to act on those instincts. She is absolutely fearless—fearless!” says Freedman Boyd founder John Boyd, laughing. “Nancy doesn’t just talk the talk; she absolutely walks the walk.”

Peso Chavez, a Santa Fe-based private investigator, attended law school with Hollander and has worked with her for more than 25 years. “With Nancy, the investigations have to be absolutely meticulous,” he says. “The biggest challenge—and pleasure—in working with Nancy is her absolute attention to details and her expectations. There’s no room for error, no room for slacking off. She expects you to turn over every rock, every time.”

She demands no less of herself, he says. “Nancy is a great team player but also a natural leader ... the natural quarterback. She’s

right there in the huddle with the team but it’s her job to call the play after dissecting what she thinks the other team is going to do. And, as a result, she almost always leads the way to a win.”

Many of Hollander’s most controversial (and expensive) cases—like the defense of the Gitmo detainee—are done pro bono. She sees this as her duty as a criminal defense attorney—especially, she says, as an American criminal defense attorney.

“I never thought I’d see the day where my government would lock people up and say they’re going to be kept forever, that the writ of habeas corpus doesn’t apply to them,” she says. “We have a completely rogue government [that] believes that the president has the power to go beyond the law, beside the law, above the law, below the law and in circles around the law. I think the damage has been done, unfortunately, and it will be generations before ... this country will deserve any respect as a country that provides due process.”

Since taking on the Holy Land Foundation for Relief and Development, a Texas-based nonprofit accused of funneling money to Hamas, as a client, Hollander has become even more outspoken on what she sees as outrages perpetuated by the U.S. government. Hollander accuses the government of monitoring her telephone and e-mail exchanges with clients, a blatant violation, she believes, of the Fourth Amendment and of attorney/client privilege. As a result, she has made several trips to the Middle East to meet with clients in person.

To not be able to guarantee a defendant attorney/client privilege, says Hollander, is unacceptable. So when the National Association of Criminal Defense Lawyers became a plaintiff in an ACLU lawsuit against the NSA, Hollander jumped on board.

“Lawyers have a tremendous amount of power. The license to practice law is a gift of power, power to change people’s lives and power to change the law. It’s a power that doesn’t give up [and] we have it every time we start a new case,” she says. “What I would say to my colleagues is ‘Don’t give up. Just keep trying new ways and different ways. The law is not static and it’s up to us to create the change we believe in.’”

Forty years ago, a student-age Nancy Hollander couldn’t have said it better. ❖