NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

21ST CENTURY STRATEGIES FOR POLICING PROTEST: WHAT MAJOR CITIES' RESPONSES TO THE OCCUPY MOVEMENT TELL US ABOUT THE FUTURE OF POLICE RESPONSE TO PUBLIC PROTEST

by

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March 2014

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Reissued 27 Sep 2018 to reflect title change on pages i and iii.

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REPORT DOCUMENTATION PAGE

Form Approved OMB No. 0704–0188

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington, DC 20503.

1. AGENCY USE ONLY *(Leave blank)*	2. REPORT DATE March 2014	3. REPORT TYPE AND DATES COVERED Master's Thesis

4. TITLE AND SUBTITLE
21ST CENTURY STRATEGIES FOR POLICING PROTEST: WHAT MAJOR CITIES' RESPONSES TO THE OCCUPY MOVEMENT TELL US ABOUT THE FUTURE OF POLICE RESPONSE TO PUBLIC PROTEST

5. FUNDING NUMBERS

6. AUTHOR(S) Stephen Max Geron

7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)
Naval Postgraduate School
Monterey, CA 93943-5000

8. PERFORMING ORGANIZATION REPORT NUMBER

9. SPONSORING /MONITORING AGENCY NAME(S) AND ADDRESS(ES)
N/A

10. SPONSORING/MONITORING AGENCY REPORT NUMBER

11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government. IRB protocol number ____N/A____.

12ApprovedIBUTION / AVAILABILITY STATEMENT
Approved for public release; distribution is unlimited

12b. DISTRIBUTION CODE
A

13. ABSTRACT (maximum 200 words)

The study of a law enforcement response to a national movement is a homeland security issue. How America polices its population establishes the benchmark for how it treats the world and is worthy of exploration. What can the experiences of four major U.S. cities, in their response to the Occupy Movement, tell us about using emergent strategies for policing protest in the twenty-first century?

In the fall of 2011, the Occupy Movement protests swept across the United States in a matter of weeks. Activists demonstrated against income inequality and the state of the economy, and they established camps in major urban areas, occupying public spaces.

I conducted case studies of New York City; Oakland, California; Portland, Oregon; and Dallas, Texas, and analyzed the results. That analysis revealed common themes, including a lack of negotiated management, restricting access to traditionally open public spaces by the police and the use of emergent practice in the complex adaptive environment of demonstrations. From this analysis, I am able to provide strategic recommendations for city and police leaders in dealing with protests in the twenty-first century utilizing a sense-making framework that will assist leaders in strategic planning for protests for large and small cities alike.

14. SUBJECT TERMS Occupy Movement, policing protest, dissent, negotiated management, strategic incapacitation, command and control, Cynefin framework, strategic planning, police militarization, Occupy Wall Street, Occupy Portland, Occupy Oakland, Occupy Dallas, Occupy New York, demonstration, activists, 2011, protester, complex adaptive environment, emergent practice, strategies, community oriented policing, 21st century strategies, protestors, civil protest

15. NUMBER OF PAGES
207

16. PRICE CODE

17. SECURITY CLASSIFICATION OF REPORT	18. SECURITY CLASSIFICATION OF THIS PAGE	19. SECURITY CLASSIFICATION OF ABSTRACT	20. LIMITATION OF ABSTRACT
Unclassified	Unclassified	Unclassified	UU

NSN 7540–01-280-5500

Standard Form 298 (Rev. 2–89)
Prescribed by ANSI Std. 239–18

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Submitted in partial fulfillment of the
requirements for the degree of

MASTER OF ARTS IN SECURITY STUDIES
(HOMELAND SECURITY AND DEFENSE)

from the

NAVAL POSTGRADUATE SCHOOL
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ABSTRACT

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In the fall of 2011, the Occupy Movement protests swept across the United States in a matter of weeks. Activists demonstrated against income inequality and the state of the economy, and they established camps in major urban areas, occupying public spaces.

I conducted case studies of New York City; Oakland, California; Portland, Oregon; and Dallas, Texas, and analyzed the results. That analysis revealed common themes, including a lack of negotiated management, restricting access to traditionally open public spaces by the police and the use of emergent practice in the complex adaptive environment of demonstrations. From this analysis, I am able to provide strategic recommendations for city and police leaders in dealing with protests in the twenty-first century utilizing a sense-making framework that will assist leaders in strategic planning for protests for large and small cities alike.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACLU	American Civil Liberties Union
ATF	Bureau of Alcohol Tobacco and Firearms
BART	Bay Area Rapid Transit
CBD	Central Business District
DPD	Dallas Police Department
DHS	Department of Homeland Security
FOIA	Freedom of Information Act
EOC	Emergency Operations Center
ESV	Electric stand-up vehicle
GA	General Assembly
GWOT	Global War on Terror
GSA	General Services Administration
IACP	International Association of Chiefs of Police
LED	Light emitting diode
LRAD	Long range acoustic device
MRO	Media Relations Office
NSSE	National Security Special Event
NYPD	New York Police Department
NYSE	New York Stock Exchange
OPD	Oakland Police Department
OC	Oleoresin capsicum
OWS	Occupy Wall Street
PERF	Police Executive Research Forum
PIO	Public information officer
PPB	Portland Police Bureau
PVC	Polyvinyl chloride hard plastic
SEIU	Service Employees International Union
SMVA	Social media video analysis
SWAT	Special weapons and tactics
TARU	Technical Assistance Response Unit
UAV	Unmanned Aerial Vehicle
WTO	World Trade Organization

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EXECUTIVE SUMMARY

Policing protest has undergone significant evolutionary changes in the United States since the 1950s. Scholars have theorized that the methods have shifted from a posture of escalated force in the 1950s and 1960s to negotiated management in the 1990s, to strategic incapacitation in the 2000s.[1]

The study of a law enforcement response to a national movement is a homeland security issue. How America polices its population establishes the benchmark for how it treats the world and is worthy of exploration. What can the experiences of four major U.S. cities, in their response to the Occupy Movement, tell us about using emergent strategies for policing protest in the twenty-first century?[2]

In the fall of 2011, the Occupy Movement protests swept across the United States in a matter of weeks. Activists demonstrated against income inequality and the state of the economy. In addition, activists established camps in major urban areas, occupying public spaces.

A. CASE STUDIES

I examined four large cities (New York; Oakland, California; Portland Oregon; and Dallas, Texas) and their responses to the Occupy Movement protests of 2011. Additionally, I employed the Cynefin framework as an analysis method and illustrate the how doing so helps provide a new way of approaching protest for the future.[3] To gather and analyze the available data, I conducted the case studies and built theories from the relevant data. In addition, I developed the typology for studying the four cities and

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[1] Patrick F. Gillham, "Securitizing America: Strategic Incapacitation and the Policing of Protest Since the 11 September 2001 Terrorist Attacks," *Sociology Compass* 5, no. 7 (July 2011): 636–652. doi:10.1111/j.1751-9020.2011.00394.x.

[2] Gary T. Marx, Menachem Amir, and Stanley Einstein, "Police and Democracy," in *Policing, Security and Democracy: Theory and Practice*, vol. 2, http://web.mit.edu/gtmarx/www/dempol.html.

[3] The Cynefin framework is introduced by Kurtz and Snowden. It provides a "sense-making model" for dealing with situations with varying levels of complexity. Cynthia F Kurtz and David J. Snowden, "The New Dynamics of Strategy: Sense-Making in a Complex and Complicated World," *IBM Systems Journal* 42, no. 3 (2003): 469.

analyzed the similarities and differences. In conducting my research, I have developed a new method of analysis that I called "social media video analysis," which is comparing protester video with mainstream media and police accounts of demonstrations to better understand the myriad dynamics involved in policing the various events.

Occupy Wall Street was the original Occupy protest, and it spawned additional "occupations" in other cities across the country and around the world. I illustrate how a slow response and by protesters apparently unexpected decision to camp overnight quickly turned into a national movement that stretched on for months. Conversely, I describe how a lack of cohesive leadership and a militarized posture by police contributed to a chaotic response that resulted in several injuries to protesters and police, lawsuits, and reportedly one of the most violent responses to protesters of the entire Occupy Movement.[4] I then illustrate the experiences of Portland, Oregon and Dallas, Texas who had generally positive experiences in dealing with their Occupy contingents because they employed emergent responses to the complex adaptive environment of the movement.

B. ANALYSIS

The analysis of the cases revealed eight themes, which were consistent in each case study. For example, in each case studied, there was a lack of traditional negotiated management by police. Following the 1999 World Trade Organization protests in Seattle, scholars contend there has been a movement away from negotiated management as the primary philosophy for policing protest.[5] Furthermore, I identified the presence or absence of cohesive government leadership. For example, Oakland stood as the example where the absence of cohesive leadership contributed to their chaotic response.

Various media outlets raised the issue of the timing of the evictions and whether or not there was a conspiracy on the part of the federal, state, and local government

[4] Eoin Reynolds, "Occupy Oakland Protesters Awarded $1m over Police Violence during Arrests," *The Guardian*, July 3, 2013, sec. World news, http://www.theguardian.com/world/2013/jul/03/occupy-oakland-protesters-1m-police.

[5] Patrick F. Gillham, "Securitizing America," 636–652.

agencies after the Police Executive Research Forum facilitated conference calls between involved cities. However, in each city, the universal degradation of camp conditions became an issue cited by the city governments as a primary contributing issue on which they based their decisions to evict their Occupy contingents. The issue of spatial control of common public areas by police and how the government uses this tactic to control the expression of dissent by its populace is addressed in each of the cases. I found that police militarization and tactics were an issue that, while represented in the cases, is an area in need of additional study. Social media use by activists and, to a lesser degree by police, was a defining characteristic of the Occupy Movement. Finally, analyzing the cases using the Cynefin framework, as introduced by Kurtz, Snowden, and later Boone, proved to be a helpful means of categorizing the responses and for creating the strategies that I recommend.[6]

C. RECOMMENDATIONS

The Occupy Movement illustrated that the interconnectedness of modern protest necessitates a change in the very way that police leaders should plan for a response to future protests. While there are tactics that may help, for example analysis indicated that a robust use of social media will assist cities in their efforts toward more effective communication. However, tactics are not the issue; strategic planning—and even before that—strategic thinking and framing need to be considered and addressed. As technology evolves and our daily lives and attendant expectations are changed by the adoption and evolution of that technology, police leadership cannot afford to look at past incidents as indicators of future ways to respond.

Going forward, city leaders should consider what the benefits are for applying simple solutions to emerging situations. Furthermore, they should address the areas where they find that they are not in agreement in advance of the next protest. Now is the time to have the "what if…" discussion and to "red team" their current standard operating

[6] Kurtz and Snowden, "The New Dynamics of Strategy," 68.

procedures for those "un-standard" situations.[7] This thesis provides both a preliminary planning matrix as well as a leader's framework for policing protest to aid in strategically planning for twenty-first century protests.

[7] Red-teaming refers to taking an opposing position to one's own and trying to identify weaknesses or problems with that position or approach, sometimes called "playing devil's advocate."

ACKNOWLEDGMENTS

Thank you to Dallas Police Chief David O. Brown for allowing me the opportunity to pursue this degree. Thank you also to the men and women of the Dallas Police Department with whom I am extremely proud to serve. I also want to say thank you to Dr. Rick Smith of the University of Texas at Arlington and former director of the Caruth Police Institute. Your encouragement and support are your leadership legacy to me and I am grateful for it. Thank you also to Lanita Magee of the City of Dallas for telling me about this wonderful opportunity at the Center for CHDS-NPS and for recommending me. To Chief Trixie Lohrke of Dallas Fire Rescue for your support and your recommendation I also say thank you. I also owe a debt of gratitude to Lt. Kimberly Owens of the Dallas Police Department. You were brave enough to be the first one from DPD to come through this program and by doing so, you gave me the "sock in the gut" to get busy and apply.

Thank you to my new NPS family and friends of Cohorts 1205/1206; your support was priceless. Thank you to Dr. Patrick Gillham, my second reader, for being such a supportive part of my whole research and writing experience. This thesis would be so much less than what it is without your thoughtful, patient guidance and wealth of expertise. I look forward to our future collaboration. Thank you to Dr. Chris Bellavita, my advisor. You have the remarkable gift of knowing exactly what to say when I need to hear it. You inspired and challenged me to consider what I was capable of. You kept me on course (no small feat), talked me off the ledges and your encouragement and gentle "nudges" were exactly what I needed. I'm blessed to call you friend and if I had left CHDS with nothing more than that it would have been worth it. Finally, I want to acknowledge the sacrifice that my family has made by allowing me to pursue this fantastic opportunity at NPS. I could not have done it without their love and support. Thank you to Terry and Debbie Spurlock for opening your home to me and for visiting me at school. Thank you to my wife, Kristy, for watching over the kids and everything else while I was away and writing. I also want to tell my children, McKenna and Jaxton, that education is something that no one can ever take away from you and that your only

limits are the ones you place upon yourselves. You are my inspiration. Study hard, make good grades, and wear dark glasses.

I. INTRODUCTION

Figure 1 is a timeline of the significant events of all four Occupy Movement protests examined in this thesis.

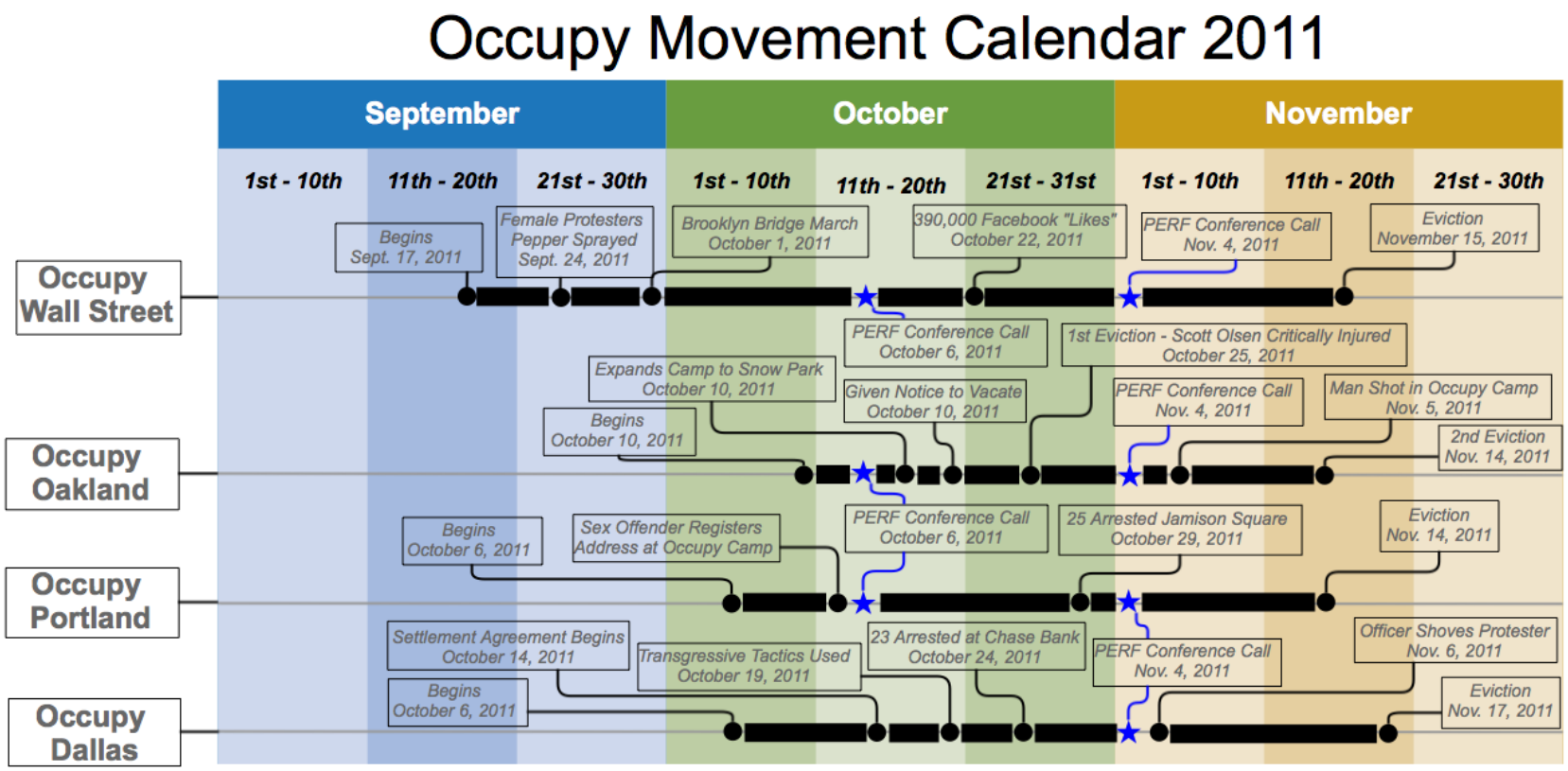

Figure 1. Occupy Movement Calendar 2011

A. RESEARCH QUESTION

What can the experiences of four major U.S. cities, in their responses to the Occupy Movement, tell us about using emergent strategies for policing protest in the twenty-first century?

B. PROBLEM SPACE

The arrest of a single protestor or even multiple protesters at an event is certainly a law enforcement concern and may even be a civil liberties concern, but it does not necessarily rise to the level of a homeland security concern. In keeping with that, the way that individual civilian American law enforcement agencies deal with protesters is not itself a homeland security issue. However, the study of law enforcement response to a national movement is a homeland security issue. How America polices its population establishes the benchmark for how it treats the world and is worthy of exploration. When a police department arrests over 700 protesters in one demonstration and similar demonstrations are reported as having been replicated in over 100 American cities and over 1500 cities worldwide, how police deal with those collective protests rise to the level of a significant homeland security issue.[8] America needs to maintain watch on its civilian law enforcement because, as Gary Marx posited, "a democratic society needs protection both by police and [protection] from police."[9]

How the police respond to citizens' public expression of dissent is the subject of ongoing study and continues to affect how policies will be crafted, what new laws will be brought for consideration, and how the next cities will handle protests on this scale. The *National Security Strategy* of the United States identifies "honest police forces" as a key institution of democratic accountability for emerging nations.[10] It also addresses the need to strengthen our example to the world by, among other things preserving "our people's

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[8] Colleen Long, "700 Wall Street Protesters Arrested on Brooklyn Bridge," *WFAA ABC News*, October 1, 2011, http://www.wfaa.com/news/national/Hundreds-arrested-in-financial-protest-on-Brooklyn-Bridge-130921088.html.

[9] Gary T. Marx, Menachem Amir, and Stanley Einstein, "Police and Democracy," in *Policing, Security and Democracy: Theory and Practice* 2 (2001), http://web.mit.edu/gtmarx/www/dempol.html.

[10] White House, *National Security Strategy* (Washington, DC: White House, 2010), https://www.hsdl.org/?view&did=24251.

privacy and civil liberties." American consistency in respecting its own citizens' rights increases American credibility in the world theatre.

Policing protest has undergone significant evolutionary changes in the United States since the 1950s. Scholars have theorized that the methods have shifted from a posture of escalated force in the 1950s and 60s to negotiated management in the 1990s, to strategic incapacitation in the 2000s.[11]

The study of protest in general often requires that scholars examine protests of different groups and sizes in different locations and at different times. Studying protests with these disparate variables has the potential to make attribution of successful strategy and tactics more difficult. Some of what made my study of policing protest challenging was the sheer diversity of tactics in use across the jurisdictions today. It is necessary and inherently difficult to define metrics for comparison. Police departments also have vastly different capabilities. For example, the New York Police Department (NYPD) can dedicate hundreds of officers to a spontaneous protest without dramatically impacting its crime fighting capabilities. However, the Oakland police department, which in recent years has seen a sizeable reduction in its manpower, would not.

With its national footprint, the Occupy Movement made this study easier and reduced the number of variables. Specifically, the method of protests—extended occupation of public space—in each city was the same and occurred roughly over the same time period. Additionally, the removal or eviction of protesters from their respective camps occurred within a short time frame relative to one another. Gillham also notes that Occupy Wall Street (OWS) was the "most significant social movement to utilize transgressive protest tactics in the U.S. in the last 40 years."[12]

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[11] Patrick F. Gillham, "Securitizing America: Strategic Incapacitation and the Policing of Protest Since the 11 September 2001 Terrorist Attacks," *Sociology Compass* 5, no. 7 (July 2011): 636–652, doi:10.1111/j.1751-9020.2011.00394.x.

[12] Transgressive tactics are those that breach some limit or acceptable custom or law. Patrick F. Gillham, Bob Edwards, and John Noakes, "Strategic Incapacitation and the Policing of the Occupy Wall Street Protests," *Policing and Society: An International Journal of Research and Policy*, doi:10.1080/10439463.2012.727607; Dictionary.com, s.v. "Transgressive," Dictionary.com, accessed January 13, 2014, http://dictionary.reference.com/browse/transgressive.

Technology, and in particular the use of social media, was something new and somewhat universal in all the Occupy encampments as well. In addition to traditional transgressive tactics, including hard plastic (PVC) restraints, homemade shields, and makeshift barriers, Occupy protesters used social media in new and insightful ways to better communicate their message with followers and the general public.[13] The police adapted as well and in some instances made use of similar technology to enhance communications.

Examining police response to protest in light of Dr. Philip Zimbardo's research into deindividuation and situational influences on behavior provides additional considerations for police leadership.[14] It is important for police leaders to consider the potential consequences of officers donning certain protective equipment and how that affects an individual's propensity for violence or simply reacting differently than they otherwise would. Armed with this knowledge, they can make more educated decisions on strategy and response.

Moving forward through the twenty-first century, local governments must contend with the increased speed of information transfer. Social media and ubiquitous handheld technology make live streaming of audio and video possible from almost any location in the country. No longer is there time after the fact to craft a message; this must be considered ahead of time. Leaders will need to innovate responses to protest where perhaps they would prefer to attempt to rely on "best practices" or concepts that have served them well in past protests. As Kurtz and Snowden point out, applying best practices may be the catalyst that sends one over the edge and into chaos.[15]

In this thesis, I will examine four large cities and their responses to the Occupy Movement protests of 2011. Additionally, I will employ the Cynefin framework in my analysis and recommendations and illustrate how doing so helps provide a new way of

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[13] Portland Police Bureau, *Occupy Events: Situation Report Portland, OR* (Portland, OR: Portland Police Bureau, 2011).

[14] "Deindividuation" refers to a person's loss of individual awareness of behavior as a result of situational forces.

[15] Cynthia F. Kurtz and David J. Snowden, "The New Dynamics of Strategy: Sense-Making in a Complex and Complicated World," *IBM Systems Journal* 42, no. 3 (2003): 469.

approaching protest for the future.[16] To gather and analyze the available data, I conducted the case studies and built theories from the relevant data. I developed the typology for studying the four cities and analyzed the similarities and differences.

Along the way, I discovered an abundance of video footage readily available on social media. I compared this video footage, shot by amateurs affiliated with the various Occupy movements who were casual observers, with that footage shot by mainstream media and police when available. For example in the Portland case, I discovered the existence of hundreds of videos available online from the Occupy Portland Media Coalition.[17] I called this new research method "social media video analysis" as I could find nowhere in the literature where scholars had compared social media against traditional media and governmental records to analyze and evaluate protest methods and tactics. To avoid issues of whether or not the footage had been altered or was misleading of the events, I compared the footage to multiple sources—television media, police reports, print media, and online reports. For example, if footage shot by an amateur videographer depicted the beating of a protester at an event that the media and police depicted as peaceful and without said violent encounter, I either did not include the amateur video as part of the analysis or verified the incident with official reports. In general, I found the mass of video available seemed to result in a broad spectrum of consistent depictions of the varying protest events. I have also created the timelines you see throughout this document based on my research. Additionally, I have created maps using Google Maps depicting the various Occupy camps studied.

I outline my review of scholarly literature in Chapter II. In addition, I describe the recent history of the evolution of policing protest from about the 1950s until today. I discuss the changes that occurred in the wake of the World Trade Organization protests of 1999 in Seattle, Washington. I address the issues of an increased militarization of civilian police raised by Kraska, Nemeth, and others. Later, in the analysis of the cases, I

[16] The Cynefin framework is introduced by Kurtz and Snowden. It provides a "sense-making model" for dealing with situations with varying levels of complexity. Kurtz and Snowden, "The New Dynamics of Strategy."

[17] Occupy Portland media content can be accessed at http://www.youtube.com/user/OccupyPDX.

address how such observed increases may have affected the behavior of officers in response to the Occupy Movement. I then discuss literature that concerns the government's control of space as a means of affecting the expression of dissent. In the later case studies, this comes into play when examining how the NYPD created "hard zones," such as in the financial district limiting access to only credentialed personnel and excluding protesters. I close the review by addressing literature related to the sociology of protest, which is closely tied to the issue of controlling space.

In Chapter III, I begin by examining the New York City response to the movement. I illustrate how a slow response and an apparently unexpected action by protesters to camp overnight quickly turned into a national movement that stretched on for months. I also show that when examined as a whole, the New York response can be considered a "simple response," as defined by the Cynefin framework, to a complex issue.[18] I address specific incidents during their response to the Occupy Movement that, while they may have quelled civil disruption for the moment, eventually cost the city hundreds of thousands of dollars in settlements. I address how the government's restrictions on items and space served to delegitimate actions that are otherwise legal and acceptable and how this contributed to the simplicity of their response. I also address what could be called a "New York exceptionalism" that appears to fuel this simple approach to dealing with citizens' First Amendment rights. I also address how police used a massive amount of technology to gather intelligence about the protests occurring immediately next to the financial district.

Next, in Chapter IV, I examine the response of the city of Oakland, California to its Occupy contingent. I describe how a lack of cohesive leadership and a more militarized posture contributed to a chaotic response that resulted in several injuries to protesters and police, law suits and reportedly one of the most violent responses to protesters of the entire Occupy Movement.[19] At least one of these incidents resulted in

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[18] David J. Snowden and Mary E. Boone, "A Leader's Framework for Decision Making," *Harvard Business Review* 85, no. 11 (2007): 68.

[19] Eoin Reynolds, "Occupy Oakland Protesters Awarded $1m over Police Violence during Arrests," *The Guardian*, July 3, 2013, sec. World news, http://www.theguardian.com/world/2013/jul/03/occupy-oakland-protesters-1m-police.

the critical injury of an Iraqi War veteran and garnered national media attention, which served as a catalyst for multiple protests in other cities. The Oakland leaders' inability to efficiently plan for and manage both internal and external resources contributed to their difficulties and their elevated use of force. Had they had more cohesion among their leadership and looked for emergent patterns in the protests, I argue that they could have achieved a more community-oriented solution and one with less violence.

In Chapter V, I cover the Portland, Oregon response and the first of the four that are addressed in this thesis that used a complex approach to the emergent patterns of the Occupy Movement. Portland quickly grew to be the largest of the Occupy events in the nation and showcased a community policing approach and innovation in dealing with novel protest tactics.[20] I also show how, even with the success of the Portland Police Bureau's response, elements of how it dealt with issues of camp condition seem to have contributed to its degradation. This degradation was then later cited as a reason for needing to evict the protesters.

The Dallas, Texas response to the Occupy Movement is covered is Chapter VI. This is the response of my home agency and is the one with which I am most familiar. Similar to Portland, Dallas had success in using innovative methods in dealing with its encampment. I articulate how it utilized "fast failure" and adaptation to find the responses that worked better than others.[21] The Dallas chapter highlights how originally applying best practices of negotiated management and attempted facilitation of goals by the police department were unsuccessful and that, had they been continued, they likely would have led to increased confrontation. The Dallas case study also sheds light on underlying motives for action on the part of the protesters as well as those of the city leadership. Specifically, I cover how early negotiations with attorneys for both the city and Occupy Dallas was successful in moving the protesters to a more advantageous place for the city and the police department.

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[20] "Portland 'Occupy' Protest One of Largest Events in Nation," *King 5*, October 6, 2011, http://www.king5.com/news/local/Occupy-Portland-today-may-snarl-transit-streets-sidewalks-131233489.html.

[21] "Fast failure" refers to the idea that failures in tactics are to be expected and therefore require adaptation and changes in order to discover successful methods—could also be called emergent practice.

I present my analysis of the data in Chapter VII by highlighting the prevailing issues and commonalities that became clearer after examining the four representative cities. There I address the effects of cohesive leadership on the outcomes of policing the various protests and how simply being cohesive does not guarantee that a particular approach will be considered in the public's best interest. Furthermore, the analysis of the responses points to the effects of social media use both by police and protester alike and in what ways that will likely change going forward in the coming decades. Analysis of the data also revealed that by either agreeing to or refusing to provide for basic human needs, a municipality creates certain consequences, intended or otherwise, which affects the perceived ability of its population to express dissent.

Finally, in Chapter VIII, I present my conclusions that are drawn from analysis of the studied data. I am able to provide city and police leaders a framework for conceptualizing a response to protest in the twenty-first century. An adaptation of "A Leader's Framework for Decision Making," introduced by Snowden and Boone, my "Leader's Framework for Policing Protest," provides police and civic leaders with a sense-making method not previously available.[22] Innovative methods of protest and the expression of dissent result in new protest tactics. While tactical responses are not necessarily universally transferrable, an overarching and universal strategy to policing protest in an ethical and innovative way is.

[22] Snowden and Boone, "A Leader's Framework for Decision Making."

II. LITERATURE REVIEW

A. HISTORICAL EVOLUTION OF RESPONSE

In this chapter, I examine relevant scholarly literature relating to the topic of policing protest; however, I have worked to limit the scope of my research to more timely articles. An examination of the history of the evolution of policing protest is required and carried out in this chapter. Then, I compare the existing literature and the gaps where my research adds to the knowledge. Policing protest is a subspecialty in the field of criminal justice in general. Underpinning that subspecialty, the literature on the topic can be broken into the following themes: literature associated with the historical evolution of police response methods, the control of space by the government, instructional literature related to planning for mass gatherings, and literature focused on the sociology of protest and police legitimacy issues. In the interest of narrowing focus, the author has restricted this analysis to literature associated with policing protest from approximately 1999 to the present.[23]

Marco Giugni, Doug McAdam, and Charles Tilly contend that the study of the effects of social movements on society are considerably underrepresented in the scholarly literature and worthy of further examination.[24] Patrick Gillham has written a number of articles related to the evolution of policing protest from the 1950s to today. Gillham maintains that police are moving from a "negotiated management" philosophy to a "strategic incapacitation" model of policing protest.[25] Additionally, Gillham argues that in the aftermath of 9/11, there has been an increase in "securitization" and a concerted move by law enforcement to restrict dissent.[26] Additional study of modern protest would serve to add to the discourse on whether that is playing out some 12 years post-9/11.

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[23] 1999 is significant because of the violence associated with the World Trade Organization (WTO) riots in Seattle during November and December of 1999.

[24] Marco G. Giugni, Doug McAdam, and Charles Tilly, *How Social Movements Matter* (Minneapolis, MN: University of Minnesota, 1999): xiv–xv.

[25] Gillham, "Securitizing America: Strategic Incapacitation," 636–652.

[26] Ibid.

The literature itself is often event based as it points to specifics of particular protests. As such, much has been written about the World Trade Organization (WTO) protests in Seattle, Washington in 1999. For example, Gillham contends that the police failed to recognize the limitations of negotiated management during WTO.[27] In addition, former Seattle Police Chief Norm Stamper has written articles indicating that the Seattle Police Department, under his direction, did not respond well to the protesters and utilized ineffective tactics.[28] Furthermore, Heidi Boghosian, writing for the National Lawyer's Guild, points to the significance of Seattle as the benchmark for how law enforcement plans for national special security events (NSSEs).[29]

Within the last decade, scholars have begun studying the effects of social media on social movements and protests. In "This Protest Will Be Tweeted," Jennifer Earl et al. examine what Twitter provides to the movement as compared to other social media platforms "such as websites or Facebook."[30] Simon O'Rourke, writing for the Perth Western University, in 2011 noted, "Facebook and Twitter are becoming recognized as key mediums from which to drive change."[31]

The increase of militarization of American police in dealing with protesters continues to be a topic in the analysis of policing protest. In their article addressing militarization in American policing, Victor Kraska and Peter Kappeler discuss the use of metaphors as influence on societal perspectives. They touch on how the ongoing metaphor of war in American society has a "filter encased within" that is one of

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[27] Ibid., 639.

[28] "Former Seattle Police Chief Norm Stamper on Paramilitary Policing From WTO to Occupy Wall Street," Democracy Now!, November 17, 2011, http://www.democracynow.org/2011/11/17/paramilitary_policing_of_occupy_wall_street.

[29] Heidi Boghosian, *Assault on Free Speech, Public Assembly, and Dissent: A National Lawyers Guild Report on Government Violations of First Amendment Rights in the United States* (Great Barrington, MA: Partnership for Civil Justice, 2004), i, http://www.rnc08report.org/engine/uploads/1/NLG_DissentBookWeb.pdf.

[30] Jennifer Earl et al., "This Protest Will Be Tweeted," *Information, Communication & Society* 16, no. 4 (2013).

[31] Simon O'Rourke, "Empowering Protest through Social Media" (presented at the International Cyer Resilience Conference, Perth Western Australia: School of Computer and Information Science, Security Research Centre, Edith Cowan University, 2011), http://ro.ecu.edu.au/cgi/viewcontent.cgi?article=1021&context.

militarism.[32] As such, the contention is that by becoming more militarized, there is a resulting authoritarian application of civilian law and as opposed to a democratic creation and application of existing law, thereby resulting in more constricted speech. The advent of social media, threatens these restrictions by providing additional means of rapid communication over which the civilian police have relatively little control.

Kraska and Kappler also examine the rising number of paramilitary police units operating in the United States.[33] In his book *SWAT Madness and the Militarization of American Police*, Jim Fisher asserts that in many jurisdictions, civilian police have changed their focus from serving the public to operating as an occupation force.[34] These examples are representative of two sides that either expresses the perception of increased action by the police to squelch free speech rights or more closely monitor active dissenters.

Tying into this is a study relating to accessing information and the 2004 Republican National Convention. Jennifer Earl contends that since the Bush administration declared the Global War on Terror (GWOT), there has been an increase in "political repression," especially when dealing with "free exercise of constitutional rights to speech and assembly."[35] This has application when considering that what Gillham and others contend is something akin to a surreptitious reduction in the states allowing citizens to express dissent.[36]

B. SPATIAL CONTROL AND USE OF FORCE

This issue of the state's control of public space is a significant topic of scholarly research. How the state legislates public space, who it permits to access that space, and

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[32] Victor E. Kappeler and Peter B. Kraska, "Militarizing American Police: The Rise and Normalization of Paramilitary Units," *Social Problems* 44, no. 1 (1997).

[33] Ibid.

[34] Jim Fisher, *SWAT Madness and the Militarization of the American Police a National Dilemma* (Santa Barbara, CA: Praeger, 2010), http://public.eblib.com/EBLPublic/PublicView.do?ptiID=678369.

[35] Jennifer Earl, "Information Access and Protest Policing Post-9/11: Studying the Policing of the 2004 Republican National Convention," *American Behavioral Scientist* 53, no. 1 (2009): 44, doi:10.1177/0002764209338784.

[36] Gillham, "Securitizing America: Strategic Incapacitation."

how that access affects the public's willingness to engage in expressing dissent are all representative topics under the heading of spatial control by the state.

Mike King adds to the discussion regarding the use of force, control of space, and the negotiated management approach to protest policing, in "Disruption is Not Permitted: The Policing and Social Control of Occupy Oakland." He asserts that by making negotiated management the norm or standard by which we should judge reasonableness, police delegitimize all those who choose not to adhere to that procedure.[37] This has special implications where the Occupy Movement is concerned because of the almost universal lack of central leadership and the absence of leaders willing or able to negotiate with police within the movement. King goes on to identify the resulting pressure felt by police during the Occupy Movement to protect the right of citizens to assemble peacefully and voice their dissent, while at the same time to maintain order.[38]

In another work, "Seeing Blue—A Police-Centered Explanation of Protest Policing," Jennifer Earl and Sarah Soule provide insight into possible explanations for police behavior and decision making in policing protests.[39] They identify four ways that police can respond to a protest. They give them the following names and descriptors:

1. "Do nothing" approach, which, is very self-explanatory,
2. "Nothing to See Here" approach, where officers do things other than make arrests and involves little action on their part,
3. "Ounce of Prevention" approach, where officers place barricades or make arrests to "prevent disorder, and
4. "Dirty Harry" approach, wherein police use an abundance of force including "hand-to-hand" conflict.[40]

Adding to the discussion on control of public space and its implications on dissent is Associate Professor David S. Allen from the University of Wisconsin. Allen argues,

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[37] Mike King, "Disruption Is Not Permitted: The Policing and Social Control of Occupy Oakland," *Critical Criminology* 21, no. 14 (2013): 1–13, doi:10.1007/s10612-013-9198-z.

[38] Ibid.

[39] Jennifer Earl and Sarah A Soule, "Seeing Blue: A Police-Centered Explanation of Protest Policing," *Mobilization: An International Quarterly* 11, no. 2 (2006): 145–164.

[40] Ibid, 152.

"the use of free speech zones as an acceptable limitation on dissent is a product of a series of developments that can be understood through…spatial frameworks."[41] This is representative of a growing narrative on the means that a government uses to "acceptably" restrict free speech. Echoing this concern is Mary Cheh, a legal scholar, who notes, "Most of the demonstrations affected by government suppression tactics are just those troublesome popular risings…"[42] Moreover, Staeheli and Thompson point to the very purpose of public space being the natural place for public expression and where "people of diverse backgrounds can meet as a community."[43] While many of their ideas center on youth access to public spaces, they make the key observation that "public spaces play a central role in democratizing a society, as they are the places where group diversity is most visible."[44] Jeremy Németh echoes the importance of access to public space likening it to the "playing field for protest and dissent."[45] He balances his argument with the acknowledgement that there is clearly a need for private space and that control, presumably by the police, is needed in public space lest that contribute to a "tragedy of the commons."[46]

Noakes Klocke, and Gillham further contend that police and protesters vie for control over space in multiple ways.[47] They outline that in these contests, police are either "restricting protester access" to a particular space or moving protesters out of a

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[41] David S. Allen, "Spatial Frameworks and the Management of Dissent: From Parks to Free Speech Zones," *Communication Law and Policy* 16, no. 4 (2011): 383–424.

[42] Mary M. Cheh, "Demonstrations, Security Zones, and First Amendment Protection of Special Places," *University of the District of Columbia Law Review* 53 (2004), http://ssrn.com/abstract=781485.

[43] Lynn A. Staeheli and Albert Thompson, "Citizenship, Community, and Struggles for Public Space," *The Professional Geographer* 49, no. 1 (1997): 29–30, doi:10.1111/0033-0124.00053.

[44] Ibid, 31.

[45] Jeremy Németh, "Controlling the Commons: How Public Is Public Space?," *Urban Affairs Review* 48, no. 6 (November 1, 2012): 812, doi:10.1177/1078087412446445.

[46] "Tragedy of the commons" refers to degradation or depletion of resources to which a group has access but no one is forced to maintain. Németh, "Controlling the Commons: How Public Is Public Space?," 813.

[47] John A. Noakes, Brian V. Klocke, and Patrick F. Gillham, "Whose Streets? Police and Protester Struggles over Space in Washington, DC, 29–30 September 2001," *Policing & Society* 15, no. 3 (2005): 238, doi:10.1080/10439460500168576.

particular space.[48] They also note the following tactics as "having become central to the policing of protest:"

- Establishment of extensive no protest zones
- Disruption of safe spaces where protesters congregate
- Use of less-lethal weaponry to incapacitate protesters
- Use of electronic surveillance
- Pre-emptive arrests to reorganize leaders[49]

Discourse on police use of surveillance technology also contributes to the idea of the government's control of space in order to influence or restrict dissent. Luis Fernandez raises the point that as a result of technology, at the end of the last century we saw a rapid increase of globalized interconnectedness.[50] He goes on to discuss whether this increased globalization has contributed to a weakening of the state. Starr et al.\ note that while although the idea of associating politically is not specifically addressed the U.S. Constitution, "association is recognized as fundamental to the workings of a healthy democracy."[51] They present this in the context of state surveillance and articulate that participation by individuals is critical to social movements and that participation is negatively affected by recent (2006) publicity about massive surveillance databases.[52] Technology shows no sign of a slowing in evolution, so this topic will continue to be of concern. David Gould, writing for the journal *Surveillance & Society* notes, "both supporters and opponents of CCTV, closed circuit cameras have the potential to transform not only how the policing…is organized, but also the working practices and attitudes of individual police officers."[53]

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[48] Ibid.

[49] Noakes, Klocke, and Gillham, "Whose Streets?"

[50] "Policing Dissent," YouTube video, October 18, 2012, 167, http://www.youtube.com/watch?v=GVbw7wFu62w&feature=youtube_gdata_player.

[51] Amory Starr et al., "The Impacts of State Surveillance on Political Assembly and Association: A Socio-Legal Analysis," *Qualitative Sociology* 31, no. 3 (September 2008): 245.

[52] Ibid., 258.

[53] Benjamin J. Gold, "Public Area Surveillance and Police Work: The Impact of CCTV on Police Behaviour and Autonomy," *Journal of Surveillance and Society* 1, no. 2 (January 1, 2003): 191–203.

Specifically addressing one method of use of force, less-lethal options, the Human Effects Advisory Panel of Penn State University asserts that the goal of the Joint Non-Lethal Weapons Program is, "the means to influence the behavior and activities of a potentially hostile crowd…"[54] As such, it recommends further study on crowd dynamics and measures of control. My research into the policing of protest directly addresses this call for additional study. The National Institute of Justice convened a panel in 2007 to research pharmaceuticals that "might be an addition or alternative to law enforcement's current less-lethal options."[55] The literature on less-lethal ordinance is generally addressed in its use as a tool to accomplish government control. From a police perspective, the literature deals primarily with its efficacy and methods of deployment. A gap in the literature lies in the strategic options available for police departments when facing a significant protest movement and how more adequately plan for the second and third order effects of this use of force.

C. POLICE LEADERSHIP

Leaders in general are often looking for "what works" and there are myriad sources for leadership guidance. Useful here is Snowden and colleagues' concept of the Cynefin framework.[56] The framework has been applied across a wide spectrum of fields and professions. For example, French and Nicolae have applied this framework in issues of homeland security and, more specifically, in dealing with the aftermath of catastrophic events.[57] In addition, Louisa J. O'Neill examined what influence faith had on policy making of the George W. Bush presidential administration using the Cynefin framework. Furthermore, Joseph Pelrine examined Agile software development within the context of

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[54] John M. Kenny et al., *Crowd Behavior, Crowd Control, and the Use of Non-Lethal Weapons* (Philadelphia, PA: University of Pennsylvania, 2001), www.dtic.mil/dtic/tr/fulltext/u2/a446472.pdf.

[55] Danielle M. Weiss, "Calming Down: Could Sedative Drugs Be a Less-Lethal Option?" *National Institute of Justice Journal*, no. 261 (2008), https://www.ncjrs.gov/pdffiles1/nij/224083.pdf.

[56] Snowden and Boone, "A Leader's Framework for Decision Making;" Kurtz and Snowden, "The New Dynamics of Strategy," 462.

[57] Simon French and Carmen Niculae, "Believe in the Model: Mishandle the Emergency," *Journal of Homeland Security and Emergency Management* 2, no. 1 (2005): 1–16.

a complex environment, also using the framework.[58] This framework, while not directed to the topic of policing protest, is one that when applied, can help civic and police leaders better respond to new evolutions of protest and dissent.

A significant piece of the collective works of Snowden, Boone, and Kurtz is the caution that "best practices," as mentioned above and that police are often quick to cite as a preferred method of operating, are what often send protesters over the edge into a chaotic environment. In my experience, the term "best practices" is a term often used to describe an idea or tactic that worked in similar situations. Police development or discovery of best practices often involves informal research into what other similar sized departments are doing and then assessing applicability to one's own organization. As such, there is considerable reliance on organizations like the Police Executive Research Forum (PERF) and the International Association of Chiefs of Police (IACP). The impact of this work and its applicability are addressed most heavily in my conclusions and recommendations in Chapter VIII.

Furthermore, Gillham and Marx also touch on this when, in discussing the failures of Seattle police at the World Trade Organization Protests (WTO), they assert that other cities that had more experience dealing with protest would have operated differently and "avoided the problems."[59] This unspoken push for collaboration occurred during the Occupy Movement, with the aid of the Police Executive Research Forum, and is relevant to the cases I study here. Later, Gillham and Marx address the difficulty for police to devise a "one size fits all" approach.[60] I will illustrate how police and city leaders should avoid trying to apply this "best practice" approach and look to employ emergent responses.

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[58] Louisa J. O'Neill, "Faith and Decision-Making in the Bush Presidency: The God Elephant in the Middle of America's Living-Room," *Emergence-Mahwah-Lawrence Erlbaum* 6, no. 1–2 (2004): 149; Joseph Pelrine, "On Understanding Software Agility: A Social Complexity Point of View," *Emergence: Complexity & Organization* 13 (2011): 26–37.

[59] Patrick F. Gillham and Gary T. Marx, "Complexity and Irony in Policing and Protesting: The World Trade Organization in Seattle," *Social Justice* 27, no. 2 (2000): 214.

[60] Ibid, 215.

More toward the topic of traditional police leadership literature are publications by PERF. It has published multiple books, articles and recommendations surrounding the topic of policing protest. Tony Narr, writing for PERF, notes as important "a balance to be struck between…First Amendment rights and other civil liberties and…the interventions required to protect public safety and property."[61]

In "Breaking the Wave—Repression, Identity and Seattle Tactic 1998–2004," Leslie J. Wood contends that police actions of control affect protesters response.[62] In addition, della Porta and Tarrow contribute to this discussion by adding that police and protester "repertoires spread transnationally in interaction with one another."[63] The recommendations, based on this research, I make deal with inputs of police control and considerations for their effects on protester activity while advising police leaders on understanding that the actions of protesters will have an effect on police officers. This is a gap in the literature that my research and findings addresses. This argument also lends support to my position that police application of "best practice" tactics, without applying an effective strategic framework for thinking of protest, increases the likelihood that those tactics will be ineffectual and increase the pressure toward chaos.

D. SOCIOLOGY OF PROTEST

The sociology of protest is, itself, an entire field of study. There are myriad articles on the topic, and those exploring the topic of police and protester interrelations and influence are germane to my research. As such, I have explored some of the more recent books and articles related to this topic. Some of the more applicable are outlined below.

For example, della Porta has researched the response of various governments to protest. In "Eventful Protest, Global Conflicts" della Porta suggests that we "[look] at

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[61] Tony Narr, *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches* (Washington, DC: Police Executive Research Forum, 2006).

[62] Lesley J. Wood, "Breaking the Wave: Repression, Identity, and Seattle Tactics," *Mobilization: An International Quarterly* 12, no. 4 (2007): 378.

[63] Donatella della Porta and S. Tarrow, "Interactive Diffusion: The Coevolution of Police and Protest Behavior With an Application to Transnational Contention," *Comparative Political Studies* 45, no. 1 (2011): 122, doi:10.1177/0010414011425665.

protests as eventful, in the sense of having relevant cognitive, affective and relational transformative impacts on the very movements that carry them out."[64] She articulates that protest is the key vehicle or "repertoire" of social movements and therefore stands in opposition to the "repertoires" of control exhibited by police.[65] She also makes a critical observation that is the "emergent nature of protest itself," which is relevant to my findings.[66] It is this "emergent nature" that I will argue requires a different way of conceptualizing a response.

Vitale has explored sociological issues confronting both protester and police and at its core, and he addresses what he contends are more authoritarian responses by state entities to protest.[67] This is important to understanding the differences in approaches, such as when I contrast the approaches of Dallas and Portland to that of New York City. In his article "Managing Defiance: Protest Policing and the Occupy Wall Street Movement," Vitale notes that in response to increased protests, many law enforcement agencies have "relied on a variety of aggressive tactics."[68]

Some authors address a perceived change in planning aspect for police, which is closely tied to the control of space issue. Don Mitchell and Lynn A. Staeheli assert that in places such as New York City, officials have denied permits to march in specific public locations saying that the marches "would create a considerable security threat."[69] This order versus democracy issue was displayed during the Occupy Movement and is an on-going and relevant debate that calls for more study.

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[64] Donatella della Porta, "Eventful Protest, Global Conflicts," *Distinktion: Scandinavian Journal of Social Theory* 17 (2008): 26–27.

[65] Ibid., 28.

[66] Ibid., 29.

[67] Alex S. Vitale, "From Negotiated Management to Command and Control: How the New York Police Department Polices Protests," *Policing and Society* 15, no. 3 (September 2005): 283–304, doi:10.1080/10439460500168592.

[68] Alex Vitale, "Managing Defiance: The Policing of the Occupy Wall Street Movement," paper presented at Annual Meeting of Law and Society Association, Sheraton Boston Hotel, Boston, MA, May 30, 2013.

[69] Don Mitchell and Lynn A. Staeheli, "Permitting Protest: Parsing the Fine Geography of Dissent in America," *International Journal of Urban and Regional Research* 29, no. 4 (2005): 796–813.

The issue of maintaining legitimacy is a concern facing police leaders in the United States. As Herbert Kelman, Professor of Social Ethics, Emeritus at Harvard, observes, "Legitimization and deligitimization processes generally operate in tandem."[70] This means that when law enforcement acts in a way that tends to delegitimize itself, it, in turn, serves to make more legitimate those appearing in opposition. More study is warranted in that legitimization/deligitimization process as it is concerned with modern protest activities.

My research and analysis contribute to the gaps that I have outlined in this review. In addressing the gaps, my research contributes toward the sociological aspect of protest and how that interaction affects both protester and police. I contributed to the knowledge of strategic planning with those sociological concepts in mind. My research and conclusions also speak to the issue of legitimacy maintenance by police. In addition, my research also provides the unique perspective of a veteran police officer, accustomed to the culture and training aspects of policing protest, combined with the scholarly application of research and theory. Additionally, my conclusions branch out to address conceptualization and the adoption and use of a thinking framework for police and city leaders. Moving forward, more research on this and the continuing evolution of protest, policing and surveillance is called for.

[70] Herbert C. Kelman, "Reflections on Social and Psychological Processes of Legitimization and Delegitimization," in *The Psychology of Legitimacy; Emerging Perspectives on Ideology, Justice, and Intergroup Relations*, ed. John T. Jost and Brenda Major (Cambridge, UK: University of Cambridge, 2001): 54.

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III. OCCUPY WALL STREET

To assist the reader in understanding how events related to Occupy Wall Street occurred, Figure 2 is the timeline specific to Occupy Wall Street.

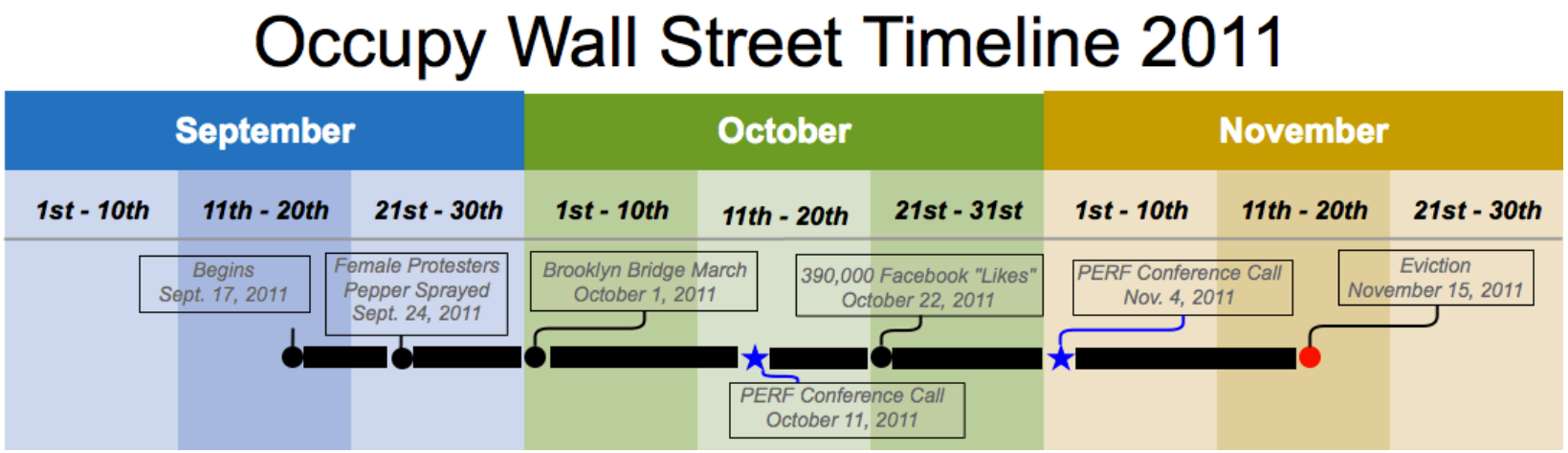

Figure 2. A Timeline of Significant Events Related to Occupy Wall Street in the Fall of 2011.

A. THE PROTEST

I begin the case analysis with the city of New York because it was the cornerstone in the Occupy Movement. It was first and is likely the one most often thought of in terms of the Occupy Movement itself. Occurring in New York, it garnered some of the most national media attention and is credited with spawning hundreds of localized Occupy Movements across the United States and the world.

The Occupy Movement, perhaps the most contentious and widespread U.S. movement since perhaps the Vietnam War era protests, has humble beginnings. The Occupy Movement emerged from discussions between a handful of students, activists, and artists meeting near Wall Street to explore how they might "change the world."[71] With input from the New York activists, the Canadian online magazine *Adbusters*, published an announcement on July 13, 2011 asking readers, "Are you ready for a Tahrir moment?"—referring to the start of the Arab Spring in Egypt and requesting for 20,000 people to "flood into lower Manhattan, set up tents, kitchens, peaceful barricades and occupy Wall Street" on September 17, 2011.[72] The successful mobilizing efforts of activists in New York City drew thousands to the financial district that day where they eventually set up an encampment in Zuccotti Park.

Zuccotti Park itself was, "established in a wave of development that spurred corporate plazas after changes were made to the city's zoning laws in the 1960s."[73] Developers of the One Liberty Plaza building, a 54-story tower near the park, were allowed to add an additional 500,000 square feet to their building in exchange for providing a public space.[74] It was developed under original New York zoning laws that

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[71] Andy Kroll, "How Occupy Wall Street Really Got Started," *Mother Jones*, October 17, 2011, http://motherjones.com/politics/2011/10/occupy-wall-street-international-origins.

[72] Culture Jammers HQ, "#OCCUPYWALLSTREET: A shift in Revolutionary Tactics," *Adbusters* (blog), July 13, 2011, https://www.adbusters.org/blogs/adbusters-blog/occupywallstreet.html.

[73] Lisa W. Foderaro, "Zuccotti Park Is Privately Owned, but Open to the Public," *New York Times*, October 13, 2011, sec. N.Y. / Region, http://www.nytimes.com/2011/10/14/nyregion/zuccotti-park-is-privately-owned-but-open-to-the-public.html.

[74] Colin Moynihan, "Park Gives Wall St. Protesters a Place to Call Home," *City Room* (blog), *New York Times*, September 27, 2011, http://cityroom.blogs.nytimes.com/2011/09/27/park-gives-wall-st-protesters-a-place-to-call-home/.

provided for the parks to be open 24 hours-a-day—more recent rules are more restrictive on times that the parks are allowed to be open to the public.[75] As such, private security guards who are hired by the property management company normally provide security for the park.[76]

During their stay in Zuccotti Park, the occupiers formed committees and groups—a direct action committee, a finance committee, food and comfort committee, arts and culture committee, security, legal, media, and other a host of other groups.[77] Protesters were provided with education on how to more effectively engage in direct action protests. The American Civil Liberties Union and the Lawyers Guild provided advice on how to engage in protest as well as assistance with legal matters to protesters who had been arrested.[78] In contrast to the seeming cohesion among the diverse protesters, there were allegations of paid instigators coming to the camp and creating confrontations.[79] Additionally, as with Occupy movements in other cities, the camp at Zuccotti Park saw an influx of homeless people.[80]

On the first day of the march, September 17, 2011, protest signs vying for politicians to "Stop Trading our Future" and "People Not Profits" were visible in video shot by CNN and a number of unidentified protesters voiced displeasure at the disparity of income between "classes."[81] Protesters in that initial march voiced a desire to change to an even "more democratic" form of government— "from the ground up," as one protester put it.[82] Marching through the streets of Manhattan chanting, "We are the

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[75] Foderaro, "Zuccotti Park Is Privately Owned."

[76] Gillham, Edwards, and Noakes, "Strategic Incapacitation," 10.

[77] Ows Minutes, "#Occupy Wall Street General Assembly Minutes 9/17/2011," *#OccupyWallStreet NYC General Assembly*, September 17, 2011, http://www.nycga.net/2011/09/general-assembly-minutes-91711/.

[78] "Occupy Wall Street : The Tour (Uncut)," YouTube video, posted by Lee Stranahan, November 4, 2011, http://www.youtube.com/watch?v=BZrbagiVtDo&feature=youtube_gdata_player.

[79] *Occupy Unmasked*, directed by Stephen K. Bannon (Dallas, TX: Magnolia Home Entertainment, 2012).

[80] Ibid.

[81] "2011: Occupy Wall Street Begins," YouTube video, posted by CNN, September 16, 2012, http://www.youtube.com/watch?v=GgJ5f9ZqOFc&feature=youtube_gdata_player.

[82] Ibid.

99%!" referring to the gap in income between the wealthiest one percent and the other 99 percent of Americans.

By 3:00 p.m. on September 17, hundreds of protesters had descended on Wall Street and moved into Zuccotti Park while hundreds more gathered in Bowling Green Park some five blocks away. When their numbers swelled to over 500, they spilled into another nearby park.[83] As expressed by some of the organizers, one of the original intentions was for the protesters to actually camp for several weeks or months as if to replicate the protests in the Egypt and other Middle Eastern and European countries that had occurred earlier in 2011.[84] The march and gathering remained relatively peaceful during those first few hours and by early evening only two people were reported arrested. The initial protester arrests were for violating a loitering law on the books since 1845, which prohibits "Being masked or in any manner disguised by unusual or unnatural attire or facial alteration…"[85] New York police acknowledged that many of the protesters had been compliant, heeding officers' direction to keep streets and sidewalks clear of blockages.[86] Officers gave repeated warnings of arrest should the protesters elect not to comply. At Wall Street and Broadway, a line of at least 12 to 15 officers stood in front of barricades.

Figure 3 is a map depicting the relative area of the Occupy Wall Street Movement Fall 2011.

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[83] Julienne Pepitone, "Hundreds of Protesters Descend to 'Occupy Wall Street,'" *CNN Money*, September 17, 2011, http://money.cnn.com/2011/09/17/technology/occupy_wall_street/index.htm.

[84] Colin Moynihan, "Wall Street Protest Begins, With Demonstrators Blocked," *City Room* (blog), *New York Times*, September 17, 2011, http://cityroom.blogs.nytimes.com/2011/09/17/wall-street-protest-begins-with-demonstrators-blocked/.

[85] State of New York, "New York Penal Article 240 § 240.35 Loitering," 2011, http://law.onecle.com/new-york/penal/PEN0240.35_240.35.html.

[86] Candice Smith, "Protesters Begin Effort to 'Occupy Wall Street,'" *ABC News Blogs*, September 17, 2011, http://abcnews.go.com/blogs/headlines/2011/09/protesters-begin-effort-to-occupy-wall-street/.

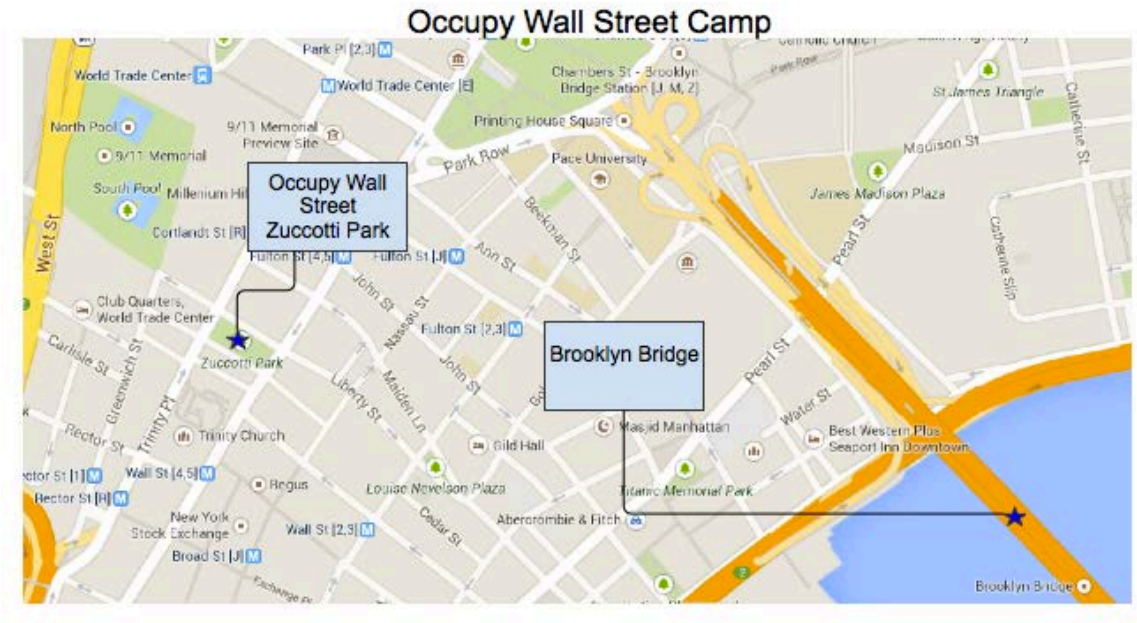

Figure 3. Occupy Wall Street Camp

As crowds gathered in Zuccotti Park that afternoon and evening, protesters set up tents and other structures. In the course of my work as a police officer, I had occasion to speak with individuals from police departments who responded to the Occupy Movement regarding their response it. These individuals have requested anonymity, and I have honored that request in each occurrence. According to one New York Police Department (NYPD) official, speaking on the condition of anonymity, the police moved too slowly to prevent the erection of tents and other semi-permanent structures in the park.[87] The crowd used the park as a base of operations from which to begin their almost daily marches.[88] Early on, the protesters established a makeshift society with divisions of labor and responsibility in spite of their fragmented relationships with one another and lack of central leadership. Protesters "built" a library and an "infoshop" with fliers and pamphlets and other protest related literature.[89] In addition, the protesters established a kitchen to store and distribute food and put together lists of chores, such as camp cleanup

[87] Anonymous NYPD official, personal communication with author, August 2013.

[88] Moynihan, "Park Gives Wall St. Protesters a Place to Call Home."

[89] Ibid.

duties for volunteers.[90] Other volunteers helped run the meetings, which tended to operate with democratic principles.

The crowd was estimated at about 5,000 at its peak in spite of the calls for 20,000 to show up.[91] Those numbers fell through the weekend but for those that remained, the media estimated that they appeared ready to stick it out for quite some time and at least for the time being, and the NYPD was content to allow them to remain.[92] The protesters vowed to stay peaceful, content to wait on an answer to demands that were not always clear or understood by fellow members or the public at large.

Within a few days the overnight crowd of protesters held at about 200 people, and most of those were from places like Texas, Pennsylvania, Massachusetts and Missouri.[93] A study of participants in Occupy Wall Street indicated that an "overrepresentation" of "highly educated young adults."[94] In fact, 80 percent of actively engaged survey respondents indicated that they had a bachelor's degree or higher.[95] Speaking to their reasoning for participating in the Occupy Movement, survey respondents indicated their distrust of the current political system as a means of changing the current sociopolitical situation.[96] Likewise in another published survey, Occupy participants indicated that they did not think that they could trust the government in Washington 94 percent of the

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[90] Ibid.

[91] Erin McLaughlin, "Wall St. Protesters Say They're Settled In," *ABC News Blogs*, September 18, 2011, http://abcnews.go.com/blogs/headlines/2011/09/wall-st-protesters-say-theyre-settled-in/.

[92] Ibid.

[93] Megan Barr, "'Occupy Wall Street' Protesters Vow To Camp Near Wall St. Indefinitely," *Huffington Post*, September 9, 2011, http://www.huffingtonpost.com/2011/09/21/occupy-wall-street-protest_n_974693.html; Ginia Bellafante, "Protesters Are Gunning for Wall Street, with Faulty Aim," *New York Times*, September 23, 2011, sec. N.Y. / Region, http://www.nytimes.com/2011/09/25/nyregion/protesters-are-gunning-for-wall-street-with-faulty-aim.html.

[94] Ruth Milkman, Stephanie Luce, and Penny Lewis, *Changing the Subject: A Bottom-Up Account of Occupy Wall Street in New York City* (New York: Murphy Institute, 2013), 4, https://s3.amazonaws.com/s3.documentcloud.org/documents/562862/changing-the-subject-2.pdf.

[95] Ibid, 10.

[96] Ibid, 4.

time.[97] This perception of trust in the government is a factor in the issue of legitimacy of local police that I discuss in my analysis.

A New York City General Assembly member in a *Huffington Post* online video described the daily activities of protesters as marching, chanting and a "variety of fun things as well as serious discussion on the economic situation."[98] Every afternoon, the group reportedly held a General Assembly meeting in the center of Zuccotti Park in which they would map out their tactics for the coming day.[99] In order to facilitate everyone hearing the message, protesters used a manner of speaking they dubbed "the people's microphone." One person would speak a few words and the crowd would repeat those words so that everyone could hear.

Arrangements in the camp were such that the protesters worked to develop a way to improve communications within the camp during the first few days of the occupation. They established information and welcome tables and meetings on various topics were held, generally at 60 Wall Street in the Atrium building throughout the day. A dry erase board in the camp highlighted topics of the meetings ranging from "Think Tanks" to "Direct Action" to general "Organization" meetings and "performances" by some of the protesters.[100] An unofficial estimate was that 40 percent of the meetings that were held were relevant to maintaining the space in Zuccotti Park, and other than a few "arts" and "hobby" meetings, the rest were "pretty political."[101] The teachers union of New York also reportedly provided the Occupy contingent with storage space.[102]

Other than an incident near the New York Stock Exchange (NYSE) on Tuesday, September 20 that resulted in the arrest of seven and injuries to one, the daily protests had

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[97] Costas Panagopoulos, "Occupy Wall Street Survey Results October 2011," October 2011, New Fordham University, http://www.fordham.edu/images/academics/graduate_schools/gsas/elections_and_campaign_/occupy%20wall%20street%20survey%20results%20102611.pdf.

[98] Barr, "'Occupy Wall Street' Protesters Vow To Camp."

[99] Ibid.

[100] Ibid.

[101] "Occupy Wall Street : The Tour (Uncut)," YouTube video, posted by Lee Stranahan, November 4, 2011, http://www.youtube.com/watch?v=BZrbagiVtDo&feature=youtube_gdata_player.

[102] Ibid.

not turned violent at that point and police had made relatively few arrests.[103] That would change in the days to come.

On September 24, a group of protesters left the Occupy camp and marched Union Square. Barricades and police (who through various open source social media posts had begun monitoring the group's plans) met them. In one of the first of several videos capturing violent arrest scenes, a New York police officer used a violent takedown on a person with a cell phone.[104] The individual, who turned out to be a nearby café employee who came out from work and started filming the police, was seen holding his hands up in the air in an apparent defensive manner and gesture of surrender. The officer grabbed him and threw him to the ground in what is commonly referred to in police use of force manuals as an arm-bar styled takedown. It appears as though the officers are arresting another individual in the background and police are attempting to move the onlookers back away from the arresting officers.

Later, the police began using an orange hand-held plastic or fabric fence to corral or kettle a segment of protesters for reportedly blocking traffic, although a YouTube video of the event shows protesters on the sidewalk at that point.[105] As officers in the foreground of the video are shown corralling a group of female protesters, most of who have cameras and appear to be recording video and/or photos, in the background an unidentified individual appears to be taken into custody by a number of NYPD officers. This arrest evoked a frenzied response and at least two white-shirted NYPD supervisors moved quickly toward the women being corralled. One supervisor appeared to admonish the protesters while another, later identified as Anthony Bologna, sprayed pepper spray in

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[103] Barr, "'Occupy Wall Street' Protesters Vow To Camp."

[104] "Arrested for Talking to a Cop," YouTube video, posted by LibertyPlazRev, September 24, 2011, http://www.youtube.com/watch?v=iNyMr6VmGJo&feature=youtube_gdata_player.

[105] Nathan Schneider, "#OccupyWallStreet Bleeds and Leads—Waging Nonviolence," Waging Nonviolence, accessed August 26, 2013, http://wagingnonviolence.org/feature/occupywallstreet-bleeds-and-leads/; "Peaceful Female Protesters Penned in the Street and Maced!," YouTube video, posted by TheOther99Percent, http://www.youtube.com/watch?v=moD2JnGTToA&feature=youtube_gdata_player.

the faces of the female protesters.[106] In his action of spraying the unarmed females, some later contended that he galvanized the Occupy Movement worldwide.[107] At least 80 people were arrested by the end of the day. Police cited charges of disorderly conduct, blocking traffic, and failure to obey a lawful order. The NYPD also pointed out that the protesters had no permit for the march.[108] As night fell, hundreds of protesters remained in the Zuccotti Park encampment.

The march to commemorate the second week anniversary of the occupation on October 1, began about 3pm from Zuccotti Park with a swell of about 2000 participants.[109] As the protesters reached the Brooklyn Bridge, some eight to 10 blocks away, activists participating in the march recorded hundreds of videos using cell phones and personal cameras, which showed that the crowd filled the walkway on the bridge. Many of these videos were subsequently uploaded to social media sites and as such provided source data for the development and use of social media video analysis used in my research. Police initially blocked protesters from walking on the roadway portion of the bridge.[110] The crowd continued to grow and was heard chanting, "Take the bridge!"[111] Also present in the video were officers of the Technical Assistance Response Unit (TARU). They often provide technical equipment involved in filming NYPD actions in protest and demonstration scenarios. A captain with the New York Police Department, flanked by four to five additional officers, used a bullhorn to warn the protesters if they

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[106] "Peaceful Female Protesters Penned in the Street and Maced!" YouTube Video; Christopher Mathias, "Anthony Bologna, NYPD Cop Who Pepper-Sprayed Occupy Protesters, Will Get No Help From City In Lawsuit," *Huffington Post*, August 3, 2012, http://www.huffingtonpost.com/2012/08/03/anthony-bologna-nypd-cop-pepper-spray-occupy-wall-street-lawsuit_n_1739036.html.

[107] Christina Boyle, "Deputy Inspector Anthony Bologna's Decision to Pepper Spray Occupy Wall Street Protesters Helped Galvanize Worldwide Support the Movement," *NY Daily News*, September 9, 2012, http://www.nydailynews.com/new-york/deputy-inspector-anthony-bologna-decision-pepper-spray-occupy-wall-street-protesters-helped-galvanize-worldwide-support-movement-article-1.1155084.

[108] Matt DeLuca and Christina Boyle, "Wall Street Protesters Cuffed, Pepper-Sprayed during 'Inequality' March," *NY Daily News*, September 25, 2011, http://www.nydailynews.com/news/national/wall-street-protesters-cuffed-pepper-sprayed-inequality-march-article-1.953939.

[109] Gillham, "Securitizing America: Strategic Incapacitation,"

[110] Unknown, *March on Brooklyn Bridge—10/1/2011* (New York: Glass Bead Collective, 2011), http://glassbeadcollective.org/wallstreetoccupation/bridsge3_h264_sd.mov.

[111] Ibid.

did not move out of the roadway they would be subject to arrest.[112] Multiple officers wearing "NYPD TARU" raid jackets stood by filming the crowd.[113] A small contingent of protesters emerged from the crowd and formed a line in front of the group and began to advance toward the officers. The officers retreated and the crowd began its march across the bridge in the traffic lane and on the adjacent pedestrian walkways. According to Natasha Lennard, a *New York Times* reporter covering the march, "The mood was celebratory and confrontations with the police were not widely expected."[114]

Partway across the bridge however, the police, with additional uniformed officers, formed a line and would not allow protesters to continue. Rank and file uniformed police officers, in an odd arrangement of personnel, stood in a line behind the white-shirted supervisors. This was an odd arrangement because it put the supervisors who were in charge of the police response in a generally unsafe position between the advancing crowd and the line officers. The supervisors and a few of the line officers then began selecting people at the front of the crowd for arrest, handcuffing them with flexible plastic restraints and escorting them away. None of the officers was wearing riot gear and in several instances officers actually turned their backs on the largest portion of the crowd just a few feet away.[115]

The police had used a tactic known as "kettling" in their response to the Brooklyn Bridge march.[116] They did so by confining the throng of protesters to one area of the

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[112] The captain first warns the protesters and then appears to read a warning off a script of some sort. He introduces himself but his name is unintelligible. Ibid.

[113] A raid jacket is generally a windbreaker style jacket with markings designed to readily identify the wearer as a police officer.

[114] Natasha Lennard, "Covering the March, on Foot and in Handcuffs," *NewCity Room* (blog), *New York Times*, October 2, 2011, http://cityroom.blogs.nytimes.com/2011/10/02/covering-the-march-on-foot-and-in-handcuffs/.

[115] "Brooklyn Bridge Video: Police Arrest Occupy Wall Street Protesters," YouTube video, posted by Daryl Long, October 1, 2011, http://www.youtube.com/watch?v=o_1bYVMwg8k&feature=youtube_gdata_player.

[116] Kettling, a term often used in Great Britain, refers to the actions of police or other authorities in restricting the movement of protesters to a confined area and not allowing them to leave. The ACLU point out that kettling has the potential to increase violent interactions between police and protester, cause confusion and panic, and dissuade individuals from expressing their First Amendment rights. Emi MacLean, Katherine Glenn, and Sarah Knuckey, *Suppressing Protest: Human Rights Violations in the U.S. Response to Occupy Wall Street* (New York University. Center for Human Rights and Global Justice, 2012), https://www.hsdl.org/?abstract&did=718264.

bridge. They again used the orange flexible fencing and personnel to establish a barrier on the bridge itself, and some reported that they did the same at the entrance to the bridge.[117] One protester remarked that there was a belief that the police actually led the way across the bridge and that many protesters felt that they were assisting their crossing.[118] When they reached the police line and tried to turn around, she said that they saw that police were coming up from behind them. She said, "People were distressed and scared and terrified…" and that as a result, people were climbing the rails trying to get onto the pedestrian pathways and off the roadway.[119] This protester remarked that she was unaware that this was an "arrestable situation" and noted that there were children accompanying adults on the march.[120] In at least one video, officers can be observed warning the crowd of possible arrest but it is unclear how effective these warnings were. The vast majority of the crowd was chanting, officers were using handheld bullhorns, and at times what they were saying was unintelligible.[121]

After those initial arrests, police reinforcements arrived with additional flexible handcuffs as well as transport vehicles; the custodial arrests continued. If media reports of the arrestees are accurate, then many of those arrested faced delays of several hours before even arriving at a detention facility—several hours more before they were booked in.[122] All totaled, more than 700 people were arrested during the march across the Brooklyn Bridge.[123] By late the next day, fewer than 20 people remained in custody with

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[117] Lennard, "Covering the March, on Foot and in Handcuffs."

[118] "Day 16 Bklyn Bridge Police "Kettling" Boosts Protesters Support," YouTube video, posted by nothingofficial, October 3, 2011, http://www.youtube.com/watch?v=iw-XOOYtK2g&feature=youtube_gdata_player.

[119] Ibid.

[120] Ibid.

[121] "Brooklyn Bridge Video: Police Arrest Occupy Wall Street Protesters," YouTube video.

[122] Lennard, "Covering the March, on Foot and in Handcuffs."

[123] "'Let Us Go!': About 700 Arrested in Wall Street Protest," *NBC News*, October 2, 2011, http://www.nbcnews.com/id/44742659/ns/us_news-crime_and_courts/t/let-us-go-about-arrested-wall-street-protest/; "About 700 Arrested in Wall Street Protest—The DOWNFALL of WALL STREET Has BEGUN!," YouTube video, posted by DougandDonna Bickford, October 2, 2011, http://www.youtube.com/watch?v=MXUU5-5krGY&feature=youtube_gdata_player; Colin Moynihan, "Last Scheduled Case of Brooklyn Bridge Arrests, Like Most Others, Is Dismissed," *New York Times*, October 20, 2013, sec. N.Y. / Region, http://www.nytimes.com/2013/10/21/nyregion/last-scheduled-case-of-brooklyn-bridge-arrests-like-most-others-is-dismissed.html.

the majority of them having been issued citations for disorderly conduct with a later court date.[124]

On Wednesday, October 5, 2011, protesters again gathered for what would be reported as the largest collective action to date in New York related to the Occupy Movement. The "Union March," backed by at least 15 of the nation's largest labor unions, started from Foley Square in lower Manhattan in the afternoon and ended at Zuccotti Park just after dark. Among those represented at the march were the AFL-CIO, United Auto Workers, Transit Workers Union, Teamsters Local 111 and, the Coalition of Black Trade Unionists.[125] The march began peacefully but violence broke out between protesters and police after nightfall. In a CNN video taken during the daylight hours, one protester remarked that the police had been helpful and facilitated the march and that the crowd had swelled due to the support of those labor unions.[126]

At some time after dark, reports indicate that about 200 protesters tried to force their way through police barricades that restricted access to the financial district. In one video, referenced in a *New York Daily News* article, a white-shirted police supervisor in a crowd of yelling and screaming protesters can be seen striking protesters with a baton.[127] The officer can be seen swinging the baton in an overhead motion with both hands in a way that is reserved for deadly force encounters, due to the propensity for the baton to strike someone's head.[128] For all the violence, media reports indicated that upwards of 30 protesters were actually arrested out of a crowd estimated by union organizers to be in

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124 "Wall Street Protesters Released," *BBC*, October 2, 2011, sec. US & Canada, http://www.bbc.co.uk/news/world-us-canada-15143509.

125 Gregory Krieg, "Occupy Wall Street Protests: Police Make Numerous Arrests," *ABC News*, October 14, 2011, http://abcnews.go.com/US/occupy-wall-street-protests-police-make-numerous-arrests/story?id=14673346; *Occupy Wall Street*, 2011.

126 Karmalize, "Occupy Wall Street Rally @ Foley Square 10/5/11," *CNN iReport* [blog], accessed September 10, 2013, http://ireport.cnn.com/docs/DOC-684322.

127 "Cops Beating People up at Occupy Wall Street," YouTube video, posted by Yasha Gruben, October 5, 2011, http://www.youtube.com/watch?v=xpOMlDVaXzc&feature=youtube_gdata_player.

128 The Dallas Police Department, the North Carolina Department of Corrections, the Las Vegas Metropolitan Police Department and other departments consider overhead baton strikes acceptable only in response to the threat of serious bodily injury or death.

the neighborhood of 10,000 to 20,000.[129] None of the officers in this video was seen wearing any type of riot gear or other personal protective equipment.

In mid-October and in response to a "rescheduled" eviction and cleanup of Zuccotti park, protesters formed cleanup crews who swept and mopped throughout the night.[130] According to Mayor Bloomberg, Brookfield Properties officials had received "intense pressure" not to close the park at that time.[131] The discourse about the sanitary conditions in the park and a planned cleanup resulted in increased attention and the crowd in the park swelled to numbers near 3,000 according to one Occupy Wall Street member.[132]

Protesters saw a rise in donated food including pizzas, catered food and other foodstuffs—so much that they were able to establish a food storage area near their working kitchen in camp. A number of celebrities, such as Roseanne Barr, Russell Simmons, and Michael Moore made visits to the Occupy camp and were met with mixed results, some suggesting the timing of the visits were publicity stunts.[133]

B. POLICE RESPONSE

The NYPD's response to the Occupy Movement was unique among the four cities studied in that they had the ability to reassign hundreds of officers from other precincts to police the Occupy Movement. It is difficult to conceive of how this would not influence decisions on how to deal with protesters. In this section, I articulate how NYPD

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[129] Christina Boyle, Emily Sher, Anjali Mullany, and Helen Kennedy, "Occupy Wall Street Protests: Police Make Arrests, Use Pepper Spray as Some Activists Storm Barricade," *NY Daily News*, October 5, 2011, http://www.nydailynews.com/new-york/occupy-wall-street-protests-police-arrests-pepper-spray-activists-storm-barricade-article-1.961645.

[130] Colin Moynihan and Cara Buckley, "Cleanup of Zuccotti Park Is Postponed," *City Room* (blog), *New York Times*, October 14, 2011, http://cityroom.blogs.nytimes.com/2011/10/14/cleanup-of-zuccotti-park-cancelled/.

[131] Ibid.

[132] Esmé E. Deprez, Joel Stonington, and Chris Dolmetsch, "Occupy Wall Street Park Cleaning Postponed," *Bloomberg News*, October 14, 2011, http://www.bloomberg.com/news/2011-10-14/occupy-wall-street-park-cleaning-is-postponed-as-14-protesters-in-custody.html.

[133] "Roseanne Barr: 'Guilty' Wall Street Bankers Should Be Sent to Reeducation Camps or Beheaded," *FoxNews*, October 3, 2011, http://www.foxnews.com/entertainment/2011/10/03/roseanne-barr-guilty-wall-street-bankers-should-be-sent-to-reeducation-camps-or/.

responded to the encampment and what actions they took in preparations for the eviction of activists from Zuccotti Park.

According to police close to the operation who wished to remain anonymous, they worked to communicate the law to the protesters as well as what was considered acceptable protest behavior. Officers on foot, horseback, bicycle, and scooters were visible in the area around the park and financial district. The American Civil Liberties Union (ACLU) noted that the NYPD employed "force projection usually via large numbers of officers on foot and on scooters…"[134] In the midst of the protest, the NYPD reportedly ceded patrolling of the interior of the park to the protesters and were content to station officers on the perimeter of the park. Mayor Bloomberg would come to cite rising crime and safety concerns as supporting reasons for their eviction.[135] As with other cities that attempted negotiating with the Occupy protesters, the NYPD found it difficult to do so because of the group's leaderless structure. NYPD also found it difficult to address their concerns since the protesters publicized no stated objectives for their occupation. Officers assigned to the perimeter detail of Zuccotti Park remarked, "We try to maintain a low profile and not antagonize the crowd. And once you go in there, there's a sense of hostility."[136]

Like what is illustrated in the Portland case in Chapter V, New York prohibited the occupation from expanding. On October 15, during the one-month anniversary of the New York City occupation, a research team from the ACLU observed at least 50 officers, some wearing riot gear enter Washington Square Park at midnight en masse to arrest fewer than 12 protesters for violating park closure hours.[137] Those arrested had been part

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[134] Sarah Knuckey, Katherine Glenn, and Emi MacLean, *Suppressing Protest: Human Rights Violations in the U.S. Response to Occupy Wall Street* (New York: The Global Justice Clinic, 2012), Protest and Assembly Rights Project, www.documentcloud.org/documents/403969-protest.html.

[135] "Michael Bloomberg's Statement on the Zuccotti Park Clearance," *The Guardian*, November 15, 2011, sec. World news, http://www.theguardian.com/world/2011/nov/15/michael-bloomberg-statement-zuccotti-park.

[136] Cara Buckley and Matt Flegenheimer, "At Occupy Wall Street Protest, Rising Concern about Crime," *New York Times*, November 8, 2011, sec. N.Y. / Region, http://www.nytimes.com/2011/11/09/nyregion/at-occupy-wall-street-protest-rising-concern-about-crime.html.

[137] Knuckey, Glenn, and MacLean, *Suppressing Protest*.

of a group of over 1,000 protesters that had gathered in Washington Square Park for several hours previously to hold a General Assembly meeting to debate on whether to establish another encampment at the square.[138] Police had demanded that the General Assembly disband and participants exit the park by the midnight curfew, or face arrest. Most activists left the park by the midnight deadline but the 12 who were arrested remained peaceful and seated when police entered the park.[139]

The ACLU also pointed out that members of the media or legal observers to witness the arrests in spite of their requests to peacefully negotiate were not allowed access to the scene after they had exited the park with the bulk of the crowd.[140] In my experience, in major cities, park closure hours are rarely enforced for those expressing their First Amendment rights.

C. SPATIAL CONTROL

The theme of spatial control by the state was a recurring theme in both the literature reviewed while researching this topic and in each of the cases studied. In this section I address how the city of New York limited access to public areas and diverted activists during their marches. I also describe how their actions served to increase tensions between police and protesters. This more authoritarian approach served as the basis for what I characterized as the perceived approach of "New York exceptionalism," as mentioned in Chapter I.

The ACLU outlines containment, including kettling, "exclusional dispersal" and "frozen zones" as some of the routine measures that the NYPD uses to restrict the expression of dissent.[141] Gillham et al. have referred to the tactics as supporting "strategic incapacitation."[142] During the Occupy Movement the NYPD used several of these tactics to control Occupy protesters. According to informal after-action reports, the

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[138] Gillham, Edwards, and Noakes, "Strategic Incapacitation."

[139] Ibid.

[140] Knuckey, Glenn, and MacLean, *Suppressing Protest*

[141] Ibid.

[142] Gillham, Edwards, and Noakes, "Strategic Incapacitation."

NYPD eventually began assigning executive level commanders to work 12-hour shifts overseeing the encampment.[143] They also utilized temporary barricades to surround the park and as mentioned, worked to restrict its expansion. Camping or "occupation" was not allowed in other areas. Police subsequently seized supplies of the activists, prohibited the use of portable generators and heaters and refused to allow activists to bring portable toilets onsite.[144]

Another tactic that the NYPD used was declaring what the ACLU termed "frozen zones" and Gillham et al. referred to as "hard zones."[145] Frozen zones and/or closed sidewalks were employed by the NYPD to redirect marches or to "disperse individuals from a specific area, rather than contain them within it."[146] This appears to be a continuing practice as they closed the sidewalks on the street in front of Mayor Bloomberg's house to all pedestrians when protesters have come to speak out.[147] Gillham et al. assert that that NYPD, in its response to the Occupy Movement, established a "hard-zone" around the financial district using barricades and officers.[148] The police restricted access to the hard-zones to only credentialed individuals and, therefore, prevented protesters from accessing or disrupting areas of the city that otherwise would have been available to enter.

As mentioned with regard to the incident involving the pepper-spraying of the female protesters, the NYPD also employed flexible orange mesh fencing to corral protesters in areas or the deny access to sidewalks. Officers can be seen in multiple videos shot by both protester and police alike, attempting to herd people in one direction

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143 Informal after-action report available from author upon request.

144 Lauren Kelley, "Occupy Updates: NYPD Takes Generators as Temps Drop, Threatens to Sue OWS; Oakland Mayor Says No Camping Overnight," *AlterNet*, October 28, 2011, http://www.alternet.org/newsandviews/article/686499/occupy_updates%3A_nypd_takes_generators_as_temps_drop,_threatens_to_sue_ows%3B_oakland_mayor_says_no_camping_overnight.

145 Knuckey, Glenn, and MacLean, *Suppressing Protest*; Gillham, Edwards, and Noakes, "Strategic Incapacitation."

146 MacLean, Glenn, and Knuckey, "Supressing Protest."

147 John Leland and Colin Moynihan, "Thousands March Silently down Fifth Avenue to Protest Stop-and-Frisk Policies," *New York Times*, June 17, 2012, sec. N.Y. / Region, http://www.nytimes.com/2012/06/18/nyregion/thousands-march-silently-to-protest-stop-and-frisk-policies.html.

148 Gillham, Edwards, and Noakes, "Strategic Incapacitation."

or another.[149] A year after the start of the Occupy Wall Street encampment, plaintiffs filed a federal law suit against the NYPD for its, "use of orange netting and police lines to conduct indiscriminate group arrests."[150]

Most of the marches undertaken by the Occupy protesters were without permits. This meant that any who participated in the protest marches did so from the sidewalk and remained clear of the street.[151] This exacerbated the situations where police closed sidewalks or instituted "frozen zones."

D. SOCIAL MEDIA USE

A little more than a month before Occupy Wall Street began, the NYPD announced that it had formed a new "Social Media Unit" designed to identify and catch criminals who would announce plans or brag about criminal plans on social networking sites such as Twitter and Facebook. Police Commissioner Ray Kelly announced, "We look at social networking. We're very much focused on weekend parties…"[152] In spite of the initial focus on "weekend parties," that focus would shift once the Occupy protesters began broadcasting almost every action they were planning on social media.[153] Both the protesters and New York City Mayor's office were active on Twitter. The new Social Media Unit appeared to be adept at monitoring and intelligence gathering. Its head, Assistant Commissioner Kevin O'Connor, was known for conducting a successful online

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149 "Liberty Lockdown, Raid on Zuccotti [leaked TARU footage]," YouTube video, posted by Cointelulz, September 24, 2012, https://www.youtube.com/watch?v=P-SnG8BvAS8&feature=youtube_gdata_player.

150 The lawsuit is, Sterling, et al. v. City of New York, et al, Case No. 12-CV-7086. "New Federal Lawsuit Filed against NYPD for Occupy Arrests: PCJF Challenges Unlawful Police Tactics, Sidewalk Arrests Orange Netting Corral," Partnership for Civil Justice Fund, September 20, 2012, http://www.justiceonline.org/commentary/new-federal-lawsuit-filed.html.

151 Knuckey, Glenn, and MacLean, *Suppressing Protest*.

152 Christopher Mathias, "NYPD Social Media Unit," *Huffington Post*, August 10, 2011, http://www.huffingtonpost.com/news/nypd-social-media-unit/.

153 One NYPD officer speaking on the author on the condition of anonymity expressed that social media sites made it very easy for officers to acquire intelligence information from open source social networking sites.

sting operation directed at catching child predators.[154] In contrast, the NYPD did not utilize social media to transmit information to the public. It created a departmental Facebook page in February of 2012, long after the occupation of Zuccoti Park.

So important was the use of technology and especially social media, that when police and firefighters removed the generators in October, the protesters crafted generators that were powered by people riding bicycles to supply electricity for their computers. Given the propensity for video clips of violent interactions with police to go "viral," video submissions were called for in General Assembly meetings.[155] Protesters used a site called "Livestream.com" to broadcast various activities live as they happened on the web. Clips were uploaded to YouTube almost immediately after the incidents and photographs were "texted," emailed, and shared almost constantly during the events. In videos of the various events, most protesters can be seen marching with their own camera-phones and even some laptops. By October 22, Facebook pages related to the Occupy Wall Street movement had accumulated in excess of 390,000 "likes," while more than 770,000 "likes" had been recorded for the 324 related local pages.[156]

E. POLICE SURVEILLANCE AND TECHNOLOGY

The NYPD conducted surveillance using multiple technologies during the Occupy Wall Street encampment. For all the places in New York for the Occupy Movement to be encamped, Lower Manhattan was, in some ways, a bit serendipitous for police intelligence given the overwhelming number of fixed CCTV cameras in and around the financial center.[157] Information from these sources would have been consolidated and

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[154] Rocco Parascandola, "NYPD Forms New Social Media Unit to Mine Facebook and Twitter for Mayhem," *NY Daily News*, August 10, 2011, http://www.nydailynews.com/new-york/nypd-forms-new-social-media-unit-facebook-twitter-mayhem-article-1.945242.

[155] Ows Minutes, "NYCGA Minutes 10/1/2011," #OccupyWallStreet NYC General Assembly, October 1, 2011, http://www.nycga.net/2011/10/general-assembly-minutes-930-7pm/.

[156] Neal Caren and Sarah Gaby, "Occupy Online: Facebook and the Spread of Occupy Wall Street," *SSRN Working Paper Series* (October 2011), http://libproxy.nps.edu/login?url=http://search.proquest.com/docview/1095345294?accountid=12702.

[157] *Scientific American Magazine* contends that nowhere is surveillance more pervasive in the U.S. than in Lower Manhattan. Larry Greenmeier, "The Apple of Its Eye: Security and Surveillance Pervades Post-9/11 New York City [Video]," September 9, 2011, Scientific American, http://www.scientificamerican.com/article.cfm?id=post-911-nyc-video-surveillance.

analyzed in order to glean actionable intelligence for dissemination to officers in the area. While the actual methods or working processes remain a closely guarded secret by the NYPD, this would have been an expected response for police. Also, given NYPD's history of active intelligence gathering, one may assume that this took place.[158] It wasn't just the officers assigned to the Intelligence Unit that were providing information to the NYPD. Because of the sheer number of officers assigned to the Occupy Movement, they had information coming in from the rank and file officers who were looking at social media, reporting on their observations, speaking with protesters and business owners in the area.[159]

NYPD set up at least two mobile surveillance trailers called "Sky Watch Towers" to provide elevated platforms for conducting personal and video surveillance.[160] Questions still remain about whether the units were actually occupied or used to compliment the camera surveillance network after one officer acknowledged that the cameras often times do not work.[161] The trailered observation posts have the capability of being elevated and are designed to raise an individual to a height of about 25' in the air. The platform protects the officer from the elements and according to the manufacturer's website, some models have a diesel generator, a run-time of up to 150 hours, and can be stocked with a multitude of surveillance equipment.[162]

CCTV cameras in the years after September 11, 2001 have increased dramatically. In a report commissioned by the New York Civil Liberties Union, New York was reported to have had 2,397 video surveillance cameras visible from street level

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[158] Post 9/11/2001 the NYPD, with the help of a former CIA officer, built the NYPD's intelligence gathering program. Adam Goldman and Matt Apuzzo, "Inside the Spy Unit That NYPD Says Doesn't Exist," *Yahoo News*, August 11, 2011, http://news.yahoo.com/inside-spy-unit-nypd-says-doesnt-exist-090802750.html.

[159] Anonymous police official, personal communication with author, August 29, 2013.

[160] Gillham, Edwards, and Noakes, "Strategic Incapacitation."

[161] "Occupy Wall Street Latest Target of Controversial NYPD Surveillance Units," *International Business Times*, November 9, 2011, http://www.ibtimes.com/occupy-wall-street-latest-target-controversial-nypd-surveillance-units-367522.

[162] See Skywatch Tower specs available at http://gs.flir.com/integrated-systems/skywatch/skywatch-features

in Manhattan in 1998.[163] Less than a decade later in 2005, the number of cameras counted *only* in the area of lower Manhattan was 4,176 cameras below 14th street.[164] In the area where an abundance of Occupy protest activity was held, the financial district, the number of cameras totaled 1,306 in 2005.[165] It is safe to assume that those numbers have not decreased and in all likelihood have increased significantly from 2005 to 2011. According to the study, both private and public cameras have proliferated in all manner of business including corporate headquarters and small sandwich shops.[166] In maintaining an air of secrecy around the policies governing the use of its video surveillance equipment, the NYPD was reluctant to release its operating guidelines.[167] In at least one case brought against the city of New York by protesters arrested during the Occupy Wall Street movement, video surveillance shot by NYPD cameras provided exculpatory information at trial that led to the acquittal of the arrestee.[168]

On the first day of the occupation, police used long-range acoustic devices (LRADs) to blast the crowd with focused sound waves.[169] According to the manufacturer, LRAD is a device that uses focused sound waves to transmit intelligible audio messages and/or warning or defensive tones across great distances.[170] The LRAD, as such, holds the distinction of being a device that fits both a communications device and a use of force device. Proponents of the technology point out that it causes no injury, as it uses no kinetic impact upon the subject. Police and manufacturers point to the deficiencies in traditional megaphones as a reason to employ an LRAD device over long

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[163] American Civil Liberties Union, *Who's Watching? Video Camera Surveillance in Ney York City and the Need for Public Oversight*, 2, accessed November 19, 2013, http://www.nyclu.org/pdfs/surveillance_cams_report_121306.pdf.

[164] Ibid.

[165] Ibid.

[166] Ibid.

[167] Ibid., 4–5.

[168] Diane Sweet, "NYPD Loses 2nd Occupy Wall Street Trial," Crooks and Liars, May 18, 2012, http://occupyamerica.crooksandliars.com/diane-sweet/nypd-loses-2nd-occupy-wall-street-tria.

[169] "NYPD Blast LRAD Sound Cannons at "Occupy Wall Street," YouTube video, posted by NeedToAwaken, November 17, 2011, http://www.youtube.com/watch?v=mhqF_gf4gek&feature=youtube_gdata_player.

[170] See LRAD 360X device specs available at http://www.lradx.com/site/content/view/15/110

distances and to mass gatherings of people.[171] The devices are capable of transmitting intelligible audio from between 650–8900 meters (over 5.7 miles).[172] These devices are portable and can be carried by hand, mounted on vehicles and even attached to unmanned aerial vehicles (UAVs). The ACLU argues that the very appearance of an LRAD alone causes an intimidation of protesters and has no business being used at peaceable civilian demonstrations. The legal director of the ACLU in Pennsylvania said in a media release on the topic, "Police should not be using weapons built for the military on civilian protesters."[173]

There were also reports and at least one video of officers using a strobe-like function on a flashlight to interfere with media filming protest activities.[174] Development of light emitting diode (LED) technology in flashlights has been around for a number of years. In recent years, it has also been developed as a means of disrupting vision and the thought process to repel or control a person.[175] Almost all of this technology came into play on November 15, 2011, the day that the NYPD evicted the Occupy protesters from their encampment in Zuccotti Park.

F. THE EVICTION

The U.S. Conference of Mayors also held two conference calls related to the Occupy movement on October 13 and November 10.[176] Mayor Bloomberg's spokesperson denied that the mayor took part in these calls, however, in spite of the fact

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[171] Carl Frazen, "LRAD Defends 'Sound Cannon' Use At Occupy Wall Street," TPM, November 17, 2011, http://talkingpointsmemo.com/idealab/lrad-defends-sound-cannon-use-at-occupy-wall-street.

[172] Ibid

[173] American Civil Liberties Union, "Bystander Sues City of Pittsburgh over Pain and Hearing Loss Caused by Use of Long Range Acoustic Device at G-20 Protest," September 21, 2011, http://www.aclupa.org/pressroom/bystandersuespittsburghove.htm.

[174] "Video: NYPD Use Strobe Lights on RT Camera at OWS," YouTube video, posted by RT, October 17, 2011, http://www.youtube.com/watch?v=dVaCGHn8LnY&feature=youtube_gdata_player.

[175] "Flashlight Weapon Makes Targets Throw up Fox News," *Fox News*, December 7, 2011, http://www.foxnews.com/story/0,2933,292271,00.html.

[176] Andy Kroll, "Mayors and Cops Traded Strategies for Dealing with Occupy Protesters," *Mother Jones*, accessed August 6, 2013, http://www.motherjones.com/mojo/2011/11/occupy-protest-coordinate-crackdown-wall-street.

that the postponed original eviction of Zuccotti Park was to have occurred one day after the first call.[177]

On Tuesday, November 15, 2011, at about 1 a.m., the NYPD enacted its plan to evict the Occupy Wall Street protesters from Zuccotti Park. Officers donned riot gear and sealed off the area just after midnight on Tuesday. According to Mayor Bloomberg, the eviction came at the behest of Brookfield Properties, the owners of the park.[178] There was some conjecture, however, on whether the raid on the camp came as a result of the Occupy second-month anniversary protests planed and designed to shut down various subway routes on November 17.[179] Bloomberg also cited safety and health concerns in his address, pointing out that here, as in other Occupy camps, conditions had degraded to the point of being dangerous.[180]

The protesters were told to immediately leave the park and many were given fliers telling them to leave and take all their belongings with them. The mayor's office also tweeted that "the eviction is only temporary" and that protesters could return after the park had been cleaned; the intention was that tents and structures would not be allowed.[181] NYPD prepared to force the eviction and sanitation crews readied to clean the park.[182]

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[177] Garth Johnston, "Build Up To A Raid: NYPD Planned Occupy Wall Street Eviction for Weeks," *Gothamist*, November 16, 2011, http://gothamist.com/2011/11/16/anatomy_of_a_raid_nypd_planned_ows.php.

[178] Michael Bloomberg, "Statement of Mayor Michael Bloomberg on Clearing and Re-Opening of Zuccotti Park," November 15, 2011, www.nyc.gov/html/om/html/2011b/pr410-11.html.

[179] Graham Rayman, "Occupy Wall Street Vows to Shut down Subways; NYPD Issues Plan to Mobilize 432 Headquarters Cops If Necessary," *The Village Voice* (blog), November 14, 2011, http://blogs.villagevoice.com/runninscared/2011/11/occupy_wall_str_28.php.

[180] Bloomberg, "Statement of Mayor Michael."

[181] In hindsight, this goal seems ambitious given the lengthy rehabilitation periods required for parks in other cities. In Portland, Oregon, for example, it took at least six months to rehabilitate the park following the occupation. Dashell Bennett, "The NYPD Emptied Zuccotti Park in the Middle of the Night," *The Atlantic Wire*, November 15, 2011, http://www.theatlanticwire.com/national/2011/11/nypd-empties-zuccotti-park-middle-night/44984/; "Repaired Portland Parks Reopen after Occupy," *NGW News*, May 17, 2012, http://www.kgw.com/news/Repaired-Portland-parks-reopen-after-Occupy-151922105.html.

[182] Bloomberg, "Bloomberg Statement on Occupy Eviction;" Bennett, "The NYPD Emptied Zuccotti Park."

According to Gillham et al., about 1000 police officers were used to effect the eviction. Exactly what transpired in the hours that followed is not completely clear although video footage shot by police, protesters, and the media depicted a turbulent scene of arrests and in some instances violence.[183] Officers moved in and began tearing down the tents. It is unclear how long protesters had to collect their things before police forced their removal. Property that was not immediately removed was seized and thrown into dumpsters, apparently without cataloging or recording of ownership.[184] This would prove problematic later for both Brookfield Properties and the city of New York as lawsuits were filed for losses of almost $100,000 worth of property.[185] This explains, at least in small part, how the police were able to clean the park so quickly as cataloging and recording all that property would have taken much longer.

Gillham et al. note that before moving in, police removed and detained members of the media.[186] On the Monday following the eviction, media organizations sent letters to New York city officials in protest of the police handling of journalists who were covering the Occupy Wall Street protests; they further asked for meetings on the topic.[187] Police and protester videos shot during the eviction show police in riot helmets with side-handled batons moving en masse through the camp and pulling the remaining protesters

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183 "Liberty Lockdown, Raid on Zuccotti," YouTube video.

184 "New York Ordered to Pay up over NYPD's Destruction of Occupy Property," April 10, 2013, http://rt.com/usa/nyc-settlement-occupy-library-600/.

185 The city of New York and Brookfield Properties would settle the suit in 2013 for $186,000, which included the cost of the property and the legal fees. They also agreed to settle two related federal law suits by paying protesters $75,000 for lost/damaged computers, network and broadcasting equipment. They also paid $8,500 to an environmental group for 16 lost or damaged "energy bicycles" used as power generators in the park. Nick Pinto, "City and Brookfield Turn on Each Other in Lawsuits over Zuccotti Eviction," *The Village Voice* (blog), August 27, 2012, http://blogs.villagevoice.com/runninscared/2012/08/city_and_brookf.php; "Settlement Announced In Lawsuit Over Seizure Of OWS Library,: *CBS New York*, April 9 ,2013, http://newyork.cbslocal.com/2013/04/09/settlement-announced-in-lawsuit-over-seizure-of-ows-library/; Markthshark, "Daily Kos: Occupy Wall Street Wins LawSuit against City of New York & Brookfield Properties—A Win Is a Win," *Daily Kos* (blog), Aril 12, 2013, http://www.dailykos.com/story/2013/04/12/1201168/-Occupy-Wall-Street-Wins-LawSuit-Against-City-of-New-York-Brookfield-Properties-A-Win-is-a-Win.

186 Gillham, Edwards, and Noakes, "Strategic Incapacitation," 10.

187 Deepthi Hajela, "Occupy Wall Street: Journalists Protest NYPD's Handling of Media during Zuccotti Eviction," *Huffington Post*, November 22, 2011, http://www.huffingtonpost.com/2011/11/22/occupy-wall-street-journa_n_1107373.html.

out. Many of the protesters locked arms and held onto one another as police worked to arrest them, forcing police to pull them apart. Video of the incident showed a protester discharging a fire extinguisher as officers moved in to remove a group of protesters.[188] Officers are seen striking protesters with batons and in at least one instance, striking a protester with an overhead swing of the baton to the protester's head—considered by most police departments as a deadly force strike.[189] This same video shows that the Chief of the NYPD Joseph Esposito was present. He appeared in the video mere seconds after the protester was struck in the head.

As officers worked to cut the chain of one protester who was chained to a tree, officers can be heard remarking to the officer with the grinder that he had started a fire (because of the sparks thrown from grinding the chain). Meanwhile, the protester screams in pain.[190] Several people remained in camp and did not lock arms or defensively resist. Several more protesters dispersed from the camp and began impromptu marches around the downtown Manhattan area, occasionally having run-ins with police on the perimeter of the eviction operation.[191] NYPD continued to exclude most of the media as the eviction continued, which seemed to increase the number of rumors and unconfirmed stories posted on social media.[192] At one point theatlanticwire.com advised of an unconfirmed report that police were using the LRAD again to disperse protesters.[193] A *Mother Jones* writer reported via Twitter that the NYPD used tear gas to remove the last few protesters from an area in camp around the food tents.[194]

The park was completely cleared of protesters in about three hours from the time the NYPD began the eviction but by 6:30 a.m. that same morning; New York State

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188 "Raid on Zuccotti Park," YouTube video, posted by Cointelulz, November 15, 2011, https://www.youtube.com/watch?v=P-SnG8BvAS8&feature=youtube_gdata_player.

189 Ibid.

190 Ibid.

191 "The NYPD Emptied Zuccotti Park in the Middle of the Night;" "Raid on Zuccotti Park," YouTube video.

192 "The NYPD Emptied Zuccotti Park in the Middle of the Night."

193 Ibid.

194 Ibid.

Supreme Court Judge Lucy Billings directed that the city and allow protesters access to the park.[195] The city responded by opting to close the park to everyone rather than allow protesters back in with tents and other articles.[196] The judge sided with Brookfield Properties insistence on certain rules prohibiting sleeping bags and tents, and this resulted in the park reopening later that day under the new rules.[197]

Later that same evening, protesters had to walk through what one of them described as a "gauntlet" of police in order to get to one of two established entrances of the park.[198] They were then searched and if they had tents, sleeping bags, or even protest paraphernalia they were denied access to the park.[199] Private security guards patrolled the interior of the park and forced the protesters who did enter the park to keep moving.[200] Security guards would not let them lie down, and police were called to remove those who refused to comply with the guards' direction.[201]

Two days later on November 17, protesters gathered around Zuccotti Park in what they dubbed a "Day of Action." Thousands gathered in the financial district and even removed several police barricades around the park.[202] Police utilized the LRAD system again to disperse protesters and demanded identification of people in order to access public sidewalks.[203] The encounter in Zuccotti Park turned violent, and bloodied protesters can be seen in video and photographs being arrested and escorted from the

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195 Ibid.; "Raid on Zuccotti Park," YouTube video.

196 Matt Wells, "Occupy Wall Street: Zuccotti Park Re-Opens—As It Happened," *The Guardian*, November 15, 2011, sec. World news, http://www.theguardian.com/world/blog/2011/nov/15/occupy-wall-street-zuccotti-eviction-live.

197 Colin Moynihan, "Occupy Wall Street Drops Suit on Zuccotti Park," *City Room* (blog), *New York Times*, January 23, 2012, http://cityroom.blogs.nytimes.com/2012/01/24/occupy-wall-street-drops-suit-on-zuccotti-park/.

198 James Barron and Colin Moynihan, "Police Oust Occupy Wall Street Protesters at Zuccotti Park," *New York Times*, November 15, 2011, sec. N.Y. / Region, http://www.nytimes.com/2011/11/16/nyregion/police-begin-clearing-zuccotti-park-of-protesters.html.

199 Ibid.; Gillham, Edwards, and Noakes, "Strategic Incapacitation," 11.

200 Gillham, Edwards, and Noakes, "Strategic Incapacitation."

201 Ibid, 11.

202 "OWS Day of Action: Police vs People (PHOTO, VIDEO)," November 17, 2011, http://rt.com/usa/occupy-wall-street-619/.

203 Ibid.

park.[204] Mayor Bloomberg's office later confirmed an additional 177 arrests by 4:00 p.m. that day.[205] "Day of Action" protests were carried out in multiple cities around the country and for the most part marked the end of the Occupy Movement, as it had existed over the course of the previous two months.

With its abundant resources, NYPD managed the Occupy Movement with hundreds of officers reassigned from other precincts. They allowed this occupation in Zuccotti Park arguably only because current ordinances required that the park be accessible 24 hours-a-day. In other aspects of the demonstrations, the NYPD took swift action to either direct or remove those who would not comply with orders. Officers placed an emphasis on intelligence collection, in keeping with their anti-terror stance in the wake of September 11 and barely touched on the capabilities of social media use for their benefit. These and other factors created a situation in New York that was unlike the other cities studied. As I illustrate in Chapter IV, Oakland's reductions in manpower prior to Occupy Movement contributed to the opposite approach of the NYPD. Where NYPD may be considered authoritarian and simplistic in nature, Oakland was overly chaotic.

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[204] David Ariosto, "'Occupy' Protesters, Police Clash during 'Day of Action,'" *CNN*, November 17, 2011, http://www.cnn.com/2011/11/17/us/new-york-occupy/index.html; "Raid on Zuccotti Park," YouTube video.

[205] "OWS Day of Action: Police vs People (PHOTO, VIDEO)," November 17, 2011, http://rt.com/usa/occupy-wall-street-619/.

IV. OCCUPY OAKLAND

"You want to know about Occupy Oakland? I'll tell you about Occupy Oakland. It was a God D*** disaster!"

Anonymous Officer, Oakland PD[206]

To assist the reader in understanding how events related to Occupy Oakland occurred, Figure 4 is the timeline specific to Occupy Oakland.

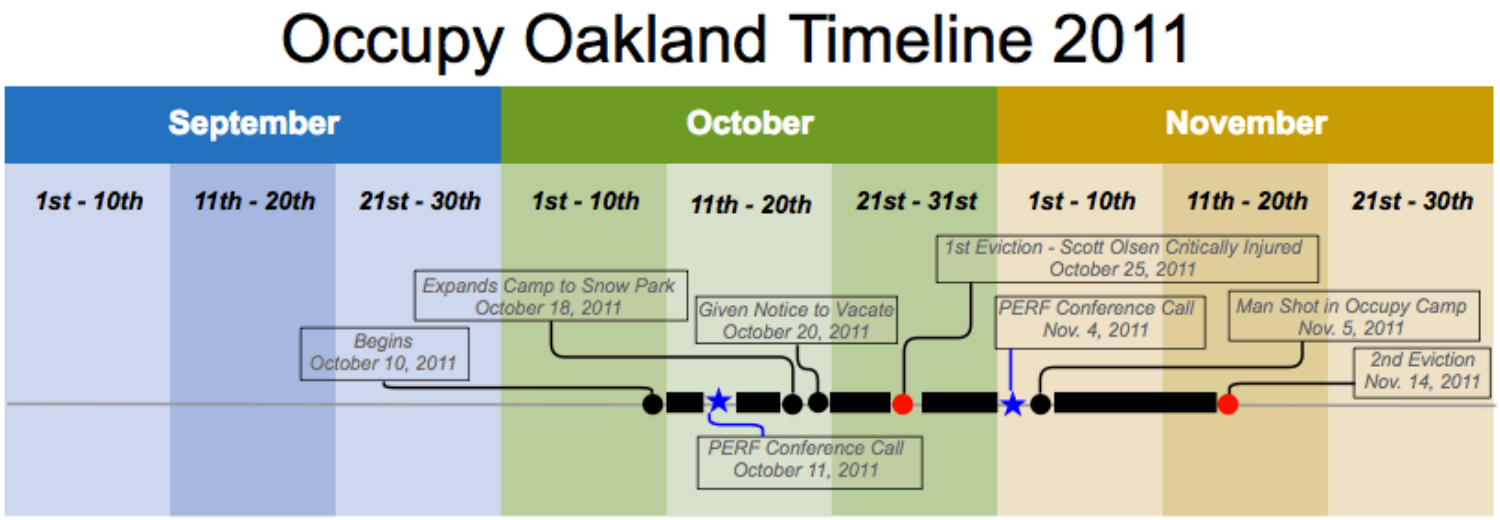

Figure 4. Occupy Oakland Timeline 2011

[206] In an effort to protect the identity of some sources and to respect their request to remain anonymous, I will indicate when sources will not be named as I have done with this quote.

Oakland's Occupy Movement wasn't the first or even the largest of the Occupy Movements; it was however, noteworthy for the reported volume of violent encounters between police and activists. As a major American city, the events in Oakland serve to illustrate what can happen when governments respond in a chaotic and often unstructured way. In this chapter, I articulate how fluctuations in leadership direction and decision-making contributed to violence that spread to other Occupy camps in other cities. These conflicts would lead to "double duty" in the form of a second eviction to evict activists.

Oakland is not known for a financial district or for being the home to any large corporate banks. Rather, Oakland is often considered a blue-collar neighbor to San Francisco, known for shipping—nearly 200,000 jobs are associated with the port and its transportation of cargo.[207] So when, on October 10, 2011, first one tent, then another, and another appeared on the green grass of Frank Ogawa Plaza, many watched in disbelief and, in many ways, underestimated the significance of what was occurring. Less than 15 minutes from Berkeley, California, and its storied history of demonstrations and protests, Oakland, with its weather and potential union support was an ideal location for a protest of this scope.

A. THE PROTEST

Protesters in Oakland rallied and marched downtown on Monday, October 10, 2011, gathering in Frank Ogawa Plaza. The plaza, renamed in 1998 in honor of the late Oakland City Councilmember Frank H. Ogawa who served from 1966 to 1994, was itself representative of protest and the expression of dissent. Ogawa, a recognized civil rights leader, a survivor of Japanese internment camps during World War II, and who died in 1994, seemed a fitting representative of the culture of civil dissent and protest of the Bay Area. The 160,000 square foot plaza provided protesters with a grassy commons area and an amphitheater next to City Hall.[208] The occupiers unofficially renamed the plaza

[207] "Oakland: Economy—Major Industries and Commercial Activity," City Data, accessed October 4, 2013, http://www.city-data.com/us-cities/The-West/Oakland-Economy.html.

[208] Thelton Henderson, "Intruders Disrupt Seattle Occupy Marches," *UPI News*, May 2, 2012, http://www.upi.com/Top_News/US/2012/05/02/Intruders-disrupt-Seattle-Occupy-marches/UPI-19701335943800/.

"Oscar Grant Plaza" in memory of an unarmed black man who had been shot by Bay Area Rapid Transit police New Year's Day in 2009. Grant's shooting had sparked other protests and increased anti-police sentiment that lingered in the Bay Area.

The initial protest started on that rainy Monday and a crowd estimated at about 500 converged on the plaza.[209] By the end of that first day, there were between one and two-dozen tents in the plaza. Like other Occupy factions throughout the country, ascribing a clear message to the group was difficult. Recognizing the disjointed messaging that was occurring, a protester called for labor union support and explained to a local news reporter that it would take time before a clear message could be discerned.[210] She went on to say that what was occurring in Oakland, while different from what was occurring in San Francisco, New York, and other cities, was in fact an organic coming-together of people on common ground that was occurring rapidly.[211]

Frank Ogawa plaza is a triangle shaped area surrounded on two of the three sides by city owned and operated buildings. As a consequence of Oakland's wet weather, the grassy commons area quickly became muddy. According to sources within the police department who wished to remain anonymous, protesters brought in hay bales, wooden pallets, and 2 X 4s and laid them down to form walkways through the encampment. Within those first few hours, the protesters had set up kitchen and childcare areas and appropriated electricity from plugs located on top of the plaza's light poles. Officers initially requested direction as to how to deal with those who were erecting more permanent structures and tents. Emails exchanged between city leadership indicate that the city allowed the camp to form as a means of showing the city's desire to support the First Amendment rights.[212] Figure 5 is a map of the Occupy Oakland camp and immediate surrounding area.

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[209] Mark Matthews, "Roughly 500 Show up at Occupy Oakland Protest," *ABC Local*, October 10, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8386607.

[210] Ibid.

[211] Ibid.

[212] Daniel Willis and Thomas Peele, "In Their Own Words: Occupy Oakland According to City Officials—Part 2," *Contra Costa Times*, February 26, 2011, http://www.contracostatimes.com/ci_20040091.

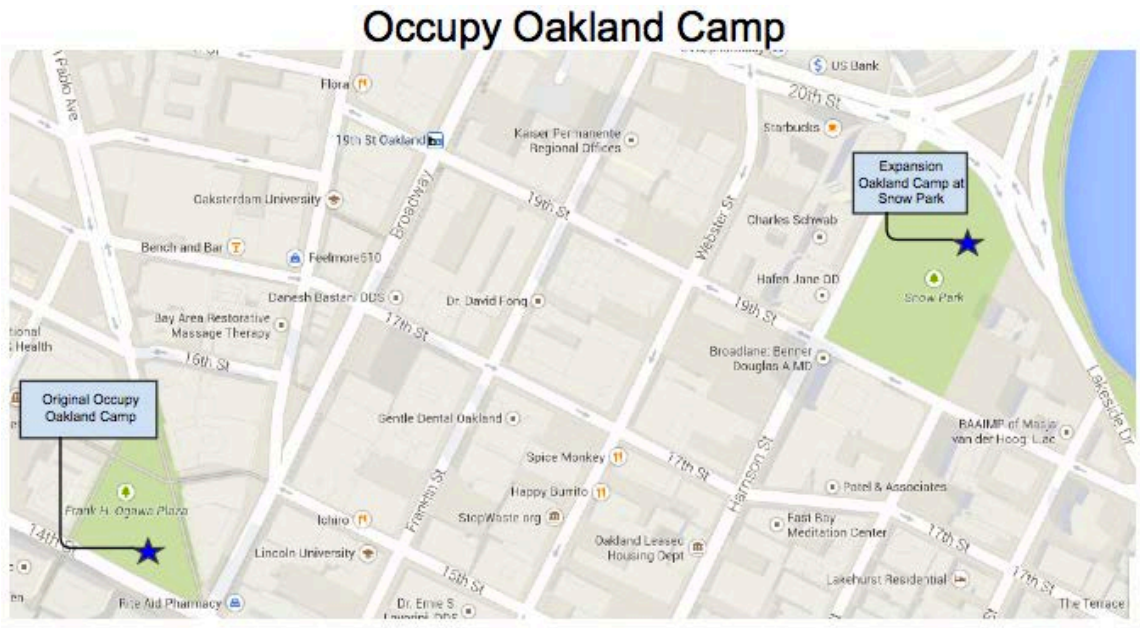

Figure 5. Occupy Oakland Camp[213]

As the occupation progressed and media attention increased, two Oakland city council members not only joined the occupation in spirit but in the tents as well. At least one council member spent two nights in tents alongside the others protesters who started the encampment.[214] As in other cities, support for the protesters, came from multiple sources. The Oakland Education Association teachers' union and the Service Employees International Union (SEIU) supplied port-a-potties and a large portable sink; homeless shelters provided food and clothing and the occupiers themselves collected donations.[215] A finance committee was among a dozen committees established by the "leaderless" group in the days that followed the start of the occupation.[216] Others came with a generator for power and, following the lead of Occupy Wall Street, laid the ground work

213 Created by author in Google Maps.

214 Sean Maher, "Rats and Drugs Mar Occupy Oakland Tent City, Officials Say," *Mercury News*, October 18, 2011, http://www.mercurynews.com/bay-area-news/ci_19139574.

215 Dave Id, "Occupy Oakland Grows and Builds out Infrastructure on Day Two, 10/11/11: Photos," *IndyBay*, October 12, 2011, http://www.indybay.org/newsitems/2011/10/12/18693207.php.

216 "Online Funding Pipeline Fueling Occupy Movement," KTVU, November 8, 2011, http://www.ktvu.com/news/news/occupy-oakland-makes-plans-thousands-donations/nFYRb/.

for bicycle-generated power to be finalized over the course of the following few days.[217] Mayor of Oakland Jean Quan was also quoted early on as telling the occupiers that they could stay as long as they liked so long as they respected the oak tree in the plaza and did not urinate underneath it.[218]

Absent the signs of protest, the encampment seemed to resemble a block-party where even the local fire fighters union offered to cook for those camping on the plaza—one Oakland resident even called it a "carnival atmosphere."[219] In keeping with the demographic makeup of other Occupy movements, the initial Occupy Oakland protesters were a diverse group. Made up of a broad spectrum of people who were postal and other federal employees to unemployed musicians with a desire to "be a part of something," the Occupy Oakland members took turns speaking to the gathered media and one another in the plaza during the first days of protest. During the first days of protest, the protesters remained relatively contained within the plaza.

On October 15, 2011, in celebration of the first month anniversary of the Occupy movement, protesters organized a march from Frank Ogawa Plaza to police headquarters and back. Prior to leaving the plaza on their march, they were addressed by film and television actor Danny Glover, who spoke from the amphitheater stage in support of the movement.[220] At the outset, Occupy Oakland seemed to be more oriented towards an anti-government tone than other cities whereas initial protests appeared to be more anti-income disparity leaning. The protesters were met at the detention facility by lines of police officers already decked out in riot gear.[221] Officers along the way had positioned barricades and facilitated the group's crossing of streets. The group was reportedly

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217 Id, "Occupy Oakland Grows and Builds."

218 Ibid.

219 Matthai Kuruvila, "Occupy Oakland Shuts Streets, Defy Eviction Order," SFGate, October 23, 2011, http://www.sfgate.com/bayarea/article/Occupy-Oakland-shuts-streets-defy-eviction-order-2326348.php#src=fb.

220 "Danny Glover Speaks to Occupy Oakland, October 15, 2911," YouTube video, posted by KPFA News, October 15, 2011, http://www.youtube.com/watch?v=50IXNRiIuWg&feature=youtube_gdata_player.

221 Sergio Quintana and Tihanna McCleese, "Occupy Oakland Holds Short March during Rush Hour," *ABC Local*, October 15, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8392891.

confrontational but non-violent.[222] Some protesters remarked to local media about solidarity with police because many felt that police were hurt by the economy just as the protesters themselves were.[223]

B. EXPANSION OF THE ENCAMPMENT

By October 18, 2011, Frank Ogawa Plaza had reached its capacity. Police refused to allow additional campers to expand onto the concrete areas surrounding the plaza and those who wished to join the rest were prevented from doing so. The protesters were not just from Oakland. After-action reports outlined questions regarding the number of out-of-town arrestees, indicating that there was at least a perception that protesters were coming from outside the city of Oakland. The homeless population in and around the plaza grew steadily as the encampment continued.[224]

On that Tuesday, while city officials began to warn of a possible need to evict occupiers from the plaza due to health concerns, a group of protesters expanded the encampment by moving to Snow Park.[225] Media outlets reported that numbers of protesters in the park had been growing steadily throughout the evening and at that time numbered about two-dozen.[226] Unlike in Frank Ogawa Plaza, this time police warned protesters that they would be required to leave the park by 10:00 p.m. At about 8:30 p.m. a group of protesters held something of a General Assembly meeting in Snow Park and tried to reach a consensus on what actions they would undertake should the police attempt to enforce the order to vacate after 10:00 p.m. Some protesters told local media that they would opt to leave the park peacefully, and others voiced their intent to be peacefully arrested. However, that deadline came and went with no police action. Police Chief Jordan visited the camp at Snow Park and observed that there were no signs in

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[222] Ibid.

[223] Ibid.

[224] "Occupy Oakland Encampment Includes Liberals, Homeless, Drifters & Anarchists," *CBS Local*, November 8, 2011, http://sanfrancisco.cbslocal.com/2011/11/08/occupy-oakland-encampment-includes-liberals-homeless-drifters-anarchists/.

[225] John Alston, "'Occupy Oakland' Takes over a Second Park," *ABC Local*, October 18, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8396951.

[226] Ibid.

place advising of the park closure hours. According to an email he sent other city leaders, he could not take enforcement action until signs had been posted.[227] Public works agreed to have the signs erected later that day. There would be no police action, however, until the formal eviction operation occurred on October 25, 2011, and the population of occupiers held at about 25 until then.[228]

Alameda County Health Department officials toured the camp in response to reports of deteriorating conditions and an increase in the number of rats.[229] Protesters had brought furniture into their encampment, including couches and recliners that health officials cited as possibly contributing to the rodent problem.[230] The Oakland City administrator spokesperson, speaking to local news media, said although camping in the plaza was illegal, the city had been "accommodating it."[231] She also added that the city, "reserved the right to change its mind at any time," thereby putting the protesters on notice that there was no certainty as to the level of accommodation that the city was willing to extend.[232] This issue of safety versus free speech is addressed in Chapter VII.

The following day the city issued a "notice to vacate" to the protesters citing among other things fire and safety hazards, denial of access, sanitation and health hazards, physical damage and disruption of the plaza for public use.[233] Undeterred and still in place, the protesters planned and executed another march two days later.

Hundreds of protesters took to the streets of downtown Oakland on 22 October, making their way to join the others at Snow Park.[234] Officers helped the protesters by

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[227] "Documents: Oakland City Official Emails from Oct. 12 to Nov. 13, 2011," *Mercury News*, 269, accessed October 8, 2013, http://www.mercurynews.com/documents/ci_20040081.

[228] Frazier Group, LLC, *Independent Investigation Occupy Oakland Response October 25, 2011* (Oakland, CA: Frazier Group, 2012), 20, http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/webcontent/oak036236.pdf.

[229] Maher, "Rats and Drugs Mar Occupy Oakland."

[230] Ibid.

[231] Ibid.

[232] Ibid.

[233] Tihanna McCleese, "'Occupy Oakland' Protesters given Ultimatum," *ABC Local*, October20, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8400403.

[234] Kuruvila and Writer, "Occupy Oakland Shuts Streets, Defy Eviction Order."

clearing city streets blocks in advance of the marchers and facilitating their demonstration through the downtown area.[235] No formal leadership for the Occupy Oakland faction had made itself known and, as with other Occupy factions across the country carried itself as another leaderless movement where collective decisions were made and general assemblies got consensus of the participants. Local media attributed an initial non-confrontational tone of the march to the assistance of the police, not only allowing the march, but aiding in its movement.[236]

That cooperative scene changed, however, when the marchers reached the Wells Fargo and Chase Bank branches near Lake Merritt. The Wells Fargo employees quickly closed the branch but the Chase employees elected to keep the bank open. In short order, an estimated 75 protesters including masked anarchists entered the bank and began chanting, "Banks got bailed out! We got sold out!"[237] With that, several protesters began tearing and throwing hundreds of deposit slips into the air creating a mess inside the bank. Interestingly, at least one protester demanded that some of the protesters stay behind and help clean up the mess, which they did as shocked bank workers looked on with police standing by.[238]

On Monday October 24, 2011, the interim deputy fire chief looked out over Frank Ogawa Plaza in shock as she watched a fire grow larger and larger.[239] According to police and fire, they had been told by city officials, including Mayor Jean Quan to "respect the boundaries" of the plaza and refrain from taking enforcement action in the park.[240] The most enforcement action that Baker took that day was to go down to the edge of the encampment and express concerns to one of the protesters regarding the fire,

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[235] Ibid.

[236] Ibid.

[237] Ibid.

[238] Ibid.

[239] Showhana Walter, "Police and Firefighters Say They've Been Told to Respect the Camp's Boundaries, Despite Safety Issues," *The Bay Citizen*, October 24, 2011, https://www.baycitizen.org/news/occupy-movement/putting-out-fires-occupy-oakland/

[240] Ibid.

which was coming from a gas grill being used to cook food for the camp.[241] It was unclear whether the cooking fire was that large deliberately, caused as a result of the equipment used, or was simply out of control.

C. POLICE RESPONSE

On October 10, 2011, Anthony Batts, Chief of the Oakland Police Department (OPD), submitted his resignation effective immediately. Batts cited, as reasoning for his decision, his "having 20 percent control but full accountability."[242] Mayor Jean Quan did not lament the decision telling a local reporter, "I didn't ask him to leave, but if he were to leave this was a good time…"[243] Assistant Chief Howard Jordan was appointed acting chief of police and was immediately thrust into the middle of this growing protest.

According to sources that wished to remain anonymous, once the tents started to appear, police and firefighters were instructed not to proceed into the camp with fewer than four officers together following incidents where individuals and groups expressed hostility toward officers.[244] As mentioned, firefighters had been directed to take no enforcement action on the group within the camp. Chief Jordan had worked with Mayor Quan off and on for years as she had been involved not only in city government but also had served on the school board for a number of years.[245] In spite of what was characterized as a good working relationship, police leadership and the mayor had different philosophies on how to handle the protest. Mayor Quan came with a personal history of activism, and her initial accommodation of the occupiers conflicted with the desires of police leadership to enforce the law.[246] Oakland used a small detail of officers assigned to the downtown area that varied as the occupation continued with which to

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[241] Ibid.

[242] Lori Preuitt, "Oakland Police Chief Anthony Batts Resigns," *NBC Bay Area*, October 13, 2011, http://www.nbcbayarea.com/news/local/Oakland-Police-Chief-Anthony-Batts-Resigns-131545568.html

[243] Ibid.

[244] Anonymous source, personnal communication with author, September 10, 2013

[245] Matthew Artz, "Oakland Mayor Names New Chiefs for Police, Fire," InsideBayArea, February 1, 2012, http://www.insidebayarea.com/top-stories/ci_19868749.

[246] Matthai Kuruvila, "Quan Adviser Dan Siegel Quits over Occupy Oakland," SFGate. January 2, 2011, http://www.sfgate.com/politics/article/Becoming-mayor-after-years-of-fighting-authority-2479776.php#src=fb.

monitor the camp.[247] Monitor is used here as opposed to "patrol" the camp because as I illustrate, the police were soon put on notice that they were not welcome in the camp.

In contrast to other Occupy cities, Oakland police donned riot gear almost immediately. Oakland officers can be seen in news footage, wearing riot gear standing in front of police headquarters on October 15, 2011.[248] Because of personnel shortages, Oakland police were spread thinner with regard to officers devoted to traditional crime fighting with having to staff a response to the Occupy protests. According to police, this strategy quickly began to wear on the officers who worked the protest day in and day out.[249] Shortly before Occupy Oakland began, sworn officers in Oakland numbered under 650.[250] That was down almost 200 officers from a 2008 figure of 836 sworn officers, a reduction attributed to the economic downturn amounting to over a 20 percent reduction in force.[251]

D. SPATIAL CONTROL

Although ordinances were in place to prevent camping and sleeping overnight in public parks, like many other cities with Occupy protesters, Oakland allowed the encampment to continue. Emails between city leadership repeatedly expressed the desire for assessment and evaluation of "minor infractions" and a perceived need to take enforcement action.[252] There was no definitive statement about what would be allowed or prohibited with regard to the occupation of public spaces such as Frank Ogawa Plaza or Snow Park.

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[247] Anonymous source, personnal communication with author, September 10, 2013.

[248] Quintana and McCleese, "Occupy Oakland Holds Short March during Rush Hour."

[249] Tasneem Raja, "Open Letter from Oakland Police Union: 'We Are Confused,'" *Mother Jones*, November 1, 2011, http://www.motherjones.com/mojo/2011/11/open-letter-oakland-police-association-we-are-confused.

[250] Chip Johnson, "Oakland Police Reorganization a Strategic Plan," SFGate, July 8, 2011, http://www.sfgate.com/bayarea/johnson/article/Oakland-police-reorganization-a-strategic-plan-2355561.php#src=fb.

[251] Lee Romney, "Oakland Police Struggle to Rebuild: Using Fewer Resources," *Los Angeles Times*, May 18, 2013, http://articles.latimes.com/2013/may/18/local/la-me-oakland-police-department-20130519/2.

[252] Willis and Peele, "In Their Own Words."

A flyer distributed to Occupy Oakland protesters, dated October 12, 2011, advised them, "Keep in mind that regardless of your first amendment right, the City reserves the right to control the time, manner and place of your speech."[253] This idea was reinforced when the encampment was expanded to include Snow Park. Protesters were warned that they would not be allowed to stay but when the 10:00 p.m. deadline came and went with no enforcement action whatsoever, protesters were emboldened with a sense of accomplishment.[254]

In additional emails back and forth between the Assistant to the City Administrator and the Mayor's Communication Manager, the two discussed the hope that the lack of space in the plaza would be containment enough.[255] These email exchanges indicated the frustration and impotency of the police as the occupation continued. One Oakland Police Deputy Chief expressed this frustration in an email dated October 17, 2011 when he told the Assistant to the City Administrator:

> Another note: The campers formed a skirmish line to prevent OPD from entering the plaza (50–75 people). This is the action we can expect every time OPD arrives on the scene. We can expect to be confronted and challenged every time we arrive to investigate a complaint. This leaves us unable to investigate anything in the plaza.[256]

The fears were twofold; the city administration feared appearing "toothless" on one side and "heavy handed" on the other.[257] They chose instead to work on their image with the media, in an odd move by restricting the space of the media. After one member of the media was bitten by a protester's dog in camp, instead of discussing the seizure of the dog, quarantine of the animal or possible charges against the owner, the prevailing discussion between police and the Assistant to the City Administrator, was the warning to

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[253] Arturo Sanchez, "Memo from City of Oakland to Occupy Oakland Protesters Dated October 12, 2011" (Oakland, CA: City of Oakland, 2011), http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/procedure/oak031712.pdf.

[254] Alston and Staff, "'Occupy Oakland' Takes over a Second Park."

[255] "Documents: Oakland City Official Emails from Oct. 12 to Nov. 13, 2011," *Mercury News*, 151.

[256] Ibid., 227.

[257] Willis and Peele, "In Their Own Words."

the media not to block the sidewalks at the direction of "MJQ" (assumedly "Mayor Jean Quan").[258]

Mayor Quan took a few minutes to address the Occupy Oakland group during their General Assembly meeting. In spite of having been overtly hostile to police and media, they permitted her to address the group. She spoke briefly, warning them about not damaging the historic oak tree.[259]

City officials continued an email discussion of a policy related to the allowance of camping some five days into the encampment.[260] Police expressed concern about their already diminishing resources being unable to monitor any additional camps. Deputy Chief Israel recommended no additional camps being allowed in an email stating, "We should limit where the City will tolerate violations of the law in the interest of exercising the First Amendment and balancing the public's right to enjoy the rest of the City's parks."[261] Oakland's City Administrator replied later that there would be no other camping allowed and asked to be advised of "when and where we'll be preventing camping."[262] Still the message coming in email form from the Chief of Police was one of cooperative effort.[263]

E. SOCIAL MEDIA AND TECHNOLOGY USE

There is little evidence that Oakland police used social media in any way to broadcast helpful information to its citizens during the occupy movement. In fact, the Oakland Police Department did not establish a Facebook account until September 16, 2013, two years after the Occupy encampment was evicted.[264] On October 25, 2011, Oakland PD did tweet the link to a press release titled "Occupy Oakland Activity

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258 "Documents," 227.

259 Ibid, 244.

260 "Documents: Oakland City Official Emails from Oct. 12 to Nov. 13, 2011," *Mercury News*.

261 Ibid., 172.

262 Ibid., 176.

263 Ibid., 197.

264 "Oakland Police Department Facebook," posted May 13, 2013, https://www.facebook.com/pages/Oakland-Police-Department/158045635105

Update," which attempted to answer why action was taken, what the health and safety concerns were, and finally why the action was undertaken in the early morning hours, referring to the eviction of Occupy Oakland that is discussed below.[265] The next three tweets came on December 12, 2011 in response to the Occupy march on the Port of Oakland.[266]

In similar fashion to other Occupy factions, Occupy Oakland broadcast its General Assembly meetings via livestream.com. In contrast to some other camps, however, Occupy Oakland did not have a host of advanced technology. A primary contributor to the live streaming of events came from one person with a smart phone, its eight megapixel camera and Internet access.[267] The fact that someone even broadcast the eviction of Occupy Oakland on October 25 was the result of Twitter. At 2:30 a.m. on the October 25, someone tweeted about the Oakland Police "raiding" the Occupy camp and curious citizen hopped out of bed, threw on some clothes and drove into downtown Oakland to broadcast the action.[268] According to reports, nearly 60,000 people viewed this transmission of Occupy Oakland events over the course of the next few days.[269]

F. POLICE SURVEILLANCE

By monitoring the Occupy Oakland livestream.com feed and the Occupy Oakland Facebook, the Oakland Police Department were able to gather intelligence information with little effort. Similar to the NYPD, the department also was not posting information related to Occupy, such as street closures, marches or other information to assist those potentially affected by the protests. The Oakland police did use live streaming technology but did not broadcast it to the general public. They equipped two officers at a time with video streaming equipment in backpacks and deployed them covertly among the

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265 "Oakland Activity Update," October 25, 2011, https://twitter.com /oaklandpoliceca.

266 Ibid.

267 Angela Woodall, "An Accidental Social Media Phenomenon Emerges from the Occupy Oakland General Strike," *Contra Costa Times*, November 6, 2011, http://www.contracostatimes.com/news/ci_19278377?source=rss.

268 Ibid.

269 Ibid.

protesters. The live stream was broadcast back to the police department's command post where commanders were able to review it. A group formed dedicated to monitoring police actions produced a video that identified some Oakland police officers who patrolled the encampment in a covert capacity with this equipment.[270] Links to the video were tweeted and became so popular on social media circles that social media "friends" of involved officer, Fred Shavies, alerted him to it. He responded to the newfound notoriety by addressing it using his personal twitter account. He announced that he attended the Occupy functions in both his professional role as a police officer and off duty on his own time.[271] He went on to add, in an exchange with the producer of the original video, that he thought the idea that someone could "infiltrate a transparent and leaderless movement is comical."[272] He later spoke to that group and produced another video for the web outlining his views.[273]

In addition to their mobile deployable streaming cameras, the Oakland Police Department also relied on assistance from the Bureau of Alcohol Tobacco and Firearms (ATF). Officers involved in response who wished to remain anonymous, advised that the ATF installed some covert "pole cameras" around and directed toward Frank Ogawa Plaza. In my experience, many of these cameras operate via a cellular data collection and can provide multiple users with access to the video feed. The feed can also be accessed via a laptop or mobile device with Internet access.

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[270] "Berkeley Copwatch," Berkeley Copwatch, October 10, 2013, http://www.berkeleycopwatch.org/; "Copwatch@Occupy Oakland: Beware of Police Infiltrators and Provocateurs," YouTube video, posted by Jacob Crawford, October 28, 2011, http://www.youtube.com/watch?v=VrvMzqopHH0&feature=youtube_gdata_player.

[271] Robert Mackey, "Police Officer Accused of Infiltrating Occupy Oakland Says He Supports the Movement," *The Lede*, November 14, 2011, http://thelede.blogs.nytimes.com/2011/11/14/police-officer-accused-of-infiltrating-occupy-oakland-says-he-supports-the-movement/.

[272] Ibid.

[273] In general, individual officers' activities on social media related to Occupy was outside the scope of this thesis. Officer Shavies' interactions on social media were included because they received media attention, were more extensive than a single post or tweet, and because he was identified as a covert officer monitoring the Occupy Oakland group.

Just as New York did, Oakland PD employed a long range acoustic device (LRAD) to "loud hail" the crowd.[274] Anonymous sources advised that they borrowed two other LRAD devices from other agencies and, although the devices have the ability to emit a deafening signal using alternating tones, the devices were only used to provide the crowds with information or to give them directions.[275]

G. THE EVICTION

On October 16, a protester was injured and the crowd of protesters prevented police and medical personnel from attending to him. This incident seemed to heighten tensions between protesters and police causing the police department to from then on, require a sergeant be notified of any requests for police inside Frank Ogawa Plaza.[276]

On October 18, 2011, the Assistant to the City Administrator distributed a flyer to a number of protesters in Frank Ogawa plaza. The flyer articulated the violations that had been occurring and that those staying in the plaza needed to cease and withdraw from the plaza. According to Sanchez, "The flyer was not well received by the protesters.[277] According to police the conditions in camp were deteriorating.[278] The strain on regular crime fighting resources increased as they were called upon to staff the marches. An Oakland Deputy Chief, in an email to the Chief of Police expressed this concern in discussing two additional marches planned for the afternoon and evening of the eighteenth.[279]

As a result, officers from Santa Clara, San Francisco County Sheriff's Office, Palo Alto and other departments in the area were called in to assist. Police planned operations for the early morning hours of October 25, 2011. Mayor Jean Quan was out of

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274 Xeni Jardin, "Occupy Oakland: Riot Police Use Tear Gas, Other Nonlethal Weapons on Protesters," Boing Boing, October 25, 2011, http://boingboing.net/2011/10/25/occupy-oakland-protesters-face-off-with-riot-police-after-chaotic-day-of-evictions-arrests.html.

275 Howard Jordan (Chief of Police (ret), Oakland PD), personal communication with author, October 2, 2013.

276 "Documents: Oakland City Official Emails from Oct. 12 to Nov. 13, 2011," *Mercury News*, 203.

277 Ibid., 325.

278 Maher, "Rats and Drugs Mar Occupy Oakland."

279 "Documents: Oakland City Official Emails from Oct. 12 to Nov. 13, 2011," *Mercury News*, 285.

town attending a conference and official emails indicate that Chief Jordan elected not to tell her of the eviction operation.[280] City administrators notified her when she returned home to Oakland later that day.

Over the preceding days, the city of Oakland put the Occupy faction on notice that they were about to be evicted from Frank Ogawa Plaza in the form of flyers and informal meetings with individual protesters. Oakland police relied on California Penal Code 647(e) (misdemeanor) Disorderly Conduct as their basis for evicting the protesters. The section stated that a person committed the offense of disorderly conduct by lodging in a "place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it."[281] This was in contrast to cities like Dallas and New York who used ordinances related to park occupancy hours as the legal justification for eviction.

The city activated and staffed its Emergency Operations Center (EOC) on the morning of the October 25 in concert with the 2:00 a.m. staging time. All OPD resources and outside agencies staged at the Oakland Coliseum, about six miles away from Frank Ogawa Plaza. Staging units were briefed on the operation and prior to deployment formed into their teams. OPD rented 25 vans to transport its personnel to the operations area. The bulk of the almost 500 law enforcement officers assigned work the first operational period of the eviction operation were OPD officers. In a move that tipped off the protesters to the impending raid, immediately prior to commencing eviction operations members of the California Highway Patrol, working in support of the operation reportedly drove by the plaza with their lights and siren activated or "Code 3.""[282] Officers quickly moved into position and began their eviction operations in spite of rocks and bottles being thrown by a small number of protesters. Interestingly, officers

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[280] Shoshana Walter, "Mayor Reopens Plaza to Protesters, Promises Dialogue and 'Minimum Police Presence' If Demonstrations Stay Peaceful," *The Bay Citizen*, October 27, 2011, /news/occupy-movement/quan-shunned-reverses-occupy-ban/.

[281] "CAL. PEN. CODE § 647 : California Code - Section 647(e)," FindLaw for Legal Professionals, accessed October 11, 2013, http://codes.lp.findlaw.com/cacode/PEN/3/1/15/2/s647.

[282] "Code 3" indicates that officers were driving with their lights and sirens activated. Oakland Police Department, *After Action Report: Oakland Police Department: Analysis of Operation BF01-2011-000 - October 25, 2011* (Oakland, CA: City of Oakland, 2012), 18.

observed a number of protesters circling the plaza and surrounding area and considered them to be acting as counter-surveillance.

Oakland Police used three mobile field force companies to facilitate the eviction.[283] They put those forces under the command of three Oakland police captains. Two of the forces were made up exclusively of Oakland personnel; the third was a mix of officers from Berkeley PD, Pleasanton PD, and UC Berkeley PD. This configuration would prove problematic. Oakland Police tasked the eviction of certain portions of the plaza to different field force elements.

Police gave protesters five minutes to evacuate the plaza, once the eviction operation commenced.[284] Considering the kitchen area to be potentially more dangerous, a "Tango Team" tossed a hand-deployed tear gas device near the southern end of the plaza as an "area denial" tactic.[285] Indications are that there was a breakdown in communication at this time when field force officers were then told to don their gas masks *after* the deployment of gas. In spite of some confusion, officers succeeded in clearing the plaza within about an hour and public works crews set about cleaning up. A field force company was sent to Snow Park and immediately began clearing out the Occupy protesters there as well. By 10:00 a.m. the plaza and park were clear and perimeter officers reported dealing with occasional small groups of protesters attempting to regain access to Frank Ogawa Plaza. Several temporary metal barricades were stored near the plaza as initial operations came to an end.

The initial plan had been to evict the protesters and then allow them access to the plaza after it had been cleaned later that same day. Oakland PD had no plans to keep protesters from accessing the plaza or the park following the initial operational period. By 2:00 p.m. that afternoon the initial officers had been on duty for 12 hours. The second operational period commenced with a much smaller group of officers.

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[283] Mobile field forces are designed around squads generally made up of a sergeant and seven officers. A collection of six or more squads generally makes up one company but this is neither universal nor required.

[284] Oakland Police Department, *Oakland After-Action Report*.

[285] Ibid., 15.

Between 3:00 p.m. and 4:00 p.m. the protesters gathered together in downtown Oakland and held a General Assembly meeting where they voted to reoccupy the plaza.[286] Their initial clash with police that afternoon occurred in front of the public library. An estimated crowd of 400–500 protesters moved down Broadway and police deployed gas, redirecting them toward Frank Ogawa plaza.[287] At about 7:45 p.m. in a much publicized and violent clash with Occupy Oakland protesters, a member of the Oakland police department fired what is believed to either be a beanbag round or a tear gas projectile, which then struck former Marine, Iraqi war veteran, and Occupy Oakland protester Scott Olsen in the head causing serious injury.

As fellow protesters rushed to his aid, a police officer could be seen throwing a secondary explosive device into the group of those helping.[288] In one video posted on social media and broadcast on Democracy Now, protesters could be seen throwing active canisters of tear gas back across an approximately 30' divide at police. According to Jesse Palmer, an Occupy Oakland activist speaking to Democracy Now, people were dispersing and not advancing on the officers.[289] The shooting of Olsen set off a series of reactions in multiple cities with Occupy protest contingents. In New York, members of a chapter of Iraq Veterans Against the War, told media that following the news of the shooting of Olsen, their membership grew quickly. A post on the Facebook page of Occupy Dallas put it simply, "We all stand in solidarity with Scott Olsen."[290]

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286 Frazier Group, LLC, *Independent Investigation Occupy Oakland*.

287 Oakland Police Department, *Oakland After-Action Report*.

288 A similar device is made by Defense Technology and carries 15 32-caliber rubber balls that, according to the manufacturer's description, "…detonate in a 50' circular pattern, spraying rubber pellets with micro-pulverized chemical agent." They are commonly used for riot control and in prison settings. Chief Supply, "Defense Technology 32-caliber Stinger Rubber Ball Grenades, 15 Rubber Pellets," accessed October 18, 2013, http://www.chiefsupply.com/defense-technology-32-caliber-stinger-rubber-ball-grenades-15-rubber-pellets.html. "Iraq War Vet Hospitalized with Fractured Skull After Being Shot by Police at Occupy Oakland Protest," Democracy Now!, October 27, 2011, http://www.democracynow.org/2011/10/27/iraq_war_vet_hospitalized_with_fractured.

289 Ibid.

290 "Occupy Dallas: We All Stand in Solidarity with Scott Olsen," Occupy Dallas Facebook, November 13, 2011, https://www.facebook.com/OccupyDallas/posts/284724021559377.

Mayor Jean Quan was immediately criticized for the decision to evict the protesters from the plaza.[291] She responded by pointing out that she was not aware of the planned police action because she had been on a trip to Washington, DC at the time of the raid. That also stood in contrast to other statements attributed to her that said she "was forced to act because of the unsanitary condition of the protests."[292] Chief Howard Jordan cited deteriorating conditions in the camp as the reason they moved to evict.[293] Contributing to the contradicting and confusing statements, the official press release from the city of Oakland said that the loud noises heard during the eviction were caused by protesters throwing fireworks at police when in fact the chemical agents (tear gas) used by police generated similar explosions.[294]

Two protests were held in the two days immediately following the eviction. Both were peaceful and drew an estimated 1000 people. The following week, Occupy Oakland called for a massive strike over their primary complaint of economic inequality. The Oakland Police Officers Association, responding to what they believed was a laissez-faire approach from Mayor Quan, released an open letter to the Mayor declaring their confusion about their directions.[295] Three separate protests took place on November 2, 2011 and, according to the Police Association, city of Oakland employees (with the exception of police officers) were allowed to participate in the demonstrations.[296] The Occupy protesters in Frank Ogawa plaza grew quickly to numbers that, according to the police association, eclipsed the original pre-eviction numbers.[297]

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[291] Kristin Bender, "Occupy Oakland Protesters Return Downtown to Claim Frank Ogawa Plaza," *Mercury News*, October 26, 2011, http://www.mercurynews.com/ci_19197518.

[292] Sajid Farooq and Lori Preuitt, "Cops Raid Occupy Oakland Camp," *NBC Bay Area*, October 25, 2011, http://www.nbcbayarea.com/news/local/Occupy-Oakland-Gets-Shut-Down-132527503.html.

[293] Bender, "Occupy Oakland Protesters Return."

[294] City of Oakland, "Oakland Press Release RE: Eviction of Occupy Oakland" (Oakland, CA: City of Oakland, CA, 2011), http://www2.oaklandnet.com/oakca/groups/cityadministrator/documents/pressrelease/oak031911.pdf.

[295] Kevin Fagan and Demian Bulwa, "Oakland Police Union: 'We Are Confused' by Quan," SFGate, November 1, 2011, http://www.sfgate.com/bayarea/article/Oakland-police-union-We-are-confused-by-Quan-2324820.php#src=fb.

[296] Ibid.

[297] Ibid.

A local news helicopter broadcast images of thousands of protesters marching into the Port of Oakland, and some local media put the estimates at 100,000.[298] The port was forced to cease operations for the day although the encounters at the port were nonviolent. According to a statement to the media, the closure of the port for the day had the potential to cost upwards of $8 million dollars.[299] An encounter between a motorist and protesters walking in the streets of downtown Oakland was also captured on amateur video and resulted in a violent confrontation between the occupants of the vehicle and the crowd of protesters.[300] Media coverage of the incident indicated that police investigated the incident and released the motorist, which appeared to add to the anger of the protesters directed at police.[301]

Protesters lingered on the city streets of Oakland in masse on November 3. As they stood back from police by some 30 to 50 feet, a self-described videographer named Scott Campbell walked parallel to a stationary police line in the downtown area recording a video of officers. On the video, Campbell can be heard asking the officers twice, "Is this ok?"[302] Campbell continued to move to his right, across a blocked street and when he almost reached the other side, an Oakland police officer shot him in the thigh with a bean-bag round without apparent provocation on the part of Campbell. Officers' body

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298 "Raw video: NewsChopper 2 Footage of Huge Crowd Marching to Port of Oakland," *KTVU*, accessed October 21, 2013, http://www.ktvu.com/videos/news/raw-video-newschopper-2-footage-of-huge-crowd/vD4mx/; Zennie62, "Occupy Oakland Strike Draws 100,000; Violence Caused by 100," *City Brights: Zennie Abraham* [blog], November 3, 2011, http://blog.sfgate.com/abraham/2011/11/03/occupy-oakland-strike-draws-100000-violence-caused-by-100/.

299 "Occupy Oakland General Strike Shuts down Port; Anarchists 'Bent on Creating Problems,'" *CBS Local*, November 11, 2012, http://sanfrancisco.cbslocal.com/2011/11/02/general-strike-protesters-shut-down-port-of-oakland/.

300 "Occupy Oakland Protesters Stop and Attack Car and Get Ran Over," YouTube video, posted by DiSaStaCaPiTaLisM, November 3, 2011, http://www.youtube.com/watch?v=HxAahGg1CyQ&feature=youtube_gdata_player.

301 "Occupy Oakland General Strike Shuts down Port; Anarchists 'Bent on Creating Problems.'" *CBS Local*.

302 "Shot by Police with Rubber Bullet at Occupy Oakland," YouTube video, posted by antiprocon, November 5, 2011, http://www.youtube.com/watch?v=I0pX9LeE-g8&feature=youtube_gdata_player.

camera footage confirmed the incident from an alternative angle and is disturbing to watch.[303]

Protests continued on an almost daily basis for the next week and a half. On November 4, 2011, multiple cities' police chiefs and other city leaders joined in on a second conference call (the first occurred almost a month prior on October 11, 2011) facilitated by the Police Executive Research Forum (PERF).[304] According to Chuck Wexler, Director of PERF, the calls came about as a result of the chiefs of police of Boston and Portland, Oregon making the request for a conference call. Wexler told multiple sources that they extended the invitation to police agencies and that to his knowledge no federal agencies took part in the calls.[305]

The situation in and around the encampment in Frank Ogawa plaza spiraled downhill rapidly. The Occupy Oakland General Assembly voted to withdraw a resolution they had originally agreed upon to remain peaceful in their demonstrations.[306] In response, the city turned off both the streetlights and nearby water faucets that the protesters relied on for water.[307]

The next day during the 5:00 p.m. evening rush hour, violence erupted at the edge of Occupy encampment in Frank Ogawa plaza. What local media described as having started with a couple of people getting into a "scuffle" escalated into a shooting leaving

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303 "New Footage: OPD Shooting of Scott Campbell at Occupy Oakland," YouTube video, posted by WeCopwatch, July 3, 2013, http://www.youtube.com/watch?v=0pfL9HkBnCk&feature=youtube_gdata_player.

304 There were conflicting media reports regarding the dates of the various conference calls. Based on my research and statements by Chuck Wexler in those media accounts, this is the most accurate timeline I could determine. Kroll, "Mayors and Cops Traded."

305 "Former Seattle Police Chief Norm Stamper on Paramilitary Policing From WTO to Occupy Wall Street," Democracy Now*!*, November 17, 2011, http://www.democracynow.org/2011/11/17/paramilitary_policing_of_occupy_wall_street.

306 "Protesters Withdraw Resolution to Remain Peaceful," YouTube video, posted by ABC-7 News, November 19, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8427150.

307 "Shots Fired near 'Occupy Oakland,' One Dead," *ABC Local*, November 10, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8427634.

one person dead.[308] This reinvigorated the call for the shutting down of the encampment and Frank Ogawa Plaza was about to be cleared again.[309]

On the evening of Sunday November 13, 2011, Occupy Oakland held a General Assembly where they briefly discussed an imminent anticipated eviction by police.[310] Some of the protesters called for a condemnation of violence while others advocated for a multitude of tactics. As the night turned to morning, a large crowd gathered. Police assembled with mutual aid from the "San Leandro, San Francisco, Hayward and Fremont police departments along with assistance from Alameda, Santa Clara and San Mateo county sheriff's deputies."[311] There was less emphasis on secrecy on this operation and Occupy Oakland clearly expected the police to come. This time a majority of the Occupy protesters left voluntarily ahead of the raid. A few protesters moved their tents from Frank Ogawa Plaza to Snow Park but by almost 4:30 a.m. a number of tents had already been taken down.[312] Police moved in, dressed in riot gear and shortly after 5:00 a.m., a group of about 200 officers had surrounded the camp and were preparing to systematically go through the camp, one tent at a time.[313]

They positioned themselves between the crowd at the intersection and the plaza. Unlike during the October 25, 2011 eviction of Frank Ogawa Plaza, the crowd refrained from throwing rocks and bottles at officers. Just over 30 protesters had chosen to remain in camp; they were arrested by 8:00 a.m. that morning. Those protesters that left Frank Ogawa Plaza intent on continuing the protest moved either to Snow Park, joining others already there, or pushed on to the outskirts of the downtown area.[314]

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[308] Ibid.

[309] In the days following the shooting, the victim was identified as Kayode Ola Foster who had been staying at Frank Ogawa Plaza. The shooting suspect was also reported to have been staying in the encampment in the days leading up to the shooting. "Shooting Victim Is Tied to Occupy Oakland," *LA Times L.A. NOW* [blog], November 13, 2011, http://latimesblogs.latimes.com/lanow/2011/11/shooting-victim-tied-to-occupy-oakland.html.

[310] Kristin J. Bender et al., "Occupy Oakland Live Blog: Police Outnumber Protesters at Ogawa Plaza," *Mercury News*, November 14, 2011, http://www.mercurynews.com/occupy-oakland/ci_19331752.

[311] Ibid.

[312] Oakland Police Department, *Oakland After-Action Report*.

[313] Ibid.

[314] Ibid.

By that evening, in an unprecedented move, two members of Mayor Quan's team had resigned. First to quit was her legal advisor, Dan Siegel and later the Co-deputy Mayor, Sharon Cornu, tendered her resignation.[315] Siegel stated that he "had come close to resigning over the city's first raid," and Cornu cited her belief that she was being ineffectual in her position.[316] Occupy Oakland protesters gathered by the hundreds in Frank Ogawa plaza once police reopened it later that afternoon. Police notified those protesting that the plaza closure hour of 10:00 p.m. would be strictly enforced. Police also repeated warnings about their intention to remove protesters although no specific timeframe was revealed. According to media accounts, by 11:05 p.m. there were fewer than 12 protesters left in frank Ogawa Plaza. In spite of their warnings to the contrary, Oakland Police declined to arrest any additional protesters that had elected to stay in the plaza after it closed. There were no tents or structures.

About 24 tents remained in Snow Park that Oakland police allowed to remain until November 21. The day following the highly publicized and controversial pepper-spraying of passively resisting students at the University of California Davis campus, Oakland police moved in and ordered those remaining in Snow Park to collect their belongings and leave.

According to an Oakland Police Department spokesperson there were no arrests.[317] This marked the last of the occupation for Oakland although not the last of the Occupy Oakland protests. On January 12, 2012, over 400 people were arrested after protesters reportedly gathered and marched to the vacant convention center building.[318] Oakland's protest policing tactics were again called into question when it was reported

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315 Jason Cherkis, "Mayor Jean Quan's Legal Adviser Quits Over Clearing Of Occupy Oakland Camp," *Huffington Post*, November 14, 2011, http://www.huffingtonpost.com/2011/11/14/mayor-jean-quans-legal-advisor-quits-over-occupy-oakland_n_1093019.html; Matthai Kuruvila, "Oakland Mayor Jean Quan's Top Staffer Resigns," *Politics Blog*, November 14, 2011, http://blog.sfgate.com/nov05election/2011/11/14/oakland-mayor-jean-quans-top-staffer-resigns/.

316 Ibid.

317 "Occupy Oakland Evicted, Police Scrutinized over Use of Pepper Spray," *U.S. News*, November 21, 2011, http://www.usnews.com/news/articles/2011/11/21/occupy-oakland-evicted-police-use-of-pepper-spray-under-scrutiny.

318 Sarah Maslin Nir and Matt Flegenheimer, "Occupy Oakland Protest Leads to Hundreds of Arrests," *New York Times*, January 29, 2012, sec. U.S, http://www.nytimes.com/2012/01/30/us/occupy-oakland-protest-leads-to-hundreds-of-arrests.html.

that they "kettled" protesters and made mass arrests.[319] This incident came shortly after a court-appointed monitor for the department "submitted a report to a federal judge that included 'serious concerns' about the department's handling of the Occupy protests."[320] Sporadic Occupy protests continue to this day but not with a true occupation of public space as was seen in the fall of 2011.

Oakland provides an interesting example of a chaotic experience in a complex adaptive environment of demonstrations and police action. I explain this in depth in Chapter VII on analysis. While the violence experienced in Oakland is what is often thought of, how Oakland failed to properly strategize and prepare for this prolonged demonstration is more valuable to police and city leaders. Oakland stands juxtaposed to New York with its overwhelming resources, with far fewer officers than it had only a few years prior. Likewise, Oakland's response stands in stark contrast to the approaches of Portland and Dallas, which follow in Chapters V and VI, as both used emergent strategies to respond to the Occupy Movement.

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[319] Kettling is the practice of blockading protesters and leaving them no avenues of escape. This tends to increase the tension and often requires higher levels of force by the police. It is against many departments' policies and procedures.

[320] Terry Collins, "400 Occupy Oakland Protesters Arrested," Pantagraph. January 30, 2012, http://www.pantagraph.com/news/national/occupy-oakland-protesters-arrested/article_fafbb746-4b5a-11e1-9cbc-0019bb2963f4.html.

V. OCCUPY PORTLAND

To assist the reader in understanding how events related to Occupy Portland occurred, Figure 6 is the timeline specific to Occupy Portland.

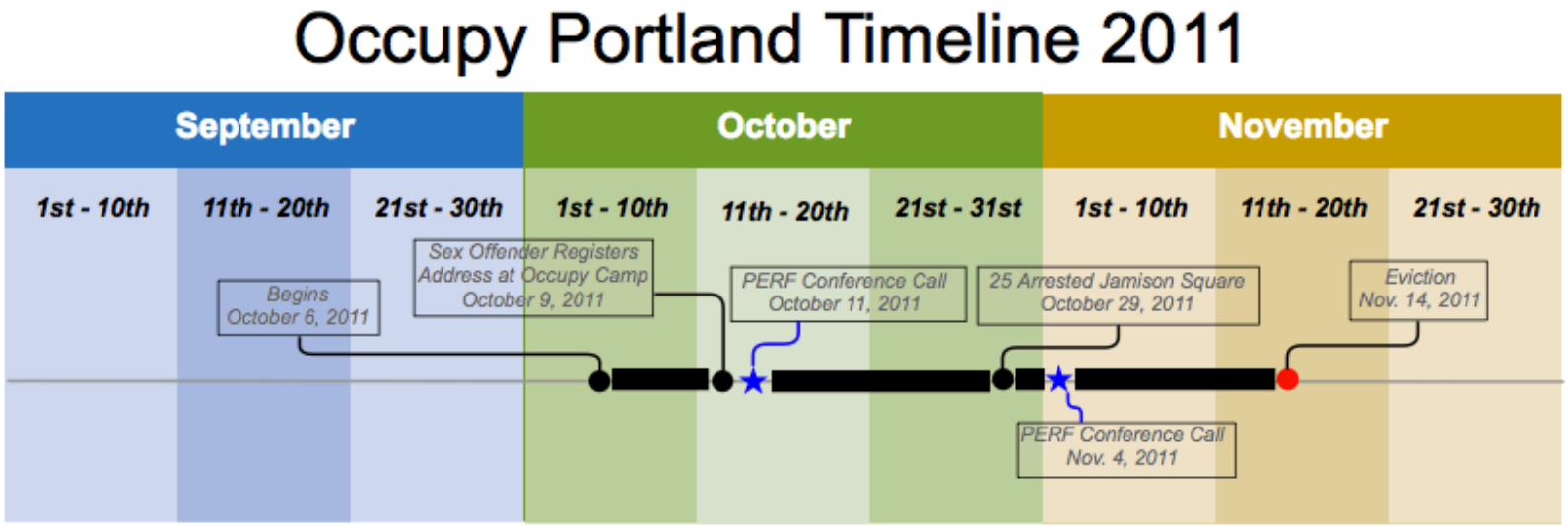

Figure 6. Occupy Portland Timeline 2011

A. THE PROTEST

On Thursday, October 6, 2011, Occupy Portland began as the Occupy Movement did in many of the other cities. Portland was different in at least one aspect and that was its size. Media outlets reported police estimates of the initial surge into the area of the Pioneer Courthouse in the area of about 4000 strong.[321] By mid-day however, the crowd had grown to excess capacity of the square's 10,000. Protesters were standing "elbow to elbow with people spilling out into surrounding streets."[322] As one article noted, "the cast of thousands…spent hours gathering, listening, chanting, marching and finally mostly leaving downtown unscathed…"[323]

Like the other cities in this study, Portland's occupiers were a diverse group primarily voicing dissatisfaction with what they termed income inequality and corporate greed. Unlike New York however, whose planning had begun in January 2011, the Portland event had been hastily thrown together in about two weeks.[324] In spite of the late start, Occupy Portland succeeded in eclipsing the crowds at the original Occupy Wall Street protest in New York. With the newness of the movement still intact, protesters declared that, while they did not have a permit, they were intent on being peaceful and marching.[325]

Recognizing the impact that the establishment of a camp in a major downtown urban area could have, the occupiers marched two blocks east and two blocks south to set up their initial camp in three contiguous parks (see Figure 7), Pioneer Square, Lownsdale Square, and Terry Schrunk Plaza while sporadically chanting, "Whose streets? Our

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321 "Occupy Portland: Protesters March, Begin to Fill Pioneer Courthouse Square," *The Oregonian—OregonLive*, October 6, 2011, http://www.oregonlive.com/portland/index.ssf/2011/10/occupy_portland_mayor_sam_adam.html.

322 Ibid.

323 Margaret Haberman, "Occupy Portland Hits Town with Cast of Thousands for Massive, Peaceful Demonstration," *The Oregonian—OregonLive*, October 6, 2011, http://www.oregonlive.com/portland/index.ssf/2011/10/occupy_portland_holds_massive.html.

324 Ibid.

325 Unknown woman in video. "Occupy Portland—Evolution of Democracy (Day 1)," YouTube video, posted by OccupyPDXloki, October 11, 2011, http://www.youtube.com/watch?feature=player_embedded&v=isWuatOKl6I.

Streets!"[326] Upon arriving at the parks, several pitched tents and camped with the city's approval, at least initially.[327] As the group continued into the park, the OccupyPortland.org film crew interviewed Lieutenant Robert King with the Portland police who advised that as of that time, the "event" had been peaceful and that there had been no arrests.[328]

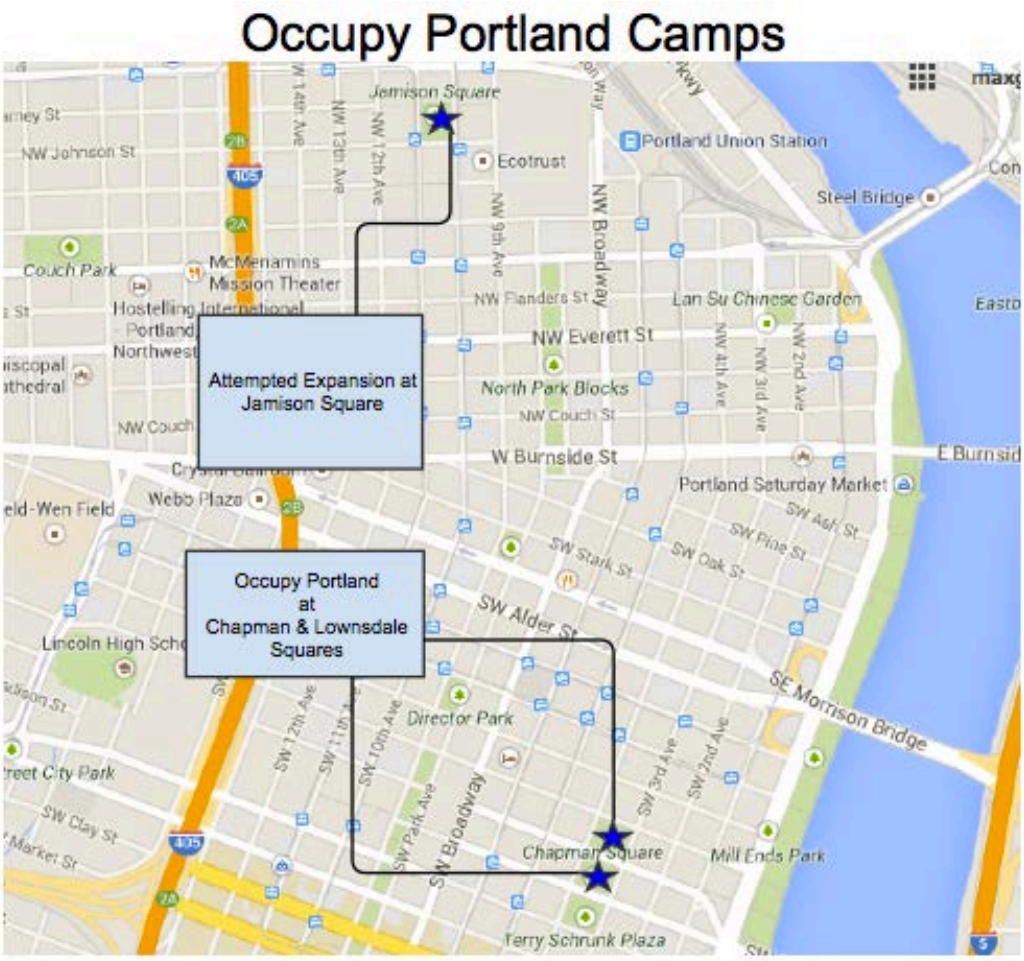

Figure 7. Occupy Portland Camps

326 Ibid.

327 Haberman, "Occupy Portland Hits Town."

328 "Occupy Portland...How the Police Should Treat Us," YouTube video, posted by Thomas Tullis, October 6, 2011, http://www.youtube.com/watch?feature=player_embedded&v=B0mPvHYQTPM#t=6s.

That Friday morning, shortly before the "People's Marathon"—so nicknamed for its policy of rewarding all finishers equally—marathon organizers agreed to allow the occupiers to continue to camp in Chapman Square.[329] Race organizers actually celebrated the presence of the protesters, citing the additional attention expected to be focused on the race as a result. Ultimately, race organizers blocked the view of the camp from the racers at the finish line remarking on concerns about safety and the need to prevent a pileup of runners.[330] Over 14,000 additional people were expected to be in the immediate vicinity of the occupiers as a result of the race.[331] Portland police noted no serious disruptions as a result of the race. Their only notable arrests came from the "tagging" of several locations, including one Portland police squad car, by two suspects.[332] Although the incident happened at 1:00 a.m., the suspects (who admitted to the offense) were caught with aerosol paints, stencils and "over 100 Occupy Portland flyers for posting…"[333]

Officers assigned to the Occupy encampment reported noteworthy incidents and arrests in "situation reports." In routine operations, police departments often use a similar form of reporting and call them "morning reports" or "chief's reports." They are intended as a means of communicating important highlighted information to oncoming watches and commanders. In Portland, these situation reports were circulated through the command ranks. Dallas used standard "morning reports" and emails to communicate noteworthy activity, Oakland used emails among command staff and supervisors, and, according to an anonymous source in New York, the NYPD also used similar means of communicating and circulating information on daily occurrences.[334]

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[329] Elliot Njus, "Portland Marathon Agrees to Accommodate Occupy Portland Encampment," *The Oregonian—OregonLive*, October 7, 2011, http://www.oregonlive.com/portland/index.ssf/2011/10/portland_marathon_agrees_to_ac.html.

[330] Ibid.

[331] Ibid.

[332] "Tagging" refers to the spray painting of a building or object, generally with the individual's moniker or artistic graffiti signature.

[333] Portland Police Bureau, *Occupy Events*.

[334] Anonymous police official, personal communication with author.

Organizers of the march were keen on organization and had already branded several members of the group with their voluntary job titles—peacekeeper, food provider, medics, and others.[335] Portland police reported that during the first week of occupation, the group organized classes for those who elected to serve on the "Occupy Security Team."[336] At least one of the classes was on techniques for dealing with the mentally ill (presumably to address the homeless who had begun to flock to the camp).[337] Within 24 hours, the Occupy contingent had medical tents and a meeting space erected and had also established a centralized food service station.[338] There were so many people camping in the park that weekend that with the exception of a narrow path through the tents and shelters, the ground was barely visible.[339]

The camp experienced a recurring problem of mentally ill and homeless people venturing into camp. As happened in other cities, the local homeless population tried to take advantage of the occupiers somewhat communal operation; however, they became distracting and unwelcome attendees rather quickly. Police resources were initially taxed with reports of disturbances between homeless and occupiers. Officers reported making multiple arrests and transporting to local hospitals for mental evaluations only to have the arrestees return and cause additional disturbances.[340]

B. POLICE RESPONSE

Lauded by some as one of the more liberal cities in the nation, Portland government appeared to embrace the Occupy Movement from the outset. With the largest Occupy contingent in the nation, the city allowed camping almost immediately in the city parks, although at first they attempted to prevent the erection of structures (including tents). Literally overnight, Chapman and Lownsdale Parks were transformed into tent

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335 Njus, "Portland Marathon Agrees."

336 Portland Police Bureau, "Portland SitReps," October 10, 2011 (internal document, Portland Police Bureau, Portland, OR).

337 Ibid.

338 Njus, "Portland Marathon Agrees to Accommodate Occupy Portland Encampment."

339 Occupy Portland—Evolution of Democracy (Day 1)," YouTube video.

340 Portland Police Bureau, "Portland SitReps," October 20, 2011 (internal document, Portland Police Bureau, Portland, OR).

cities. Whatever the policing approach to the downtown core was prior to October 6, 2011, at least in this two-block area, it had changed dramatically.

Although the Portland police had advised against it, the city council and mayor opted for allowing the occupiers to establish their camp. Recognizing the local and national media attention that the Occupy Movement was garnering, Portland police handpicked officers for assignment to the camp for around-the-clock coverage. Officers were chosen for their communication skills and temperament.[341] As with many large operations, manpower fluctuated over the course of the encampment, but in general Portland Police Bureau kept four officers exclusively patrolling the parks during the day and evening hours and 2 officers patrolling overnight.[342]

The Portland Police Bureau, like other cities studied, subscribed to the negotiated management philosophy for policing protest. An added challenge was that the Occupy Movement was billed as one where there was no identifiable leadership. As with many of the Occupy encampments, the participants were reluctant to identify any "leaders," opting for a rudimentary pseudo-democratic process often called a "general assembly." These general assembly meetings reportedly occurred almost daily, were open to any who wanted to attend (including the police) and often resulted in votes taken to establish a group consensus. However, there were informal leaders that seemed to command some sort of authority within the groups. Portland police identified these informal leaders and, in keeping with negotiated management, elicited their support in managing the crowd as best they could.[343]

Single officers and two-officer teams patrolled the parks on bicycle and on foot. Almost immediately the officers began establishing relationships with the group of Occupiers. A direct benefit of these relationships was the exchange of information between police and protester. One example occurred relatively soon after Occupiers established camp. On the tenth of October, Occupy members reported a possible sexual

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[341] Data obtained from informal agency after-action reports and is available from author.

[342] Ibid.

[343] Ibid.

assault having occurred inside the encampment in Chapman Square.[344] Officers located the complainant; however, she declined to cooperate with officers. Occupy protesters, still committed to working with the police on the issue, located the suspect and officers documented the incident in the event that the victim changed her mind.[345]

In mid-October, a sex offender registered the Occupy Portland camp as his address.[346] This was reportedly met with mixed emotions from a number of residents of the camp, as there were children of the protesters living in the camp with parents or guardians. The Occupy security contingent maintained patrols in the camp throughout the night.[347] The Occupy Media Coalition focused on highlighting the work of their medical tent and volunteers. Like other occupation encampments, medical volunteers in camp ranged from those who knew first aid to registered nurses.[348]

Online videos and news reports establish that, during the early stages of the Occupy Portland marches and encampment, officers wore their "regular" patrol uniforms with no "riot gear" or other equipment that would indicate anything other than a response with regular patrol officers. This was intentional although the officers were instructed to keep their riot gear at the ready.

Unlike many cities, Portland Occupy protesters held an entire segment of street closed for an extended period and engaged in discussions on whether or not to relinquish control over that street. The Portland police, unbeknownst to the protesters, had no plans to open the street by force and were content for the time being to allow protesters to express themselves in that manner.[349]

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[344] Portland Police Bureau, "Portland SitReps," October 10, 2011 (internal document, Portland Police Bureau, Portland, OR).

[345] Ibid.

[346] Anita Kissee, "Sex Offender Registers Occupy Portland Camp as Address," *KATU*, October 16, 2011, http://www.katu.com/news/local/131955313.html.

[347] Ibid.

[348] "Day 7: Organizing Occupy Portland," October 12, 2011, http://occupyportland.org/2011/10/12/day-7-organizing/.

[349] Data obtained from informal agency after-action reports available from author.

C. SPATIAL CONTROL

Portland Mayor Sam Adams agreed early on to allow occupation of Chapman and Lownsdale Squares exclusively but prohibited the expansion of the occupation into any other parks.[350] At least for the first few weeks, the majority of Occupy Portland was content to limit their encampment to those two areas. Comparing Portland with New York and Oakland's enforcement of local codes and ordinances, Portland police relied on their local codes related to park closure hours and police powers to exclude activists from public area.[351]

One could argue that the restriction of the Portland Occupy contingent to Chapman and Lownsdale parks is akin to establishing them as free speech zones. Once the encampment was established, the police prohibited and actively prevented the expansion of the camp. Mayor Sam Adams expressed to local media that he believed he was being balanced in his approach to the Occupy Movement.[352] He also addressed the Portland police having assisted federal authorities in removing protesters from Terry Schrunk Plaza saying that he also believed that their actions were in keeping with that balance.[353]

Terry Schrunk Plaza, while immediately adjacent to Chapman and Lownsdale squares, is not a park owned or operated by the city of Portland. Instead, it is federal property and falls under the jurisdiction of the Federal Protective Services. No campers or occupiers were ever allowed to establish an encampment or set up temporary structures in Schrunk Plaza, although daily gatherings were permitted. According to media reports and emails obtained through freedom of information (FOIA) requests made by the

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350 Anne Saker, "Occupy Portland Gets Warning against Expanding Demonstration to The Pearl's Jamison Square," *The Oregonian—OregonLive*, October 28, 2011, http://www.oregonlive.com/portland/index.ssf/2011/10/occupy_portland_gets_warning_a.html.

351 Portland Police Bureau, "Portland SitReps;" City of Portland, "Portland City Code," accessed October 16, 2013, www.portlandonline.com/auditor/index.cfm?a=147824&c=28627.

352 Anne Saker, "Occupy Portland an Exercise of Free Speech: Mayor Adams on Radio Show," *The Oregonian—OregonLive*, November 1, 2011, http://www.oregonlive.com/portland/index.ssf /2011/11/occupy_portland_an_exercise_of.html.

353 Ibid.

Partnership for Civil Justice Fund, the White House directed federal agencies to go easy on the Occupy Movement people.[354]

According to an email from the Department of Homeland Security (DHS)—National Protection and Programs Directorate Chief of Staff to General Services Administration (GSA) Public Buildings Service Commissioner, DHS asked that the Federal Protective Services enforce neither the curfew at the park nor the prohibition on overnight encampments.[355] According to Portland Police Bureau documents, the protesters who had chained themselves to each other in the plaza were "disappointed" that they were not going to be arrested.[356]

Portland Police utilized its riot gear during some of the planned and spontaneous marches to remove and arrest about 25 protesters who attempted to expand the occupation to Jamison Square.[357] When protesters arrived at Jamison Square, about 15 officers were waiting for them. The police warned them that they stood poised to lose the support of the city government if they attempted to occupy an additional park.[358]

Shortly after midnight Mayor Sam Adams reportedly circled the park to survey the scene, advising that he was there to observe and keep the peace.[359] Some two hours later, Portland police in protective riot gear made their way through the park clearing it with the assistance of half a dozen mounted officers and arresting some 25 protesters. Mr. Adams tweeted, "My decision to enforce park hours at Jamison is based on the fact it is surrounded by homes: Lonsdale/Chapman [sic] are not."[360] Apartments surround

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354 Perry Chiaramonte, "White House Told Authorities Not to Crack down on 'Occupy' Protesters, Documents Show," *Fox News*, August 8, 2012, http://www.foxnews.com/politics/2012/08/08/gsa-urged-to-stand-down-on-occupy-portland-protests-by-white-house-documents/.

355 Ibid.

356 Portland Police Bureau, "Portland SitReps," November 6, 2011 (internal document, Portland Police Bureau, Portland, OR).

357 Hannah Hoffman and Aaron Mesh, "UPDATED: Pearl District Occupation Ends with 27 Arrests," *Williamette Week*, October 30, 2011, http://www.wweek.com/portland/blog-27807-updated_pearl_district_occupation_ends_with_27_arr.html.

358 "Occupy Portland Protesters March to Pearl District," *KATU*, October 29, 2011, http://www.katu.com/news/local/132859558.html.

359 Hoffman and Mesh, "Pearl District Occupation Ends."

360 Ibid.

Jamison square whereas commercial buildings and the Portland Police Bureau Headquarters surround Lownsdale and Chapman.

Not all the Occupy contingent was supportive of the 25 arrestees, however. Many saw the work that had been accomplished with the assistance of the city of Portland as being jeopardized by this minority contingent of protesters. One protester said that many did not know why they were there in Jamison Square and that the actions of this small group could be perceived as a "slap in the face" to the city.[361] Police situation reports from the encampment point to an unease felt by the occupiers who remained in camp. Several, fearing that police would evict them, expressed their intent to move out if police warned them to leave.[362]

Police credit the relationship established with the protesters for their ability to calm and reassure the Occupy members still in camp and with preventing further disruptions.[363] The divergent actions of the groups were indicative of the struggle with leadership that the Occupy Movement was experiencing on a grander scale and in more places than just Portland.

D. SOCIAL MEDIA USE

A social movement born on the back of social media, Occupy Portland was one of the more technologically progressive of the already progressive Occupy contingents. Social media sites were used to broadcast live events and offered personal perspectives of those directly involved in the action, not just journalists' opinions. Live-streaming video of meetings and marches became the norm for a segment of society in a few short weeks. Portland State history professor Chet Orloff posited, "What you're seeing, through the

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[361] Ibid.

[362] Portland Police Bureau, "Portland SitReps," October 30, 2011 (internal document, Portland Police Bureau, Portland, OR).

[363] Data obtained from informal Portland Police Bureau after-action reports (internal documents) available from author.

advent of social media is the speeding up of the process, but the process is still by and large the same," referring to the history of expressing dissent.[364]

From the outset, Occupy Portland utilized technology in ways that other locations did not or could not. In contrast to the other occupations, Occupy Portland held General Assembly (GA) meetings in full view of not only protesters present on-site but also the online world tuning into to watch the event streamed live. GA meetings were then posted and available on YouTube.com almost immediately after the events. Among the most popular sites used during the encampment and protests were Facebook and Twitter; however, protesters also used Tumblr, a blogging platform for posting information primarily in narrative form; Instragram, a site for posting photos; Flickr, another photo website; and Storify. Storify collected social media postings on a range of topics and consolidated them in to a space where users could better understand them.[365]

The Portland Media Coalition has a substantial amount of video available for public viewing documenting virtually every day of the occupation in over 120 videos.[366] The videos appear to be professionally edited and contain interviews with protesters, police, business leaders, and residents of Portland. All Occupy-related Facebook pages gained a multitude of followers very quickly. The Portland Police Bureau acknowledged the planned march and posted a message on its Facebook page acknowledging their awareness.[367]

The police department's use of Twitter was considerably more abundant than its use of Facebook. Looking prior to the start of Occupy Portland, from October 6, 2011 through the month of December 2011, Portland police tweeted over 120 times regarding issues related to Occupy. Most of the updates were "as they happened" updates regarding

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364 Erica Heartquist and Michael Rollins, "Inside the 'Occupy Portland' Camp," *KGW*, October 14, 2011, http://www.kgw.com/news/Inside-the-Occupy-Portland-camp-131876418.html.

365 Rosalynn Rothstein and Adam Rothstein, "POSZU : Occupying Strategic and Tactical Media Space: Failures of Tools, Behaviors, and Narratives," *Poszu*, May 6, 2013, http://www.poszu.com/poszu/index.php/blog-archive/occupying-media-space/.

366 Occupy Portland media content can be accessed at: http://www.youtube.com/user/OccupyPDX

367 Portland Police Bureau Facebook posts were accessed online at http://www.facebook.com/portlandpolice.

the progress of Occupy-related marches and street blockages and closures. Also included were tweets notifying interested parties as to the location of police spokespeople to offer updates on the policing of the movement. Portland police even tweeted rumor control updates, advising that a "raid" on Chapman Square was not being planned.[368] When 140 characters were insufficient to convey the message, Portland police tweeted links to their website where they posted longer press releases. Portland Mayor Sam Adams was comfortable with Twitter as well and used it often.

E. POLICE SURVEILLANCE AND TECHNOLOGY

In keeping with the city's initial handling of the Occupy protesters, the police department refrained from employing some technology that other cities did. For instance, Portland police did not utilize any kind of closed circuit television cameras for surveillance. Portland, unlike New York or Dallas, did not use any kind of deployable platform with surveillance technology to monitor the protesters at any location. Portland does have one fixed-wing aircraft, which they deployed during marches to assist with traffic spotting, but not to record protester movements with cameras or surveillance equipment. In contrast to the NYPD's Technical Assistance Response Unit (TARU), the only kind of cameras the police used individually, not including officers' personal cell phones for which Portland Police Bureau keeps no record, were those carried by designated officers during the marches to document police use of force. These were reviewed as part of my social media video analysis for comparison with open source video.

Instead, Portland police maintained connection to the live-streaming video feed provided by the protesters themselves. The feed was available in the Portland police Occupy command post virtually 24 hours-a-day. This was used in conjunction with uniformed officers' personal attendance at the meetings and their foot patrols through the camp as their means of gathering intelligence and identifying concerns within the camp. Police commanders observed that with over 600 people living so close together in two

[368] "Rumor Control," October 10, 2011, https://twitter.com/PortlandPolice.

adjacent parks, it was easy for them to mobilize quickly and begin an unplanned march through the streets.

F. THE EVICTION

Portland police held regular meetings with both the mayor and city council and kept them abreast of the rising crime in the Chapman and Lownsdale parks.[369] As the camp conditions degraded, so too did the health of the protesters as evidenced by reports of officers assigned to the camp.[370] The medical tent had grown to be a busy place in camp as the occupation wore on. This concern for health and medical problems brought on by the degrading camp conditions is a primary reason cited by all four cities studied as justification for eventual eviction. Portland Police reported the incidents of sick and ill Occupy members to be increasing the longer they stayed. During overnight shifts, officers had reported hearing increasing coughing throughout the night.[371] There were however, no reported outbreaks of any one particular illness. It is unclear whether these symptoms were indicative of something more serious.

Some four weeks into the occupation, officers patrolling the camp witnessed multiple fights between protesters.[372] Police discussed these incidents with the mayor and city council and over the course of the first week of November, they put together a plan to evict the protesters from their encampment. This is consistent with media reports that the plans were hatched during the conference calls requested by Boston and Portland police and brokered by the Police Executive Research Forum (PERF) that took place on October 11 and November 4.[373]

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369 Data obtained from informal agency after-action reports available from author.

370 Portland Police Bureau, "Portland SitReps," November 9, 2011 (internal document, Portland Police Bureau, Portland, OR).

371 Ibid.

372 Portland Police Bureau, "Portland SitReps," November 4, 2011 (internal document, Portland Police Bureau, Portland, OR).

373 "Former Seattle Police Chief Norm Stamper on Paramilitary Policing From WTO to Occupy Wall Street," Democracy Now! November 17, 2011, http://www.democracynow.org/2011/11/17/paramilitary_policing_of_occupy_wall_street.

In meetings with the mayor and council, the police outlined mounting concerns about the plans of some of the protesters after a series of events. On November 8, 2011, officers were called to the Portland World Trade Center, after an apparent Molotov cocktail was thrown in the doorway. Added concern came after finding what appeared to be a cache of "fist size [sic] rocks" and chunks of concrete in one area of the park.[374] On November 11, 2011, according to police reports, officers observed protesters carrying wooden pallets into Chapman Square.[375] It appeared to the officers that some of the protesters were building some sort of structure and noted, "It appears that it has been excavated on the inside, about 2–3 feet below ground level."[376] Additionally, peacekeeping personnel with the Occupy group advised police that the individuals who were building the structure were using the pallets to fortify it as well as building shields in preparation for an anticipated eviction. The following day a protester turned over what appeared to police to be a number of improvised weapons that he advised were found in the camp.[377]

Officers also had conversations with other protesters about "reinforcements" anticipated to arrive from Occupy Oakland, Seattle, and Salem. According to the information officers received from interactions with the protesters, estimates were that between 100 and 300 additional protesters could be expected.[378] In addition, a protester who was supportive of the officers also advised that they were expecting an additional 150 anarchists.[379]

Officers also received intelligence from sanitation workers on November 11, 2011 advising that over the previous three weeks, they were missing five garbage cans and that they had long since stopped replacing the cans. Officers intimated that they would see the

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[374] Portland Police Bureau, "Portland SitReps," November 9, 2011 (internal document, Portland Police Bureau, Portland, OR).

[375] Ibid.

[376] Portland Police Bureau, "Portland SitReps," November 11, 2011 (internal document, Portland Police Bureau, Portland, OR).

[377] Ibid.

[378] Ibid.

[379] Ibid.

trashcans again but next time filled with concrete with multiple protesters chained to them.[380]

Officers began repeating the message that eviction was imminent, and on November 10, 2011 Mayor Sam Adams announced a deadline for all Occupy protesters to vacate the parks no later than 12:01 a.m., Sunday, November 14, 2011.[381] On the morning of the thirteenth, officers reported seeing trucks and vans encircling the park and protesters packing up tents and other belongings then vacating the park.[382] As the deadline approached, thousands of Occupy supporters congregated in the area of the parks downtown.

Midnight came and went and the police did not move in to evict the protesters. According to police, they had no intention of enforcing the deadline that night.[383] Instead, they monitored the crowd and even backed off and allowed the protesters to shut down the street.[384] An assistant chief of the Portland Police Bureau acknowledged that it would not make sense for the police to use force to keep that street open at the cost of what had the potential to be a violent confrontation.[385] As this protest carried on, Portland police leaders reminded the line officers that the crowd was not "anti-police" and told their officers that their mission was to "keep people safe."[386] One protester spoke with the Occupy Portland Media Coalition remarked that although he considered

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380 Ibid.

381 "New York Deputy Mayor Criticizes Portland's Eviction of the Occupy Portland Camp," *Willamette Week* [staff blog]. November 17, 2011, http://www.wweek.com/portland/blog-27892-new_york_deputy_mayor_criticizes_portlands_evictio.html.

382 Portland Police Bureau, "Portland SitReps," November 139, 2011 (internal document, Portland Police Bureau, Portland, OR).

383 "Occupy Portland: Eviction of Downtown Parks Went 'Exceptionally Well,' Mayor Sam Adams Says," *The Oregonian—Oregon Live*, November 14, 2011, http://www.oregonlive.com/portland/index.ssf/2011/11/occupy_portland_eviction_of_do.html.

384 Ibid.; Jonathan J. Cooper and Terrence Petty, "Occupy Portland Protesters Defy Eviction Order in Oregon," *Christian Science Monitor*, November 13, 2011, http://www.csmonitor.com/USA/Latest-News-Wires/2011/1113/Occupy-Portland-protesters-defy-eviction-order-in-Oregon.

385 "Occupy Portland: Eviction of Downtown Parks Went 'Exceptionally Well,' Mayor Sam Adams Says," *The Oregonian—Oregon Live*, November 14, 2011, http://www.oregonlive.com/portland/index.ssf/2011/11/occupy_portland_eviction_of_do.html.

386 Ibid.

their protest a success, it was sad seeing other protesters move out earlier that day.[387] According to police, violence in the camp had gotten so bad that the media had stopped entering.[388]

Portland police made use of a small van equipped with a loud public address system affixed to the roof to provide instructions to the protesters.[389] When morning came, police continued to warn protesters that police were intent on opening the street (SW 3rd Ave) to vehicular traffic. At about 4:00 a.m. the media reported that there was a line of about 200 police officers in the street in front of the federal courthouse.[390] One officer was injured during the operation after being struck in the leg with some sort of projectile.[391] The repeated announcements, coupled with the main contingent of officers in protective gear in close proximity to the police van, drew the attention away from the park and a small group of about 20 or 30 protesters who were intent on remaining camped in the park.

According to informal after-action reports, Portland police refrained from attempting an eviction of the activists when their numbers were high.[392] Police opted to wait throughout the night until shortly after 9:30 a.m. on the morning of the fourteenth. Police commanders then threw a plan together to evict the remaining contingent. Portland police executed their plan by noon that day. Officers in riot gear moved quickly as the crowd's attention was focused elsewhere. Media outlets reported that over 50 protesters

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387 "Inside Occupied Portland—Restoring Our Park," YouTube video, posted by Occupy Portland Video Collective, November 14, 2011, http://www.youtube.com/watch?v=VKts9VjLn8Q&feature=youtube_gdata_player.

388 "Video: Occupy Portland Camp Conditions Poor," *ABC News*, November 13, 2011, http://abcnews.go.com/US/video/occupy-portland-camp-conditions-poor-health-high-crime-mayor-moves-shut-down-us-14943768.

389 "Protesters Defend Occupy Portland from the Police," YouTube video, posted by RT America, November 13, 2011, http://www.youtube.com/watch?v=32cxcQCAS0M&feature=youtube_gdata_player.

390 Petty, "Occupy Portland Protesters Defy Eviction Order in Oregon."

391 Ibid.

392 Informal Portland Police Bureau after-action reports available from author.

were arrested in the police action but noted that there was no use of "tear gas, rubber bullets or other so-called non-lethal weapons."[393]

Following the eviction, the city erected a hard zone of fencing around both Chapman and Lownsdale parks. The fencing served a two-fold purpose: it prevented the Occupy contingent from re-occupying the parks, and it provided the city an opportunity to rehabilitate the parks—a process that took four weeks and cost Portlanders in excess of $85,000.[394] During the weeks leading up to and in the weeks and months following the eviction, various members who claimed affiliation to the Occupy Movement were detained and in some instances arrested for breaking into and "squatting" inside vacant homes and buildings in the Portland area.[395] The Occupy-related protests continued for months but without an encampment and without the pre-eviction numbers.

As opposed to following the lead of the NYPD or any other agency, in responding to Occupy Portland, the Portland Police Bureau employed standard community policing methods. They utilized skilled handpicked officers with temperaments suitable for dealing with the activists. Those officers, as outlined in this chapter, established relationships that proved beneficial to both the activists and police. While there were instances of violent encounters between police and activists, Portland police worked to minimize these occurrences, including delaying their planned eviction when activist's numbers were extremely high. As I illustrate in Chapter VI about Dallas' response, a softer approach or more community oriented approach was helpful to police.

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[393] Jonathan J. Cooper and Terrence Petty, "Occupy Portland Protesters Face Showdown with Police over Eviction Order," *Huffington Post*, November 14, 2011, http://www.huffingtonpost.com/2011/11/14/occupy-portland-protesters-police_n_1090858.html.

[394] Anne Saker, "Occupy Portland: Costs to Fix Parks Now More than $85,000, City Says," *The Oregonian—Oregon Live*, November 30, 2011, http://www.oregonlive.com/portland/index.ssf/2011/11/occupy_portland_costs_to_fix_p.html.

[395] Portland Police Bureau, "Portland SitReps," November 13, 2011 (internal document, Portland Police Bureau, Portland, OR). Squatting refers to illegally entering a building and living without effective consent of the responsible party.

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VI. OCCUPY DALLAS

"To sin by silence, when we should protest, makes cowards of men."

Ella Wheeler Wilcox (1850–1919)

To assist the reader in understanding how events related to Occupy Dallas occurred, Figure 8 is the timeline specific to Occupy Dallas.

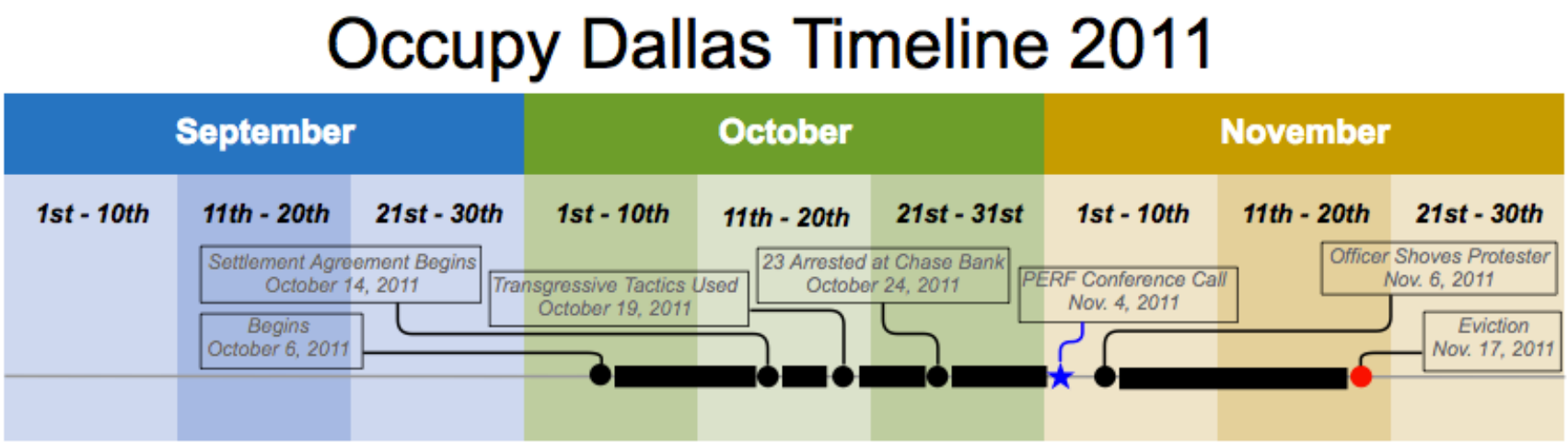

Figure 8. Occupy Dallas Timeline

A. THE PROTEST

Dallas is another example of a police department using emergent strategies to respond to the Occupy Movement. Dallas' response was not without its challenges and opportunities for improvement—it was forced to deal with officer misconduct and excessive force complaints. However, in responding to those incidents with an attitude of respect for activists' rights to protest and a desire for a minimal use of force, Dallas stands as another example similar to Portland of a city that did many things right during the Occupy Movement. Dallas police leaders also applied a concept, whether conscious of the terminology or not, of "intelligence fast failure" wherein they made decisions and took actions making occasional "small manageable mistakes" and correcting them along the way.[396]

On October 6, 2011, a group of between 200 and 500 protesters gathered in Pike Park in Dallas, Texas and proceeded to march to the Federal Reserve Bank.[397] The group in Pike Park grew under the watchful eye of circling news helicopters. This was not the first time for high profile protesting in Dallas. In 2006 and again in 2010, Dallas was host to immigration reform marches that drew crowds of 25,000 (2010) and 300,000 (2006) people.[398] The night prior saw sparks of violence between police and Occupy protesters in New York and this story made for an easy lead-in for the morning news stations.[399] Some protesters wore their student loan information around their necks illustrating the thousands of dollars they owed.

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[396] "Intelligence fast failure," as defined by Jack C. Matson, Ph.D., refers to making small manageable mistakes, learning from them and improving the product, process or strategy. John Ivanko, "Ecopreneurs Practicing 'Intelligent Fast Failure', like Green Biodiesel LLC," *Ecopreneurist*, September 3, 2008, http://ecopreneurist.com/2008/09/03/ecopreneurs-practicing-intelligent-fast-failure-like-green-biodiesel-llc/.

[397] Matt Goodman, "500 Protesters 'Occupy Dallas' on Way to Federal Reserve," *CBS Dallas / Fort Worth*. October 6, 2011, http://dfw.cbslocal.com/2011/10/06/500-protesters-occupy-dallas-on-way-to-federal-reserve/.

[398] Mary Suhm, "OCCUPY: The Dallas Experience: The City Manager's Perspective" (presented at the Institute for Law Enforcement Administration, Plano, TX, April 3, 2012).

[399] Cynthia Vega, "'Occupy Dallas' Protesters March through City," *WFAA*, October 6, 2011, http://www.wfaa.com/home/related/Occupy-131218319.html.

The crowd began the march from Pike Park on the west side of downtown moving east down Harry Hines Boulevard toward the Dallas branch of the Federal Reserve. Dallas police officers assigned to the Central Business District (CBD), the Gang Unit and some Special Weapons and Tactics (SWAT) officers in standard "Class A" uniforms helped facilitate the march by blocking traffic and moving with the crowd.[400] The march was orderly as protesters kept to the sidewalks, carrying signs, and chanting various slogans.

Protesters remained parked in front of the Fed for several hours before continuing east over Woodall Rodgers Freeway and into downtown. They made their way to the Chase Tower and then continued their march to the John F. Kennedy Memorial at on Main Street. The protesters left the JFK Memorial to protest in front of the Earl Cabell Federal Building. Once there, according to a blogger present at the march, they were warned that if they were to cross the street they would be arrested by federal police officers.[401] They remained content to chant their slogans, bang their makeshift drums and "occupy" the parking lot to the west. At its peak that day, Dallas police estimated the crowd had grown from the initial 200 to somewhere close to 400 or 500 participants.[402] A Dallas Police Assistant Chief told *Dallas Morning News* reporters, "They've been cooperative with us. We haven't had any issues at all. They've actually thanked us for being there."[403] Some of the protesters then moved to the historic Pioneer Plaza located a few blocks away next to the Dallas Convention Center complex and around the corner from the soon-to-be-opened Omni Hotel.[404]

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[400] Class-A uniforms are normal uniforms issued to all Dallas police officers, as opposed to battle dress uniforms (BDUs) commonly associated with SWAT teams. No officers donned riot gear at this time.

[401] rainbow4321, "Pics from OccupyDallas (10/6/11) PIC HEAVY," Democraticunderground, October 7, 2011, http://www.democraticunderground.com/discuss/duboard.php?az=view_all&address=439x2078210.

[402] Brenda Case, "Hundreds Protest Corporate Greed in Occupy Dallas March," *Dallas News*, October 6, 2011, http://www.dallasnews.com/business/headlines/20111006-hundreds-protest-corporate-greed-in-occupy-dallas-march.ece.

[403] Ibid.

[404] "Omni Dallas Hotel Celebrates Grand Opening with $111 Rates," Omni Hotels, October 6, 2011, http://www.omnihotels.com/AboutOmniHotels/Press/PressReleases/111006PressRelease.aspx.

A group of about 60 protesters set up camp among the bronze cattle and, like in the other cities studied, erected tents and chairs along with some folding tables. Dallas police initially warned them about the city ordinance against sleeping in public along with the ordinance that establishes park closure hours.[405] Activists set up medical and media tents along with a kitchen while supporters brought and donated food.[406] Through the first four days of the occupation of Pioneer Park, there had been no arrests and no issues between police and protesters.

Over that first weekend (similar to other Occupy groups) Occupy Dallas, using their encampment as a base of operations, took off through the downtown area on various marches. In Dallas, it was "Texas-OU weekend," marking the annual football game between the Texas Longhorns and the Oklahoma Sooners held in the Cotton Bowl at the State Fair of Texas. Crowds in the downtown area are significantly higher during this weekend each year, and the Occupy contingent took advantage of the opportunity for increased media attention with a march through the "Deep Ellum" area of downtown.[407]

Over the course of the next few days, the Dallas Occupy contingent went on sporadic marches through the downtown corridor or remained in camp exchanging stories with one another via bullhorn about their own experiences. Day 4 brought a deluge of rain that caused the collapse of several of the tents but many of the protesters huddled in their media tent to support it and keep it from succumbing to the weather.[408] When the sun finally came out, the protesters took to draping their sleeping bags and other gear on the bronze sculptures in the park.

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[405] According to "SEC. 32-9.1. Hours of Closure for Public Parks and Park Amenities—Dallas City Code," all public parks and park amenities are closed to the public each day from 11:00 p.m. until 5:00 a.m. Accessed November 2, 2013, http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates$fn=default.htm$3.0$vid=amlegal:dallas_tx

[406] Monika Diaz. "Economic Protesters Set up Camp in Downtown Dallas," *WFAA*, October 9, 2011, http://www.wfaa.com/news/local/Economic-protesters-set-up-camp-in-downtown-Dallas-131434073.html.

[407] "Occupy Dallas Day 3—March through Deep Ellum," YouTube video, posted by powerofyourbrains, October 10, 2011, http://www.youtube.com/watch?v=LGOJzHEbj_U&feature=youtube_gdata_player.

[408] "Occupy Dallas—Day 4 Fighting the Rain," YouTube video, posted by powerofyourbrains, October 11, 2011, http://www.youtube.com/watch?v=LGOJzHEbj_U&feature=youtube_gdata_player.

On Monday, October 10, activists marched to City Hall seeking an audience with the mayor and city manager. They met the city manager in the hall and handed her a hand written letter asking for permission to remain in the park.[409] The city granted Occupy Dallas a permit to remain encamped in Pioneer Plaza through Friday October 14 at 5:00 p.m.[410] A key stipulation to the permit was that proof of insurance was to be provided to the City of Dallas no later than 5:00 p.m. on Tuesday November 11, 2011. Protesters told local media that the Dallas Police Department had been cooperative and had agreed to give them at least 24-hours' notice before requiring them to vacate Pioneer Plaza.[411] According to the permit issued to "Occupy Dallas" by the City of Dallas, the amount of the general liability insurance was to be in the amount of no less than $1,000,000.[412]

With the insurance policy in place, the city would have allowed the Occupy contingent to put portable toilets (port-a-potties) in place in the park. Without it, they were restricted to local businesses, restaurants, and the nearby community college. The City of Dallas generally requires $500,000 of insurance for events involving over 2,500 but less than 5,000 people.[413] *Dallas Observer* reporter Jim Schutze interviewed some of the protesters and asked about their plans to get insurance. Occupy Dallas had yet to come close having to 2500 people in Pioneer Plaza. An Occupy protester told the *Dallas Observer Newspaper* that Occupy Dallas was taking the position that the city's requirement for insurance did not apply to them in spite of the special events permit that called for it.[414]

Tuesday evening came and went, and the Occupy Dallas contingent had failed to acquire an adequate insurance policy. Two local attorneys, Cameron Gray and Jonathan

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409 Jonathan Betz, "Occupy Dallas Campground Can Continue through Friday," *WFAA*, October 10, 2011, http://www.wfaa.com/news/local/Occupy-Dallas-protest-can-continue-through-Friday-131488438.html.

410 "Special Permit #2011-748—Occupy Dallas," City of Dallas, TX, October 10, 2011.

411 Betz, "Occupy Dallas Campground."

412 "Special Permit #2011-748—Occupy Dallas," City of Dallas, TX, October 10, 2011.

413 Insurance requirements can be obtained from City of Dallas Office of Special Events website http://www.dallasspecialevents.com/special-event/application/

414 Jim Schutze, "City Hall Tells Dallas Occupiers to Get Insurance or Else. They're Leaning Toward 'Or Else,'" Unfair Park, October 11, 2011, http://blogs.dallasobserver.com/unfairpark/2011/10/city_hall_tells_dallas_occupie.php.

Winocour, hearing news reports of the protests and the difficulties experienced by the Occupy group, came to the camp and began to provide legal representation for the group.[415] Gray, acting on behalf of the Occupy Dallas contingent, told media that he had worked for a significant part of the day trying to find an insurance company that would agree to provide the required amount of insurance but was unsuccessful. He added that what the city was requiring was an impossibility to obtain.[416] The city advised, via a press release that since the Occupy Dallas contingent had failed to obtain the agreed upon insurance, their permit to remain in Pioneer Plaza was "no longer applicable."[417] In response, Cameron Gray advised that he would, on behalf of the Occupy Dallas group, be filing an injunction in federal court. "We will be trying to structure a court order that will allow people to stay here and exercise their Constitutional rights without fear of arrest," said Gray.[418]

The city took no enforcement action Tuesday, and on Wednesday, Winocour and Gray filed for the injunction in federal court. The attorneys for both sides were involved in negotiations on Thursday and Gray expressed that he had "issues" with the location proposed for use by the city.[419] The two parties met again in federal court the next day and worked out an agreement between Occupy Dallas and the City of Dallas. According to the settlement agreement, among other things, the City of Dallas agreed to:

- Refrain from enforcing ordinances that: 1) prohibit sleeping in public or 2) prohibit anyone from occupying City Hall plaza, against members of Occupy Dallas during the period of 60 days from 5:00 a.m., October 15, 2011 to December 14, 2011, at 5:00 p.m.;
- Meet with representatives of Occupy Dallas within 5 days prior to December 14, 2011, to discuss whether additional time to occupy the premises will be granted;

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[415] Ellen Goldberg and Ray Villeda, "Dallas Yanks Occupy Dallas Agreement," *NBC 5 Dallas-Fort Worth*, October 13, 2011, http://www.nbcdfw.com/news/local/Occupy-Dallas-Protesters-Push-for-Longer-Permit-131542953.html.

[416] Ibid.

[417] Ibid.

[418] Ibid.

[419] Ray Villeda, "Occupy Dallas Takes Permit Fight to Court," *NBC 5 Dallas-Fort Worth*, October 13, 2011, http://www.nbcdfw.com/news/local/Occupy-Dallas-Files-Federal-Injunction-Against-City-131634198.html.

- Not issue citations or arrest members of Occupy Dallas for: a) sleeping in the Subject Property; or b) occupying the Subject Property between the hours of midnight to 5:00 a.m.[420]

According to the settlement agreement, among other things, Occupy Dallas agreed to:

1. Maintain a copy of the List of Conditions on the site of the occupation to which the activists were to adhere
2. Abide by the List of Conditions during the term of occupancy of the Subject Property.
3. No tents shall be erected within, and no persons shall occupy the fenced-area within the Subject Property.
4. Meet with City representatives within 5 days prior to December 14, 2011, to discuss whether additional time to occupy the premises will be granted.[421]

Figure 9 indicates the relative proximity from the original camp to the final camp and city hall.

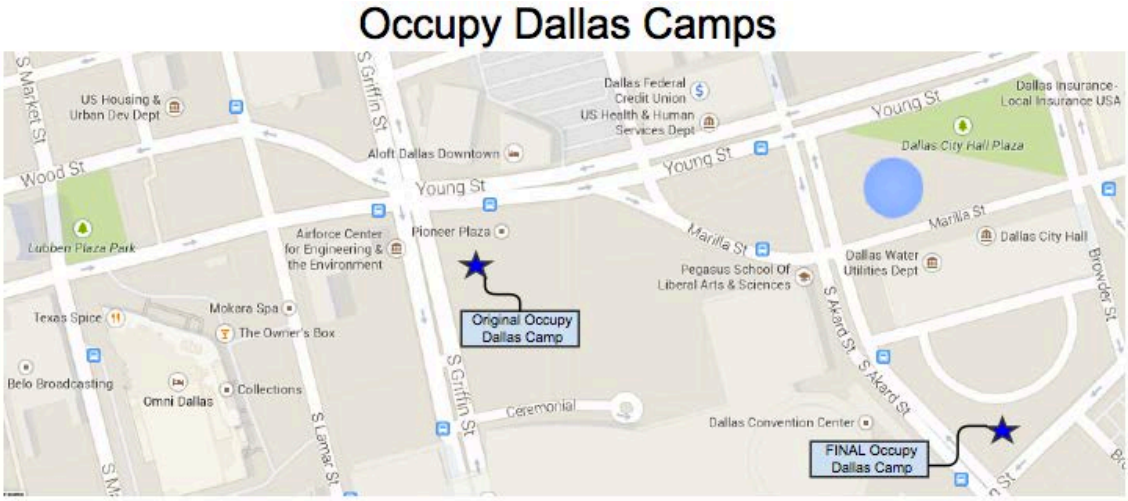

Figure 9. Occupy Dallas Camps

420 Jonathan Winocour, "Settlement Agreement between City of Dallas and Jennifer Florence Dawson, Justin Howell, and Adam Chesley," City of Dallas, TX, October 15, 2011, pdfserver.amlaw.com/tx/occupy2.pdf.

421 Ibid.

As a result of the agreement, the city gave the Occupy protesters until 5:00 p.m. on Sunday, October 16 to vacate Pioneer Plaza and move to the designated grassy area behind City Hall referred to as "the horseshoe." Gray articulated the opposing issues that required balance in the whole issue of the Occupy protesters:

> Two real issues or forces that need to be balanced together. One of those is the right of the city government to take care of its park, and the other is the First Amendment rights of the protesters to be able to express their grievances, to assemble peacefully and address their grievances to the government.[422]

The protesters cleared Pioneer Plaza by the 5:00 p.m. Sunday deadline and took up residence behind City Hall.

On October 19, a group of Occupy Dallas protesters changed protest tactics. According to witnesses, about a dozen protesters entered a Wal-Mart store near IH-30 and Cockrell Hill Road in the Oak Cliff area of Dallas.[423] This was a significant change in tactics by Occupy Dallas. Until this action, they had been relatively cooperative and refrained from engaging in more transgressive tactics. The protesters chanted anti-corporate slogans as they, according to one witness, "started raising hell."[424] Dallas police were called but made no arrests. A protester who took part in the Wal-Mart protest told local media that he and his fellow protesters spent about 15 minutes "covertly slipping flyers into products on the shelves."[425] This marked the beginning of transgressive tactics for Occupy Dallas.

On October 24, 2011, a group of about 50 Occupy protesters converged on the Chase Bank branch at Main Street and Akard Street. The mission of several of them was to close out their bank accounts in a show of solidarity.[426] Shortly after 11:00 a.m.

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[422] Kevin Coakley and Ray Villeda, "Occupy Dallas Moving Sunday," *NBC 5 Dallas-Fort Worth*, October 14, 2011, http://www.nbcdfw.com/news/local/Occupy-Dallas-Agrees-to-Move-131876573.html.

[423] Avi Selk, "Occupy Dallas Protesters, Then Police, Pour into Oak Cliff Wal-Mart," October 19, 2011, http://www.dallasnews.com/news/community-news/oak-cliff/headlines/20111019-occupy-dallas-protesters-then-police-pour-into-oak-cliff-wal-mart.ece.

[424] Ibid.

[425] Ibid.

[426] Frank Heinz, "23 Arrested After Occupy Dallas Protest," *NBC 5 Dallas-Fort Worth*, October 25, 2011, http://www.nbcdfw.com/news/local/Occupy-Dallas-Mobilizes-at-Chase-Tower-132482553.html.

Dallas police began receiving noise complaints and reports of protesters sitting down, interlocking arms, blocking the entrance to the bank, and refusing to leave.[427] Officials with Chase Bank flanked by officers moved in and gave warnings to leave the premises and to quit blocking the entrance. With two assistant chiefs of police on hand directing the officers, Dallas police made the first arrests of the two-week-old movement when the protesters refused to comply.[428]

In all, 23 protesters were arrested at the Chase bank and charged with criminal trespass, a Class B misdemeanor in the state of Texas. One officer reportedly received minor injuries to his leg although no one was charged related to that injury.[429] In response to the arrests, a group of about 20 Occupy protesters marched to the Dallas County Jail where they waited for several hours for the release of their fellow protesters, which would not come until the following day.[430]

The same day, the media broke the story of a possible sexual assault of a juvenile inside the Occupy Dallas camp.[431] Members of the Occupy Dallas camp approached police officers assigned to monitor the camp. The Occupy members told officers that they had recognized a juvenile runaway staying in their camp from a poster at a nearby homeless shelter. Officers located and arrested the suspect in the days following the reporting of the incident. Adding to the security concerns was the revelation that the person arrested was a "non-compliant" registered sex offender. He was charged with two felony counts. The reporting of the sexual assault was not unlike similar reports of sex crimes occurring in other Occupy camps across the country. The Occupy Dallas group also formed a security group, similar to that in Portland, Oregon, and called them

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427 jbpnw, "Occupy Dallas Protesters Arrested," video post, October 26, 2011, Live Leak, http://www.liveleak.com/view?i=421_1319650332; Heinz, "23 Arrested After Occupy Dallas Protest."

428 Ibid.

429 Heinz, "23 Arrested After Occupy Dallas Protest." Texas Penal Code Section 12.22 (1-3) A Class B misdemeanor is punishable by a fine of up to $2,000, confinement in jail for up to 180 days, or both.

430 Ibid.

431 Selena Hernandez, "Police Investigating Possible Sexual Assault of Teen at Occupy Dallas" *CBS Dallas / Fort Worth*, October 24, 2011, http://dfw.cbslocal.com/2011/10/24/accusations-of-teen-runaway-sexual-activity-at-occupy-dallas/.

"Firewatch."[432] Reportedly, they would patrol the camp in groups of four in an effort to maintain security, although how the group could have stopped a sexual assault of the manner that had occurred—in a tent with consenting participants and no loud confrontation between involved parties—was also not articulated.[433] Additionally, Child Protective Services workers responding to tips from inside the camp, later seized custody of a 9-month old baby boy who was living with his homeless parents in the Occupy Dallas camp.[434]

Another protester told reporters that stories about the sexual assault and the increase in the number of homeless living in the camp detracted from the message of the Occupy Movement.[435] "If the law-abiders in the group will disassociate themselves from the law-breakers, we'll be happy to work with the law-abiders," Dallas's First Assistant City Attorney told the *Dallas Observer*, "And if they don't, our chances of continuing to work with the Occupy Dallas movement certainly diminish greatly."[436] This is similar to Portland's warning to Occupy Portland that a small number of activists refusing to comply with the police would risk the loss of the city's support.

On November 5, there was an incident captured on video, which went viral on the web, involving an off-duty officer shoving a protester off an elevated concrete planter. This incident and the accompanying viral video increased tensions enough to prompt Dallas police to reassign Dallas Special Weapons and Tactics (SWAT) operators to

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[432] Steve Stoler, "Video: Security Questioned at Occupy Dallas Protest," *ABC News*, November 2, 2011, http://abcnews.go.com/Business/video/security-questioned-at-occupy-dallas-protest-14867633.

[433] Note: Juveniles in Texas cannot consent to sex and therefore in spite of the victim's willingness to participate with the suspect, this still constituted a crime. Hernandez, "Police Investigating Possible."

[434] Bud Gilett and Jack Fink, "CPS Seizes Baby from 'Occupy Dallas' Site," *CBS Dallas / Fort Worth*, November 4, 2011, http://dfw.cbslocal.com/2011/11/04/cps-seizes-baby-from-occupy-dallas-site/.

[435] Anna Merlan, "Occupy Dallas Addresses Need to Keep a Clean, Safe Camp Amidst Sexual Assault Allegations," Unfair Park, October 25, 2011, http://blogs.dallasobserver.com/unfairpark/2011/10/occupy_dallas_address_reports.php.

[436] Ibid.

monitor and attend to the Occupy Dallas activists.[437] According to sources who wished to remain anonymous, the decision was based on the belief that the SWAT operators were more disciplined and accustomed to following very specific direction and therefore less likely to be drawn into a confrontation.

In response to indications by the city that they were posturing to evict the activists, attorneys for Occupy Dallas sued the City of Dallas, seeking an injunction to enforce the settlement agreement. The group was granted a hearing on November 11. An Assistant City Attorney along with police, fire and code enforcement personnel inspected the camp.[438] In a letter to protesters, among the violations in the camp that city attorneys asserted had occurred, they cited a "pattern of criminal conduct associated with Occupy Dallas."[439]

By the middle of the week, Mayor Mike Rawlings declared, "We're giving them the right to stay there," and added that safety trumped the concerns of First Amendment rights. He proclaimed that the Occupy Dallas camp was unsafe saying, "They need to be safe. There are kids in that camp; that's not safe."[440] He went on to add, "When police get hurt, that's not safe. When citizens potentially get hurt, that's not safe. So, safety first; freedom of speech second."[441] Rawlings later told reporters, "The minute we start to be

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[437] Scott Goldstein, "New YouTube Video Appears to Show Dallas Police Officer Shove Protester off Planter before His Arrest Saturday," *Crime Blog*, November 11, 2011, http://crimeblog.dallasnews.com/2011/11/new-youtube-video-appears-to-s.html/; "Occupy Dallas: Officer Jay Hollis Assaults Union Worker," YouTube video, posted by OccupyOps, November 5, 2011, http://www.youtube.com/watch?v=IxcTCMwFcBA&feature=youtube_gdata_player; "Occupy Dallas: Officer Hollis Confronted," YouTube video, posted by OccupyOps, November 6, 2011, http://www.youtube.com/watch?v=9VL9mqiyPCo&feature=youtube_gdata_player.

[438] Ken Kalthoff, "Occupy Dallas Hearing Set for Friday," *NBC 5 Dallas-Fort Worth*, November 11, 2011, http://www.nbcdfw.com/news/local/Occupy-Dallas-Responds-to-Few-of-Citys-Claims-133561418.html.

[439] Chris Bowers, "Letter to Jonathan Winocour RE: Occupy Dallas," *NBC Bay Area*, November 8, 2011, media.nbcbayarea.com/documents/Dallas-letter-to-Occupy-Dallas.pdf.

[440] Rebecca Lopez, "Dallas Mayor to Occupy Dallas: 'Safety First; Freedom of Speech Second,'" *WFAA*, November 9, 2011, http://www.wfaa.com/news/local/Tension-Mounts-Between-Occupy-Dallas-and-The-City-133570838.html.

[441] Ibid.

unsafe, we're not going to tolerate it. And when we decide to do it, it will be done overnight, and it will be done quickly."[442]

As part of the agreement, Occupy protesters were not allowed to use the restrooms inside City Hall and were prohibited from erecting "semi-permanent" signs on the property. The city did agree to collect trash from the outside of the camp as long as protesters collected it from within the camp and deposited it in receptacles. The city also altered the schedule of the automatic sprinklers.[443]

B. POLICE RESPONSE

The Dallas Police Department trains its officers in "Mobile Field Force" tactics that incorporate both the Miami style of crowd control and a mobile tactics component from Southern California law enforcement.[444] As previously described, the Mobile Field Force concept is a squad-based group tasked with crowd management. The mobile tactics from southern California integrate vehicles and a more rapid deployment model also based on squad concepts involving a sergeant and seven officers.[445] In addition to field force movements, formations, and arrest postures, officers are trained on nomenclature and various types of crowds and crowd mentalities. Dallas PD officers are trained, when dealing with a protest scenario, to identify and make contact with leaders or organizers of protest groups to discuss their intentions and goals for the protests. Using negotiated management-facilitated police efforts to minimize violent confrontations and to promote cooperation and trust between police and protesters.

The policing of Occupy Dallas was shaped by the success of policing efforts during the 1994 FIFA World Cup events held in the city of Dallas. The city moved to put senior staff level officers out in front to deal with protest leadership when possible and to

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[442] Kalthoff, "Occupy Dallas Hearing Set for Friday."

[443] Winocour, "Settlement Agreement 10-15-2011."

[444] The Miami style or model is understood to have come out of the Miami Police Department's handling of the 2003 Free Trade Area of the Americas (FTAA) characterized by enacting and enforcing laws designed to maintain strict order.

[445] Dallas Police Department, *Mobile Field Force Training Manual* (Dallas, TX: Dallas Police Department, 2010).

work to "cultivate a respectful relationship."[446] An important goal of city leaders all along was for police to exercise restraint when dealing with the Occupy Group. Tied to this was using the police department's fusion center to monitor the discussions and information being exchanged online in public forums and social media. Finally, the city of Dallas never "put a face" on the story and relied on the primary public information office to dispense information to the media; they granted "no on-camera interviews" and provided only "written statements."[447] The city of Oakland also employed this approach with limited success.

Central Business District officers routinely handle about 200 protests per year in downtown Dallas. Although in several media reports, some protesters would identify as Occupy Dallas organizers, police found it difficult to identify specific leaders with whom to negotiate. Through the first week of the occupation officers found the protesters to be compliant and cooperative. That cooperation would slowly degrade, as Dallas appeared to experience a shift in who remained in the encampment and how transgressive the protests became.

Once Dallas SWAT replaced the Central Business District (CBD) officers, commanders began moving the officers farther and farther back from the Occupy Dallas camp. A deputy chief and a lieutenant began to be the primary means of communicating between the police and the protest group. As a result, the tensions between officers and activists appeared to diminish significantly.[448]

C. SPATIAL CONTROL

On the first Occupy Dallas march on October 6, 2011, Dallas police did relatively nothing to restrict the protesters other than to erect temporary barricades along the edge of the curb outside the Federal Reserve. This was to keep protesters from spilling out into the street. When protesters first began erecting tents in Pioneer Plaza, a police sergeant warned them that if they stayed past 11:00 p.m. they would be subject to arrest. City

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[446] Suhm, "OCCUPY: The Dallas Experience."

[447] Ibid.

[448] Ibid.

leaders chose instead to allow the encampment to continue because, according to City Manager Mary Suhm, they wanted to seek a balance between the protesters First Amendment rights and the responsibility to protect the protesters, the public and public property.[449] Perhaps as a means to accomplish this, the city of Dallas opted to negotiate with the protesters and offer an alternate camping sight behind City Hall, rather than evict them from Pioneer Plaza outright.

By the morning of Monday, October 17, all the occupiers had transitioned to the horseshoe area behind City Hall and there had been no arrests, although some had reportedly threatened to remain in the plaza.[450] Not all the protesters had been content with moving to the new sight. One activist told local PBS station KERA that although he voted to approve the move, he did not like it.[451] Because the city allocated an area large enough to house all the Occupy protesters, there were no issues with protesters branching out to other parks as had occurred in Oakland, California.

The city had a vested interest in moving the Occupy camp from Pioneer Plaza. The sculpture in the plaza was a tourist attraction and its close proximity to the Dallas Convention center made it a draw for tourists. Perhaps the most compelling reason for the city wanting to move the activists was the scheduled opening of the multi-million dollar Omni convention center hotel—at Pioneer Plaza, the activists would have been a block away. Furthermore, during their stay at the plaza, some of the protesters had taken to washing their clothes in the stream that makes up part of the sculpture, playing their drums throughout the night, and disrupting the enjoyment of the plaza for tourists.[452]

Throughout the first couple of weeks, CBD officers monitored the protesters closely and routinely blocked streets for them and directed traffic around them. During

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[449] Ibid.

[450] Natalie Posgate, "Occupy Dallas Protesters Settle in Outside City Hall after Meeting Deadline with No Arrests," *Dallas Morning News*, October 17, 2011, sec. Community, http://www.dallasnews.com/news/community-news/downtown-dallas/headlines/20111017-occupy-dallas-protesters-settle-in-outside-city-hall-after-meeting-deadline-with-no-arrests.ece.

[451] BJ Austin, "Occupy Dallas to Move This Weekend," *Kera News*, October 14, 2011, http://keranews.org/post/occupy-dallas-move-weekend.

[452] Suhm, "OCCUPY: The Dallas Experience;" Coakley and Villda, "Occupy Dallas Moving Sunday."

their daily marches through downtown, Dallas police also refrained from restricting their movements, opting to assist them instead in their marching. In one video, posted on YouTube, of a march from police headquarters to City Hall, a group of about 40 protesters was escorted by one squad car, a pair of bicycle officers, a paddy wagon and one officer on a T3 Patroller.[453] Unlike New York, which used portable temporary fencing to kettle or corral protesters, Dallas police took on more of an observer role during the group's activities. Most every march by Occupy Dallas was spontaneous and with little advanced notice.

D. SOCIAL MEDIA

Occupy Dallas protesters, like other Occupy contingents, utilized social media to spread their messages. During the Occupy Dallas movement, Dallas police used a program called "Tweetdeck" to gather information from Occupy protesters. According to the program's website, Tweetdeck is a dashboard type application that allows users to view and categorize multiple users' posts in both Twitter and Facebook.[454] This flexibility allows police to monitor multiple hashtags.[455] The program allowed the department to monitor publically available information on multiple Twitter users. Fusion detectives would then sift through the posts and assemble the usable information into a report for commanders. Occupy Dallas used social media to their advantage by posting videos of group marches and eventual clashes with police.

Occupy Dallas opened their own website, occupydallas.org, (since discontinued) on which they posted information related to their activities and current events. Occupy Dallas protesters also quickly created their own Facebook page and Twitter account.[456] In addition, like other Occupy camps, they opened "livestream" and "ustream" pages

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[453] The "T3 Patroller" is a three-wheeled electric vehicle. It is discussed later in the section on "Technology."

[454] Available at www.facebook.com

[455] A hashtag is akin to a key word that is used by Twitterers to "tweet" or post information on a particular topic. It uses the pound sign "#" followed by the keyword such as "#OccupyDallas for tweets related to the Occupy Dallas movement.

[456] Located on Facebook: https://www.facebook.com/OccupyDallas and Twitter at https://twitter.com/OccupyDallas.

from which they broadcast the General Assembly meetings and other activities live from camp.[457] The social media presence was something that city leadership recognized, respected and in some cases feared; the group's social media capabilities were taken into consideration when eviction plans were conceived.[458]

What Dallas, and some other cities did not take advantage of was its ability to broadcast its message via its own social media accounts. At the time, Dallas was in the process of expanding its own social media footprint. The Media Relations office of the police department had a dedicated "social media" officer designated to post Facebook updates, "tweet" information over its Twitter account, and broadcast other useful information via a Nixle account.[459]

E. POLICE SURVEILLANCE AND TECHNOLOGY

On a smaller scale but in similar fashion to New York, Dallas police used wireless closed circuit television cameras to gather intelligence and monitor protester activity in the downtown area. The city of Dallas had at least 119 CCTV cameras disbursed throughout the downtown, uptown, and Jubilee Park areas of the city.[460] Dallas police used the cameras to monitor Occupy members as they marched through the city streets in the CBD. The police department also mounted a video camera on the backside of City Hall in order to monitor the camp itself. This camera fed directly to the department's fusion center and was available 24 hours a day. The Dallas police helicopter is also outfitted with television broadcast capabilities via a microwave transmitter. Commanders in the field could be provided with a wireless receiver/video monitor to view the images broadcast by the helicopter. This was used on occasion during some of the Occupy marches.

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[457] Located at http://www.livestream.com/occupydallas and http://www.ustream.tv/channel/occupy-dallas

[458] Suhm, "OCCUPY: The Dallas Experience."

[459] According the service's website, "Nixle connects public safety agencies to their residents via text, web and email so residents can be informed of important notifications." "Nixle," accessed on November 9, 2013, http://www.nixle.com/nixle_connect.html.

[460] Scott Goldstein and Tanya Eiserer, "Dallas Police Chief Rolling Out High-tech Plans to Cut Crime in Hot Spots," *Dallas News*, April 3, 2012, http://www.dallasnews.com/news/crime/headlines/20120403-dallas-police-chief-rolling-out-high-tech-plans-to-cut-crime-in-hot-spots.ece.

Officers assigned to CBD had been using bicycles for over two decades. A more recent addition to their modes of transportation is the "T3 Patroller" electric stand-up vehicle (ESV). The department purchased four of the vehicles in 2009 exclusively for use downtown. According to the manufacturer's website specifications for the vehicles, they elevate the rider nine inches off the ground for better visibility, and they have has a low center of gravity, a "zero-degree turning radius," a speed of up to 20mph, and a range of up to 25 miles.[461] Officers used these to patrol around the encampment behind City Hall as well as to monitor and escort the various marches through downtown. As the group would march down the sidewalks, Dallas police would drive or ride along side in the lane of traffic closest to the sidewalk blocking that lane. This allowed the protesters to spill off the sidewalks and into that lane further disrupting traffic and drawing attention. In addition to round the clock monitoring by CBD officers, Dallas police detectives assigned to the intelligence and fusion units monitored social media for intelligence information on the groups planned activities.

Like New York and Oakland, the Dallas police department utilized one of two small long-range acoustic (LRAD) devices for "loud hailing" and broadcasting information to the group as a whole during the eviction on November 17, 2011. In contrast to Oakland, Dallas police did not utilize officers outfitted in riot gear or utilize mass dispersed chemical agents to respond to protester gatherings. The first time Dallas officers donned helmets and other protective equipment was during the November 17 eviction. However, officers did utilize their oleoresin-capsicum (OC) spray on more than one occasion during arrest situations involving Occupy protesters.[462]

F. THE EVICTION

A substantial number of homeless had moved into the camp, possibly enticed by the agreement not to enforce the ordinance against sleeping in public and the donations of food and clothing that came on an almost daily basis.[463] The protesters had already been

[461] See www.t3motion.com for more information.

[462] OC spray as it is commonly called refers to oleoresin capsicum spray, which causes lachrymation, an intense burning sensation and involuntary closing of the eyes.

[463] Gilett and Fink, "CPS Seizes Baby from 'Occupy Dallas' Site."

given notice by the city that if they did not clean up the camp and remove semi-permanent structures, like their kitchen for example, the city would end their signed agreement.[464] Shortly after the city sent them that warning, the police department began making plans for the eviction.

In a presentation to a law enforcement ethics training class following the protests, the Dallas city manager acknowledged that it was out of concern for the potential of Occupy Dallas to use social media and technology to rapidly solicit and receive large numbers of supporters in very short order, that secrecy of the eviction plans was paramount.[465] So secret were the plans that according to an anonymous source within the police department, police management changed the hours of the SWAT operators multiple times in the days leading up to the operation in order to make it less likely that someone could anticipate the eviction and leak the information to the media. At some time around 11:45 p.m. on Wednesday, November 16, 2011, City Manager Mary Suhm sent the Dallas City Council a letter indicating that police were in the process of evicting the Occupy Protesters.[466] No other advanced warning was given.

Following a very secret briefing and shortly after midnight on November 17, 2011, a collection of between 250 and 350 Dallas police officers from various units established a perimeter and blocked off streets surrounding City Hall. A contingent of mounted officers on horseback cordoned off the City Hall side of the encampment. Dallas SWAT operators, supported by mounted officers, then moved into place around the camp. The plan called for multiple warnings to be given, ample opportunity for protesters to comply, and eventual physical removal by officers, if necessary, using approximately three officers for every protester—not including traffic and support officers.[467]

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[464] Bowers, "Letter to Jonathan Winocour RE: Occupy Dallas."

[465] Suhm, "OCCUPY: The Dallas Experience."

[466] Mary Suhm, "Memo to Dallas Mayor and Dallas City Council," *NBC Bay Area*, November 8, 2011, media.nbcbayarea.com/documents/Dallas-letter-to-Occupy-Dallas.pdf.

[467] "WFAA—as It Happened: Police Raid Occupy Dallas—Time to Go Home," YouTube video, posted by spydat3k0, November 17, 2011, http://www.youtube.com/watch?v=W2swuOehg20&feature=youtube_gdata_player.

Dallas police began warning protesters using an LRAD system and continued broadcasting for over 45 minutes that the protesters were to leave the park and take their belongings. Any belongings left behind, they were told, would be seized and placed in the police property room. Police also gave them a 10-minute warning (which was actually 15 minutes) and then a 5-minute warning (which actually ended up being 10 minutes). Police took a hard stance with the media and advised them that if they were in the park with the protesters they would be arrested right along with them. They then established a media staging or free press area across the street from City Hall. All the media elected to congregate in the area indicated by police.[468]

In roughly the center of the camp, 18 protesters opted to stay and be arrested.[469] The group had formed as the officers surrounded the camp and as they waited for police, they professed their commitment to the Occupy cause. Shortly thereafter, Dallas police utilized a new tactic for them, and had a deputy chief and a lieutenant led the entry into the camp.[470] Following after, SWAT operators wearing helmets, raid jackets and their BDU's began slowly and systematically moving through the camp.[471]

Dallas Police Chief David Brown would later tout this technique as a "best practice" he had become aware of (via the conference calls), and a tactic that they would use in the future.[472] A councilmember, who had been critical of the eviction at the time, later praised both the Occupy Dallas protesters and the police department for their conduct during the eviction.[473] According to police, camp conditions were filthy and

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468 Ibid.

469 "Occupy Dallas," YouTube video, posted by OccupyOps, November 17, 2011, http://www.youtube.com/watch?v=TpxbLt9MQ7E&feature=youtube_gdata_player.

470 Suhm, "Memo to Dallas Mayor and Dallas City Council."

471 Dallas Police Department. "Incident Timeline," November 17, 2011.

472 Kent Chapline, "Dallas Police Chief Explains Move to Evict Occupy Dallas Protesters," *CBS Dallas / Fort Worth*, November 17, 2011, http://dfw.cbslocal.com/2011/11/17/dallas-police-chief-explains-move-to-evict-occupy-dallas-protesters/.

473 Steve Thompson, "Angela Hunt Praises Occupy Dallas Protesters and Police, but Not City Manager," *City Hall Blog*, November 17, 2011, http://cityhallblog.dallasnews.com/2011/11/angela-hunt-praises-occupy-dal.html/.

justified the eviction.[474] In spite of comments about a resurgence of Occupy Dallas, the camp was removed and protesters did not return to re-occupy the land again.

Dallas was the fourth and final case examined for this thesis. Dallas provides an example where city and police leadership recognized the novel and emergent nature of the Occupy movement and made adjustments to how they normally responded to demonstrations. The Occupy movement was certainly not the largest protest movement in the history of Dallas, but it was likely one of the longest continuous protest demonstrations.[475] Their response incorporated elements of common strategies, such as negotiating with protesters for an amicable resolution, coupled with novel solutions, such as allowing overnight camping on public property. Dallas did, as I noted, exercise methods of spatial control and there was conflict, occasionally violent, with activists. On the whole, however, Dallas, like Portland, exhibited emergent strategies of response in a complex adaptive environment and is a case from which some helpful conclusions can be drawn.

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474 Kent Chapline, "Dallas Police Chief Explains Move to Evict Occupy Dallas Protesters - CBS Dallas / Fort Worth," November 17, 2011, http://dfw.cbslocal.com/2011/11/17/dallas-police-chief-explains-move-to-evict-occupy-dallas-protesters/.

475 Dallas experienced demonstrations involving hundreds of thousands of people marching for immigration reform in recent years. Monika Diaz, "Thousands March in Dallas for Immigration Reform," *WFAA*, May 5, 2013, http://www.wfaa.com/news/politics/LIVE-BLOG-Dallas-MegaMarch-206195111.html.

VII. ANALYSIS

In this analysis chapter, using the case study method, I identify and then compare and contrast eight recurring themes from the case studies. In addition, I will present the themes from the data in tables, which provide a visual comparison of the cities' responses beside one another. In doing so, I will draw conclusions based on these comparisons and culminate with recommendations for police and city leaders going forward

The goal of this research was to use the case study method to identify common themes in the methods of policing protest employed during the Occupy Movement in the fall of 2011. The circumstances of the Occupy Movement presented a unique opportunity to examine four large police departments and their individual responses to a protest movement that was alike in relative size, protest methodology and duration. National movements are rare, and often scholars are forced to study consecutive events (such as political conventions or G8 Summit meetings) to examine policing protest with similar circumstances. In those situations, the city leaders and police hosting the later event have the benefit of consultation and preparation time to adjust to new tactics or methods. With the Occupy Movement, city and police leaders had to do real-time communicating if they hoped to learn from their contemporaries—they learned lessons on justifying their actions from having held those calls as well.

Unlike earlier protest movements, the Occupy Movement made use of social media technology in new and varied ways. Much of this remains online and accessible to this day. This research utilized relevant available social media—specifically YouTube videos from police, protesters, and third parties—in ways that had not been done previously. Social media video analysis (SMVA), as it is called here, provides candid views of protester interactions, and when juxtaposed with video recorded by police, news footage or other sources, it can help to more thoroughly illustrate the dynamic interactions occurring in that moment. It is not a replacement for standard scholarly research, structured interviews of involved parties, or other typical research methods. However, it is an interesting and disruptive technology in the aspect of social movement research. I say "disruptive" here to indicate that the technology has disrupted human

behavior or changed it. For example, activists and police alike now often focus efforts on capturing events with cell phone or other cameras, and in many instances, posting those recordings to various social media sites.

In order to account for the potential for inadvertent or malicious editing of video presented on social media, any elements that were relied upon for analysis were confirmed through multiple sources. For example, in comparing a clip from a particular protest event, I confirmed the event and other pertinent details through sources such as media reports of the event, video captured by multiple disconnected sources indicating the same thing, or official publications indicating that the social media video was in keeping with what occurred.

Identified issues that emerged from the research:

1. Lack of traditional negotiated management: Negotiated management is a cooperative process by which police negotiate with protesters in an effort to reach agreement to achieve desired outcomes. Of note, police in all four cases seldom used this protest-policing method.
2. Presence or absence of cohesive government leadership: Cohesive leadership implies that leadership of the major participants/departments is in agreement on how to respond to the protest. In the New York, Portland, and Dallas cases, cohesive leadership was evident and—in Dallas and Portland—seemed to improve the police response. In the Oakland cases, it was noticeably absent and contributed to significant problems with police response.
3. Timing of evictions: Issues were raised on whether or not the timing of the evictions of the various Occupy camps occurred as part of a coordinated effort on the part of the government to end the Occupy movement at once. At this point, however, there is insufficient evidence to conclude definitively one way or the other.
4. Universal degradation of camp conditions / violence in camp: Media and governmental leaders remarked on how the conditions in the camps became increasingly unhealthy and concerning. This likely shaped public perceptions about the movement, and in some instances, the government contributed to the degrading conditions by refusing to allow toilets, among other things.
5. Control of space by the government: Issues regarding how the government dictates rules and enforces laws related to the general public's access to "public spaces" is a recurring concern as it relates to public expression of dissent.

6. Police militarization and tactics: Police militarization was evident in the Oakland case. The research was insufficient to adequately determine whether there were more entrenched militarization effects occurring such as long-term effects on police culture related to hiring officers with military experience. More study in this area is warranted.

7. Social media use: Both police and activists used social media sites in new and disruptive ways. Research found that activists were most often ahead of police in this area and used it more to their advantage. Police monitored varying amounts of social media and neglected opportunities to better distribute their "message" to the public.

8. "Emergent practice" in complex adaptive system: As a "sense-making" model, the Cynefin framework provides an excellent means of analyzing and understanding how decisions are made when dealing with the fluidity and dynamic nature of large protest movements. By applying this framework to the responses, patterns are visible that gives an indication as to how strategic decisions were made and how they can be improved in the future.

Police and protester alike have goals in mind when they engage in or respond to protest. For protesters, the goal may be to engage in civil disobedience to the point of being arrested as to generate attention for their cause. For police, the desired result is most often that there will be a voluntary compliance with the law and order is maintained. In cases where protesters want to be arrested and are willing to negotiate with police, the police are generally willing to accommodate their request. Similar to Seattle in 1999, however, when protesters refuse to engage in negotiated management or where in New York during the Occupy Movement, the police often refused to engage in negotiations, other avenues of enforcement and protest emerge. Much of the challenge in responding to these kinds of protests is that predicting an outcome for an input of control is difficult at best. Following my analysis of the data in the cases, in Chapter VIII, I will illustrate how using the Cynefin framework can be useful is developing and implementing a strategy for large and small departments alike.

A. IDENTIFIED THEMES

Each of the studied cities' leadership had a vision of a "desired outcome" when the Occupy Movement began, with perhaps the exception of Oakland, California. Each city expressed the same general sentiment that their goal was to facilitate both the

expression of the protesters' First Amendment rights while maintaining order and safety of the public at large. This suggests that at least at the beginning of the movement, the four studied cities subscribed, at least, to the values of the negotiated management philosophy. McPhail, Schweingruber, and McCarthy hold that negotiated management is structured around the tenant of the rights to free speech and the act of cooperative negotiation with police to avoid conflict.[476] What played out in their interactions tended to support the conclusion that some departments abandoned the idea of negotiating a peaceful demonstration.

The longer the protests and encampments continued, the more the police departments began downplayed First Amendment issues and instead began to stress the safety aspect of the ongoing movement. For example, recall that Dallas initially negotiated with protesters and agreed to cease enforcement of certain ordinances, such as sleeping in public and the park closure hours specifically for the Occupy protesters. The evolution of each city's message was very similar. Ultimately, in Dallas, this culminated with Mayor Mike Rawlings publically stating that safety came before the Constitutional rights of the citizens just before the Dallas police evicted the protesters.[477] In New York, Mayor Bloomberg also cited safety concerns prior to the eviction of protesters from Zuccotti Park. In fact, all of the cities studied expressed concerns regarding the conditions of their respective encampments, which, according to police necessitated the protesters be removed. Also in each city this resulted in a use of force above the level of verbal direction and resulted in the arrest of a varying number of protesters.

B. IDENTIFIED ISSUES

1. Lack of Traditional Negotiated Management

At the start of the Occupy Movement, each of the cities studied had policies in place that tended toward a negotiated management philosophy. For example, Dallas police were able to conduct limited negotiations with attorneys who worked pro bono for

[476] Clark McPhail, David Schweingruber, and John McCarthy, "Policing Protest in the United States:1960-1995," in *Policing Protest: The Control of Mass Demonstrations in Western Democracies*, ed. Donatella della Porta and Herbert Reiter (Minneapolis, MN: University of Minnesota Press, 1998), 49–69

[477] Lopez, "Dallas Mayor to Occupy Dallas."

the Occupy protesters. This was carried out in a legal forum and not at all like typical "negotiated management" of protests.[478] When Dallas tried to employ the negotiated management techniques, they found that the group had little cohesive leadership with which to negotiate. There were various individuals who vied to speak for the group but no universally recognized leader or organizer that a majority would follow. Police actions toward negotiated management are (at least) two-fold, according to della Porta and others.[479] They assert that negotiated management would provide police with the ability to "minimize public disorder" and also provide police with some degree of "predictability" as to the actions of the protesters.[480]

As noted in Table 1, none of the departments utilized a traditional negotiated management philosophy when dealing with the Occupy protesters. As discussed below, Dallas, Oakland, and Portland utilized a hybrid form of response. By "hybrid," I am referring to either attempting negotiations unsuccessfully or negotiating in rare instances but ultimately taking direct action that was in keeping with a negotiated outcome. In what I what I describe as a chaotic response, Oakland had times where city leaders attempted to negotiate with members of the movement but were unsuccessful.[481] In New York City, police utilized the tactics of strategic incapacitation as evidenced when they exercised arbitrary control over marches by dictating instead of negotiating and closing streets or sidewalks with no notice. Dallas and Portland both attempted negotiations and, in the case of Dallas, entered into a negotiated settlement. Dallas however also, some could

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[478] Typical negotiated management takes place on site at the protest and is between police leaders and protest leaders. Rarely in my experience does the negotiation take place as part of a legal proceeding or culminate in a settlement agreement.

[479] Donatella della Porta and Herbert Reiter, *Policing Protest: The Control of Mass Demonstrations in Western Democracies* (University of Minnesota Press Minneapolis, MN and London, 1998); P.A.J. Waddington, "Controlling Protest in Contemporary Historical and Comparative Perspective," in *Policing Protest: The Control of Mass Demonstrations in Western Democracies*, ed. Donatella della Porta and Herbert Reiter (Minneapolis, MN: University of Minnesota Press, 1998); McPhail, Schweingruber, and McCarthy, "Policing Protest in the United States:1960–1995."

[480] Ibid.

[481] Terry Collins, "Oakland Mayor Jean Quan Renews Appeals To Occupy Movement," *Huffington Post*, November 9, 2011, http://www.huffingtonpost.com/2011/11/09/oakland-mayor-jean-quan-occupy-protesters_n_1084545.html; Shoshana Walter, "Quan Chased from Occupy Oakland Rally: Mayor Takes Refuge in City Hall after Attempting to Speak; New Tent City Begins to Take Shape," *The Bay Citizen*, October 28, 2011, https://www.baycitizen.org/news/occupy-movement/quan-shouted-down-occupy-oakland/?page=2.

argue, used elements of strategic incapacitation insomuch as they utilized surveillance technologies to monitor the group camped behind City Hall. For these reasons, I have characterized their approach more in keeping with a hybrid of techniques. Likewise, Portland used elements of negotiated management and some components of escalated force when refusing to allow the expansion to Jamison Square. Because of their "softer" approach and use of community policing strategies, Portland's management approach differs significantly from that of Oakland and New York.

Table 1. Management Approaches

Management Approach	Negotiated Management	Hybrid	Strategic Incapacitation	Escalated Force
Dallas		☆		
Oakland		☆		☆
New York			☆	
Portland		☆		

In spite of the recurring general assembly meetings held in each city, these groups were ineffectual for the police agenda of negotiations. Their direct-democracy would grind to a halt. In Portland for example, tangential issues often derailed any hope of a discussion with any continuity.[482] When engaging in negotiated management of protests, police rely on a central figure or cadre who commands some sort of allegiance from the larger group and who can influence the group's action consistent with the negotiated agreement. A group, such as the General Assembly, logistically had no way of negotiating anything in the kind of real-time that police needed. While Portland did have some limited success in establishing relationships with some of the individuals in camp and on the protesters' volunteer in-camp security, any negotiations for the whole group were impossible because no one or two people could speak with any authority for the

482 "2011-10-12 P1080016 Occupy Portland General Assembly," YouTube video, posted by PDXSquared, October 14, 2011, http://www.youtube.com/watch?v=tQ6jNkSLmEE&feature=youtube_gdata_player.

group. Interviews of protesters in videos on YouTube tend to confirm this with no references to any protest leaders or organizers, yet repeated discussions of a group consensus.

As could be seen in the October 1 protest on the Brooklyn Bridge, a number of NYPD supervisors were present at the edge of the bridge and gave warnings to protesters that marching on the bridge would not be permitted. Although there was a cluster of protesters front and center, no one appeared to be leading the group of protesters.[483] An additional example of the NYPD refusing to negotiate and instead dictate orders to the activists occurred when in at least one instance at Washington Square Park, New York police refused to negotiate with protesters or observers.[484] Vitale contends that this refusal to negotiate stems from the department's movement to a "broken windows" approach to policing.[485] He points to the department's unwillingness to tolerate disruption of normalcy by protesters as directly related to the idea of the "broken windows" theory of policing and police intolerance of minor infractions. I agree that there are similarities in that minor violations are addressed in broken windows styles of policing and that the NYPD has shown evidence of intolerance of disruptive protest. However, I believe that this more closely stems from the NYPD's response to terrorist attacks and is in keeping with a unilateral approach to protecting New York that is indifferent to critics and, in some instances, its very citizens.

Consider the creation of the International Liaison Unit that sends NYPD detectives overseas to deal directly with foreign agencies for the purpose of intelligence collection. John G. Comiskey pointed out that the upper echelon of the NYPD knew the creation would "irritate CIA, FBI and the Department of State in one fell swoop."[486]

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483 Unknown, *March on Brooklyn Bridge—10/1/2011*.

484 MacLean, Glenn, and Knuckey, "Supressing Protest."

485 "Broken windows" refers to a theory posited by James Q. Wilson and George L. Kelling in their article of the same name. The theory is that small damage, and allowed to go unrepaired, will engender greater and more detrimental damage. "Damage" is also interchanged with crime, meaning that if police allow minor violations to go unaddressed then more serious crimes will follow. Vitale, "From Negotiated Management to Command and Control," 296.

486 John Grattan Comiskey, "Effective State, Local, and Tribal Police Intelligence the New York City Police Department's Intelligence Enterprise-a Smart Practice" (Master's thesis, Naval Postgraduate School, 2010), 15.

More recently the long practice of "stop and frisk" was deemed unconstitutional, yet Police Commissioner Ray Kelly denounced critics of the policy as "full of sh--."[487] This has been the pattern of New York since the attacks on the World Trade Center in 1993.

Oakland's attempts at negotiation were also not in keeping with traditional negotiated management. In spite of two councilmembers joining the occupation for two days, there was no true negotiation occurring during the encampment. Each department studied expressed difficulty in identifying leaders with whom to negotiate. Later during the occupation, Mayor Quan and other councilmembers were shouted down when they tried to present ideas to Occupy Oakland. In many instances, the Occupy Oakland group themselves dictated to police, by their actions, what was going to occur. Consider when Occupy Oakland expanded their camp to nearby Snow Park. Police made no attempts to negotiate with the protesters and instead made threats, threats to evict on which police never followed up until they forcibly evicted all occupiers (for the first time) on October 25. Even then, there was no negotiation, only a brief warning before officers moved on the camp in force.

Negotiation with the Occupy group was difficult for even those associated with them. The attorney for Occupy Dallas had challenges dealing with the group because it had no central leadership. He also recognized that police, likewise, had trouble identifying any one central leadership individual or cadre with whom to negotiate. Dallas did have success in reaching an agreement to move the Occupy Dallas group from its original encampment in Pioneer Plaza to the area behind City Hall. This was not insignificant for the city of Dallas, given that Pioneer Plaza is immediately adjacent to the convention center and a popular tourist attraction for people visiting downtown Dallas. Consider also that the city of Dallas was in the final stages of completing construction on the Omni Hotel also immediately adjacent to the Dallas Convention Center and a block from Pioneer Plaza. The grand opening event was scheduled for early November and city leaders were faced with a national protest movement camped in a prominent park with

[487] Hamilton Nolan, "Ray Kelly: Stop-and-Frisk Critics 'Absolutely' Full of Shit," *Playboy*, November 22, 2013, http://playboysfw.kinja.com/ray-kelly-on-stop-and-frisk-fighting-crime-and-combati-1469161348/1469716157/@hamilton_nolan.

their dirty laundry hanging on bronze sculptures around the corner from a brand new multi-million dollar hotel. They made no mention of this and local media did not report on any motivation tied to the grand opening on the part of the city. Discussion within the police department, however, made it clear that this reason was among the most important for moving the protesters. Advantages to the city for this move translated directly to the issue of control of space by the government. Protesters also later declined to negotiate during the incident at the Chase Bank where the protesters blockaded the entrance to the bank. Although 23 protesters had been intent on being arrested, there was no negotiation with police to accommodate their wishes.

Portland Police Bureau had perhaps the closest thing to a traditional negotiated management approach than any of the cities involved. With their handpicked officers building relationships with protesters, they were able to work with protester volunteers acting as internal security. When protesters attempted to expand their camp to Jamison Square on October 30, 2011, there was no negotiation, in spite of officers warning protesters that to attempt this expansion would risk the city's cooperation and permission to occupy Chapman and Lownsdale squares.

The issue of negotiation is not one-sided, and any discussion must address the willingness of both government and protester to engage in negotiation. Della Porta points out in her studies of protest that "underlying [differences in various protests] was a family resemblance between protester and police behavior…" meaning that what one group did, affected the other; she calls this "interactive diffusion."[488] Police cannot hope to abandon negotiation and expect to reach a cooperative or empowering relationship with protesters any more than protesters can expect the police to tolerate a refusal of protesters to obey the law and utilize force when necessary.

Just as protester tactics are adopted and abandoned, perhaps even more quickly with the infusion of social media, so too are police tactics "diffused" from one generation of officers to another and one department to another. During the Occupy Movement, a number of cities took part in the Police Executive Research Forum's-sponsored

[488] della Porta and Tarrow, "Interactive Diffusion," 122.

conference calls. The calls themselves were not without controversy. As a result, there were multiple follow up stories that involved PERF and various jurisdictions defending their communications and denouncing them as collusion or conspiracy.[489] This diffusion of tactics is only increased or made more rapid with the advent of social media and technology.

2. Presence or Absence of Cohesive Governmental Leadership

Cohesive governmental leadership is not indicative of complete agreement by all parties involved. Cohesive governmental leadership indicates that a relatively consistent message came from the primary departments and divisions within a respective city relating to its response to the Occupy movement.

Table 2 provides a visual comparison of the identified theme of the presence or lack of cohesive leadership. Only in the Oakland case was there multiple indicators that a lack of cohesive city leadership existed. In the cases of Dallas, Portland, and New York, the respective leaders of both the police departments and city government were in synch on the response to the Occupy Movement.

		Cohesive Leadership	Conflicting Leadership
Leadership Dynamic	Dallas	☆	
	Oakland		☆
	New York	☆	
	Portland	☆	

Table 2. Leadership Dynamic

[489] Mark Stout. "The Uproar over PERF: Occupy Controlling the Information Environment," November 21, 2011, On War and Words, acchttp://onwarandwords.wordpress.com/2011/11/21/the-uproar-over-perf-occupy-controlling-the-information-environment/; Khadijah Britton, "A PERF-Ect Storm," *The Phoenix*, November 26, 2011, http://thephoenix.com/Boston/news/130305-perf-ect-storm/.

Analysis of the New York response to the Occupy Movement indicated that there was at least the appearance of cohesion and unity of philosophy between police and the mayor's office. The NYPD consistently applied the tactics of strategic incapacitation throughout the Occupy Movement; however, statements to the public espoused the support of the activists' First Amendment rights. This appeared duplicitous in light of the tactics employed by the NYPD.[490]

Similar to New York, in terms of cohesion only, the city of Dallas presented a unified front throughout the occupation. Chief David Brown met regularly with Mary Suhm, the Dallas City Manager, to discuss the direction of both the city of Dallas and the police department relative to the Occupy protesters. The city manager opted not to "put a face" on the city's response and gave no on-camera interviews regarding their handling of the protest. Instead, she empowered the main city of Dallas Public Information Officer (PIO) to handle all media statements regarding the city and Occupy Dallas. This coincided with the city's typical policy of having the PIO handle regular city information and media requests. In addition, the police department relied on its own media relations office (MRO) to speak specifically for police department issues. Both the PIO and the MRO worked cooperatively and only provided written responses to media inquiries, avoiding potential problems related to making public statements on camera. According to Suhm, this was a strategic move.[491]

Additional evidence of the Chief of Police and Dallas city manager working together was clear in the planning leading up to the eviction. The city manager told no one on the City Council of the plans to evict the Occupy contingent until about 15 minutes before the planned operation. As noted in Chapter VI, not even the SWAT operators tasked with the eviction knew what was coming that week as their schedule had been manipulated unlike any time previously. A graphic from the Dallas city manager's after-action presentation illustrates that the City Manager's Office and the police

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[490] Raymond Vasvari, "Occupying the First Amendment," *Slate*, November 15, 2011, http://www.slate.com/articles/news_and_politics/jurisprudence/2011/11/occupy_wall_street_police_raid_what_zuccotti_park_teaches_us_about_public_spaces_and_citizen_protest.html.

[491] Suhm, "OCCUPY: The Dallas Experience."

department were at the center of a citywide organization set on responding to the protests (see Figure 10).

Figure 10. City of Dallas Unified Command

Occupy Portland, similar to the response from the city of Dallas, was relatively consistent and cohesive throughout the occupation.[492] Initially, the police bureau advised the mayor and council against allowing the protesters to maintain their growing encampment in Chapman and Lownsdale parks. Mayor Adams told protesters from the start that they would not be allowed to expand their camp and held to this on October 30, 2011 at an attempted expansion at Jamison Square. Portland Police again held firm on the prohibition on expansion on November 1, 2011 when, at the request of the Federal Protective Service, they arrested 10 protesters were trying to expand their encampment to Terry Schrunk Plaza.

As in at least one use of force incident in Dallas, the transgressive acts cited by the city included one that was promulgated by an off-duty officer using inappropriate

[492] It should be noted that this research stopped at the initial eviction of Occupy Portland. Protesters continued to protest in the city of Portland in the following weeks and months including some activity as of the writing of this thesis.

force against a protester.[493] This action set off a chain reaction, culminating in arrests of multiple persons. This, coupled with protesters obstructing the entry to the Chase Bank on October 24, was cited by the city as a reason for the eviction of protesters. These conflicting accounts and motives give rise to Kelman's discussion of legitimacy and apply to how citizens view the legitimacy of their respective police department. Kelman points out that the "influence in authority situations," in this case the police being the authority "falls into the domain of *obligation:* people accept influence insofar as they see the influencing agent as having the right to make certain demands."[494]

The success of these "demands" that Kellman alludes to, as they related to protester behavior, is at least in part dependent upon the perceived legitimacy of the authority of the police. As their legitimacy is compromised, with the inappropriate act of the off-duty officer, the legitimacy of the protesters is increased. Kelman also notes, "Legitimization and deligitimization processes generally operate in tandem."[495] The sooner the police acknowledge the wrongdoing and take appropriate disciplinary action, the sooner they begin to repair the damage. Dallas's response appears to have been timely in that there was not an overwhelming public outcry. In Oakland, however, police evicted protesters only to have Mayor Quan allow them to return as before. This countermanding of the police, coupled with the violent and excessive force used by officers during follow-up protests, arguably served to reduce the perceived legitimacy of the Oakland officers even further.

In Dallas, the city initially imposed acquiring a $1,000,000 dollar insurance policy as a condition of allowing Occupy Dallas to remain encamped. As a result, it normalized an additional requirement to the expression of free speech while at the same time positioning the activists to be delegitimized if they failed to obtain the insurance. Additionally, the city attached the potential for criminalizing the activists' rights to free speech.

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[493] Goldstein, "New YouTube Video Appears to Show Dallas."

[494] Kelman, "Reflections on Social and Psychological Processes,"54.

[495] Ibid.

Statements released, tweeted, and posted to the department's Facebook page were in keeping with the city's message of tolerance of protest without expansion or violence. Another affirmation that Mayor Adams was ultimately directing operations and that the police bureau was responsive was during the October 1 action in Jamison Park. Adams was clearly visible circling the park and indicated through a tweet that he was there to "keep the peace."[496] He made it clear that the decision to enforce park hours was his. Police Chief Mike Reece expressed his "[disappointment that] officers had to make arrests, he said his department would continue to use the same strategy in monitoring the protest.[497] Like Dallas, Portland police held regular meetings with both the mayor and the city council to brief them on the protest.

Where cohesion and a unity of purpose seemed to be consistent in the other cities, the same cannot be said of the Oakland response to the Occupy movement. Understanding that the Occupy Wall Street encampment had been going on for about a month when the Occupy Oakland group first marched is important. According to internal emails, obtained by Freedom of Information Act (FOIA) requests submitted by Daniel Willis and Thomas Peale of the Bay Area News Group, Oakland officials had about a week's notice of a planned Occupy Oakland protest in which to address "what if…" scenarios.[498] In fact, as mentioned, when protesters marched and began to set up camp, Oakland police officers took no action and would later voice their confusion with Mayor Quan's approach to the Occupy Movement.[499] Further confusing to police would have been the inclusion of two standing city councilmembers into the number of protesters occupying the square.[500] This would have put any officer taking enforcement action on them in an unenviable position and would have almost certainly resulted in a newsworthy

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496 Hoffman and Mesh, "Pearl District Occupation Ends."

497 Kate Mather, "Occupy Portland: City Won't Change Its Approach; Protesters Intend to Keep up Their Cause," *The Oregonian—Oregon Live*, October 30, 2011, http://www.oregonlive.com/portland/index.ssf/2011/10/occupy_portland_city_wont_chan.html

498 Willis and Peele, "In Their Own Words;" Christopher Bolton (Oakland Police Department), "Ally Rasmussen from KTVU Calling Re How Long We Are Going to Allow Protesters to Stay in the Plaza," email to Susan Piper (City of Oakland) and Karen Boyd (City of Oakland), October 12, 2011.

499 Raja, "Open Letter from OPA."

500 Maher, "Rats and Drugs Mar Occupy Oakland."

or high profile incident. Like Dallas, Oakland attempted to refrain from "putting a face" on the city's response so as "not to make the story bigger or more attractive to air."[501] To accomplish this, city leaders discussed not providing voice or on-camera statements.[502]

The Oakland Police Department's Chief of Staff, Christopher Bolton, in an email to the mayor's and the city's communications managers among others, was nonspecific about how the police department intended to handle the protesters saying, "We will continue to weigh the need to cite citizens for minor infractions against their overall need and right to assemble peacefully in a public place."[503] This gave protesters no assurances that they would be allowed to stay and conceivably contributed to any anxiety felt by protesters in dealing with the police. This all compounded with the recent protests surrounding Bay Area Rapid Transit (BART) response to protests over the officer-involved shootings wherein they shut down cellular telephone service at one of its stations to prevent protesters from communicating and coordinating their movements.[504]

The disharmony at the upper echelons of the City of Oakland regarding the Occupy protesters was further exacerbated when Chief Howard Jordan elected to evict the protesters on October 25, 2011, while Mayor Quan was unaware and out of town. Even if Mayor Quan was unaware of the planned eviction, it appears that the Occupy group was more informed. According to an email from Harry Hamilton of the Community and Economic Development Agency with the City of Oakland to Karen Boyd and Susan Piper, Communications Director and Manager respectively of the city of Oakland, on October 24, 2011, the Occupy Oakland website had an alert saying:

> A police raid of Oscar Grant Plaza is very likely this week. Text 'bayaction' to 41411 to get on the emergency text alert system of

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501 Willis and Peele, "In Their Own Words;" Bolton, "Ally Rasmussen from KTVU Calling."

502 Ibid.

503 Willis and Peele, "In Their Own Words." Advisory on city of Oakland letterhead attached to an email from Communications Director Karen Boyd with city of Oakland to "Announcements."

504 Rachel Lackert, "BART Cell Phone Service Shutdown: Time for a Virtual Forum," *Fed. Comm. LJ* 64 (2011): 577.

> #occupyoakland. In the event of an attempted police eviction, please alert all your friends and swarm downtown Oakland ASAP![505]

In a prepared statement to be released to the media from the mayor's office following the raid, Mayor Quan praised the work of police and cited sanitary conditions and ongoing vandalism as contributing to the decision to evict the protesters.[506] Within two days of the eviction, Mayor Quan was denounced as "pulling a 180" by calling for a "minimum police presence" and allowing "nonviolent protesters to re-occupy Frank Ogawa Plaza."[507] In the wake of the indecision and contradictions, members of the mayor's staff resigned—a clear indication that not everyone with the city was supportive of the decisions being made. The city of Oakland was unique among the cases studied in the resignation of executives in protest to methods used in response to the Occupy protesters.

Other than the resultant violent encounters between police and activists following the first eviction, the resignation of staff in this manner was perhaps the clearest example of disjointed leadership in the Oakland case. City staffers occasionally resign, but to have multiple staffers resign during a protest is unprecedented and a significant indicator that leadership in the city of Oakland was sufficiently fractured to the point of being incapable of constructively responding to the ongoing protest. In none of the other cases was there resignation in protest, let alone multiple resignations.

The change in staffing coupled with the lack of cohesion can be argued to have exacerbated the potential for violent interactions. As della Porta noted, "shifts in the policing of protest—or techniques of repression—have often been traced to changes in the makeup of the government."[508]

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[505] Willis and Peele, "In Their Own Words." Email from Harry Hamilton (City of Oakland) to Karen Boyd and Susan Piper (City of Oakland).

[506] Quan. "Statement for Media Regarding Occupy Oakland Eviction."

[507] Shoshana Walter, "Quan under Attack, Changes Course on Occupy Oakland," *The Bay Citizen*, October 27, 2011, https://www.baycitizen.org/news/occupy-movement/quan-shunned-reverses-occupy-ban/

[508] Donatella della Porta, *Social Movements, Political Violence, and the State: A Comparative Analysis of Italy and Germany* (Cambridge University Press, 2006), 74.

3. Timing of Evictions

In Figure 11, I've illustrated the timing of eviction events in the four studied cities. This infographic displays the relative short period of time that it took for all four cities to evict their Occupy activists relative to each other. The graphic also illustrates the relative time lapse between the PERF conference calls and the final eviction of the encampments.

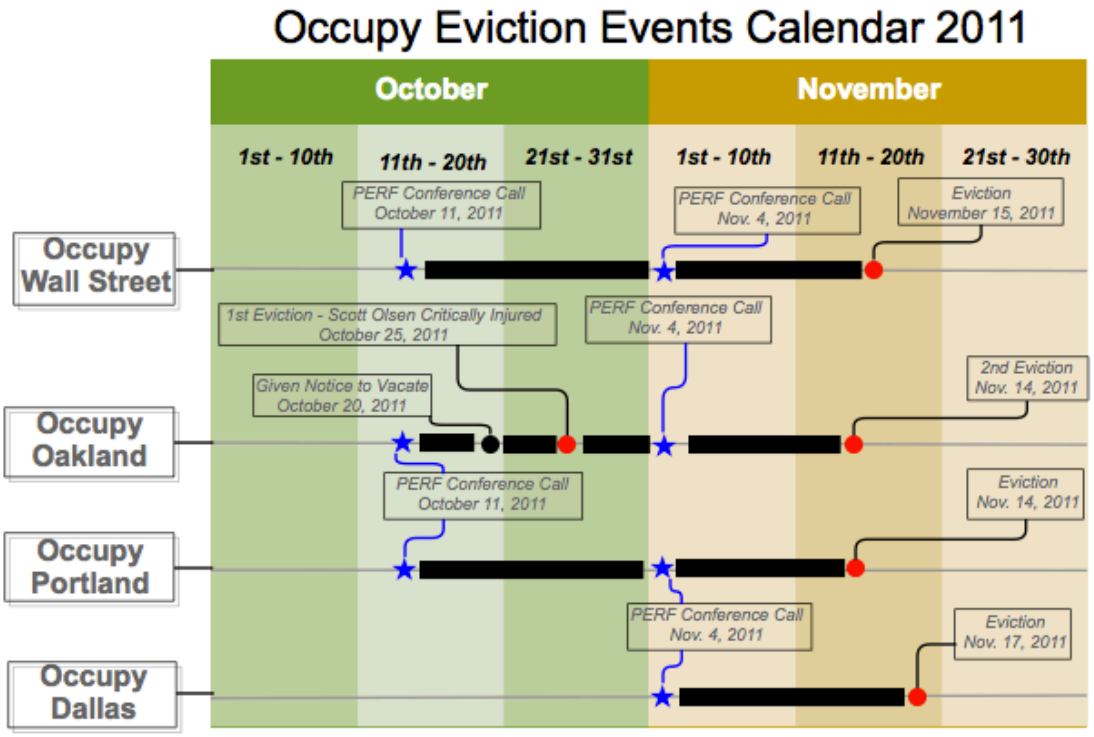

Figure 11. Occupy Eviction Events Calendar

The four cities studied evicted their respective Occupy contingents within a three-day time period beginning on November 14, 2011. Oakland Mayor Jean Quan was one of the first credited with the revelation that various (18 according to her) cities had participated in a conference call regarding Occupy protest management.[509] The NYPD did postpone a planned cleanup on October 14, 2011, which was to come one day after

509 "After Ouster, Occupy Oakland Protesters Return" (interview with Jean Quan), *The Take Away*, November 15, 2011, http://www.thetakeaway.org/2011/nov/15/after-ouster-occupy-oakland-protesters-return/?utm_source=sharedUrl&utm_media=metatag&utm_campaign=sharedUrl.

the first U.S. Conference of Mayors call. There were no direct indications that this postponement was in response to the call and, in fact, Bloomberg's spokesperson denied his involvement in any of the calls.[510] Portland Police Chief Michael Reese contacted Wexler and requested that they facilitate a second conference call, which was held November 4, 2011. Dallas, Portland, and an undetermined number of cities took part.

Media accounts of the timing of the Occupy Wall Street eviction gave little to no mention of any kind of coordination between NYPD and other agencies—local or federal. Reasoning surrounded a reported increase in illness and medical issues with protesters in camp.[511] Coupled with this was the idea of perception of strength and as with Dallas, legitimacy of the mayor's office in the timing. The New York post cites increasing concern of Mayor Bloomberg being perceived as weak in the wake of the second Occupy Oakland eviction on November 14.[512] The post article also suggests that there was pressure from the financial centers of the city to evict the protesters especially in light of a report that they were going to march on the financial district.[513]

Analysis of the timing seems to indicate that while there may have been no direct coordination of the timing of the evictions, the evictions all occurred within a very few days following the calls. Given that the cities studied claimed to be experiencing many of the same group dynamics and camp conditions, it is possible that the conference calls provided the final impetus for the respective city leaders to decide to act. It is also possible that there was a contagion of effort that occurred. As city and police leaders saw other cities evicting their Occupy activists, they may have felt inclined to allow police to move ahead with eviction plans of their own.

Once Oakland had its violent eviction in late October, this was a catalyst for other cities to move to evict their groups. Considering the rapid transmission of information via

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[510] Johnson, "Build Up To A Raid."

[511] Michelle Miller, "NYC Police Clear 'Occupy Wall St' Camp," *CBS News*, November 15, 2011, http://www.cbsnews.com/news/nyc-police-clear-occupy-wall-st-camp/; Bloomberg, "Bloomberg Statement on Occupy Eviction."

[512] Josh Margolin, "Inside Story of Why Mike Finally Had to Act," *New York Post*, November 16, 2011, http://nypost.com/2011/11/16/inside-story-of-why-mike-finally-had-to-act/.

[513] Ibid.

social media and the amount of media attention that Oakland garnered with its violent confrontations, other cities likely wanted to act to remove the potential of their encampments from becoming more fortified and learning from the others on how best to resist police. One should not discount the opportunity for the cities' leadership to take advantage of the distraction provided by multiple evictions being carried out at about the same general time. Instead of being the national focus as the one city to evict its encampment, now there were multiple evictions occurring at approximately the same time and the a potential herd mentality seems likely.

Each of the studied cities reportedly dealt with unsanitary conditions in camp, an increase in the homeless population in camp and violence in or immediately around the encampment. Analysis of New York did not indicate a noticeable increase in transgressive actions by protesters. In the other studied cities, there was a reported increase in transgressive acts committed by the protesters, generally by a reported refusal to abide by police instructions and commission of illegal acts.

An email sent to representatives in various Federal Protective Service regions from Chief Intelligence Branch of the U.S. Department of Homeland Security, instructing the divisions to all report on the state of the Occupy Movement protests in their regions, indicated that the "director" (unclear whether this was the DHS Director Janet Napolitano or the FPS Director L. Eric Patterson) was "very interested in the Movement and how it may affect Federal facilities."[514] The official message being pushed out from Washington was one of supporting local agencies in protecting federal locations and assets.[515]

Based on the speed of the dissemination of information on mainstream and social media, there at least appears to be something coordinated about the timing of the eviction of the Occupy encampments. That is not to say that there was a conscious effort or conscious coordination on the part of any of the involved cities to do so. To attempt to

[514] Partnership for Civil Justice Fund. "The Crackdown on the Occupy Movement," 9, accessed December 16, 2013, http://www.justiceonline.org/docs/dhs-occupy-documents-4-pt1.pdf.

[515] This is in keeping with the message often heard by local and state law enforcement from their federal counterparts excepting in cases where federal laws are the most often enforced (i.e., money laundering, bank robbery, immigration violations etc…)

come closer to any reliable explanation or give cause for the timing will require further study.

4. Universal Degradation of Camp Conditions / Violence in Camp

Another issue identified in this research was the universal consistency in which municipalities studied here and the media portrayed the camps as health and safety hazards. Furthermore, in some cases, municipalities engaged in actions that exacerbated health and safety concerns. Since these encampments were in major metropolitan areas there had never been an expectation on the part of the cities that a substantial group would ever camp overnight. In fact, all of the cities had some form of ordinance governing camping or sleeping in public places. Given that camping was an unintended activity on the part of architects and designers, the rigors of camping behavior on the public spaces took their toll.

Table 3 illustrates that each of the studied cities, at one time or another, cited sanitation issues, problem with an increase in the homeless populations in their Occupy encampments, and incidents of violence in the camps. These issues were repeated by city leaders as reasons for evicting the activists as well in each of the cases.

Degradation of Camp Conditions	Sanitation Issues	Increase of Homeless	Violence in Camp
Dallas	☆	☆	☆
Oakland	☆	☆	☆
New York	☆	☆	☆
Portland	☆	☆	☆

Table 3. Degradation of Camp Conditions

Most of the camps examined had either very limited or no access to toilet facilities. Even in Dallas, where they were directly behind City Hall and its public restrooms, city leaders had insisted on and got the protesters to agree to a prohibition on the use of the restroom facilities in the building. Another ambiguity on which protesters

tried to capitalize through later legal appeal was identification of individuals as being part of the movement (as opposed to the general public) and therefore prohibited from using the restrooms. There was no mechanism in place by the city to differentiate between a citizen not "occupying" City Hall property and one who was. Waste collection was agreed upon between the Occupy Dallas contingent and the City of Dallas. However, the trash needed to be placed in the receptacles, which were off the property and were required to be provided by the Occupy contingent, or the city would refuse to pick it up. Multiple news outlets reported (and video from inside the various camps indicated) less than sanitary conditions, and as mentioned previously, coughing could be heard in the camps at nighttime.[516]

It is certainly possible that with the discussion of evictions and the degrading conditions being experienced in camp, the various city and police leaders felt a greater impetus for taking action to evict their respective Occupy contingent. The competing idea to that theory is that the cities in some ways contributed to the degradation of conditions. In Oakland, for example, recall that when the Oakland General Assembly voted to withdraw a resolution where they had agreed to remain peaceful, the city of Oakland, in response, cut off a source of water and both streetlights in the camp.[517]

Of all the reasons cited for moving on the camps when they did, degrading camp conditions appears to be the most strenuously pushed by the cities themselves in justifying the risks of violence inherent to the evictions. New York Mayor Michael Bloomberg noted an "outbreak of scabies, lice and lung ailments among protesters…" although the *New York Post* goes on to assert that "most importantly" the eviction

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[516] Associated Press "Oakland Cops Eye Occupy Camp after Ore. Arrests," *CBS News*, November 14, 2011, http://www.cbsnews.com/news/oakland-cops-eye-occupy-camp-after-ore-arrests/; Gilett and Fink, "CPS Seizes Baby From 'Occupy Dallas' Site;" Jonathan Cooper and Terrence Petty, "Occupy Portland: Police Move in on Portland Park, Some Protesters Remain," *Christian Science Monitor*, November 13, 2011, http://www.csmonitor.com/USA/Latest-News-Wires/2011/1113/Occupy-Portland-Police-move-in-on-Portland-park-some-protesters-remain; Colleen Long and Verena Dobnik, "Police Clear 'Unsanitary' Zuccotti Park, Arrest Dozens of Stubborn Protesters," *CNS News*, August 20, 2013, http://cnsnews.com/news/article/police-clear-unsanitary-zuccotti-park-arrest-dozens-stubborn-protesters; Portland Police Bureau, "Portland SitReps," November 4, 2011 (internal document, Portland Police Bureau, Portland, OR).

[517] "Shots Fired near 'Occupy Oakland,' One Dead," *ABC Local*, November 10, 2011, http://abclocal.go.com/kgo/story?section=news/local/east_bay&id=8427634.

occurred when it did because of falling approval ratings.[518] Although the city of New York appeared to support the rights of the protesters to camp in Zuccotti Park, an argument can be made through analysis of the city's actions that its seizure of supplies, prohibition on the use of generators and heaters, and failure to allow activists to bring portable toilets onsite made the camp untenable.[519]

Most media reports cited either the police or city leaders as the sources of the information on the degrading conditions in the camps, as opposed to reporting the conditions themselves. The Occupy Portland protesters did, however, post a video on November 14, 2011 that addressed the conditions in camp. Protesters can be seen picking up trash, and one unnamed protester comments on the group's willingness to clean up the parks.[520]

5. Spatial Control

A repertoire that the police have the availability in most instances is the ability to control public space. Municipalities enact ordinances that govern public spaces relative to times of permitted access or prohibited activities (e.g., sleeping in public). In each of the cases, the cities exercised some method of spatial control whether it was restricting the encampment to one location, dictating when or when activists could march on public property or merely erecting temporary devices designed to limit or restrict movement.

In Table 4, I present the data relative to spatial control that was exhibited in each city. Both Oakland and New York kettled activists during protest marches or demonstrations. Every city studied utilized temporary barricades in some way. Dallas used stationary plastic fencing to demarcate the grassy areas around city hall that where camping was not permitted in accordance with the settlement agreement. New York used temporary plastic fencing to kettle activists and metal barricades to close off streets, monuments and sidewalks. Oakland employed temporary metal barricades and then failed to secure them, allowing transgressive activists to take them from a storage

[518] Margolin, "Inside Story of Why Mike Finally Had to Act."

[519] Kelley, "Occupy Updates."

[520] "Inside Occupied Portland—Restoring Our Park," YouTube video.

location near City Hall.[521] All of the studied cities restricted or limited the public space that was accessible to the activists. Oakland was perhaps the least restrictive, allowing protesters to occupy an additional park that was separate from the original camp. Oakland did eventually restrict one activist from occupying the historic tree in Frank Ogawa Plaza. New York closed streets and actively directed activists who marched, often without warning or providing reasoning.[522]

Spatial Control	Evidence of Kettling	Barricades Used	Space Restricted or Limited	Streets Closed To Marching	Marchers Directed
Dallas		☆	☆		
Oakland	☆	☆	☆		
New York	☆	☆	☆	☆	☆
Portland		☆	☆		

Table 4. Spatial Control

In keeping with issues of spatial control, in my literature review I identified where Noakes, Klocke, and Gillham outlined certain tactics as "having become central to the policing of protest."[523] Each of the police tactics in that list, with the exception of pre-emptive arrests, was used in the cases I examine in this thesis. "Urban space is the playing field for protest and dissent," argues Nemeth in his article about common spaces in America.[524] In each of the studied cities, the governments (federal, state and/or local) controlled public and, in some instances, private spaces in an effort to contain the protesters within certain limitations. In the cases studied, the protesters purposefully chose highly visible locations: Zuccotti Park, Pioneer Plaza, Frank Ogawa Plaza, and Chapman and Lownsdale plazas from which to broadcast their message of dissent. This is consistent with what Noakes Klocke, and Gillham have pointed out saying, "symbolically important spaces, such as monuments or historically significant locales, become the site

521 Oakland Police Department, *Oakland After-Action Report*, 14.

522 MacLean, Glenn, and Knuckey, "Supressing Protest."

523 Noakes, Klocke, and Gillham, "Whose Streets?"

524 Németh, "Controlling the Commons: How Public Is Public Space?," 812.

of intense contention…"[525] Police and city leaders, in opposition to the "re-framing" of the space as something symbolic other than its original meaning, worked to either limit the change or stop it all together.[526]

Dallas leaders realized this on both the symbolic level and the economic level as was demonstrated in their negotiating the protesters away from Pioneer Plaza where, as mentioned, clothes were hung on sculptures to dry, around the corner from a new multi-million dollar hotel. New York police showed recognition of this by erecting temporary barricades around the symbolic bull sculpture on Wall Street and preventing access to more of the financial district. Portland demonstrated this is the restriction of the occupation to only Chapman and Lownsdale squares and preventing expansion (although this was likely not the only reason for preventing expansion). Oakland appeared to struggle with this concept internally, and this was indicated by the public announcement that expansion to Snow Park was prohibited but no timely action followed.

Portland attempted to influence the behavior of the Occupy protesters by brokering the cooperation of the city, contingent upon the lawful behavior of some. When 25 protesters attempted to expand the encampment to Jamison Square, they were warned that the city would potentially end its cooperation if they continued with their planned civil disobedience.[527]

The NYPD was by far the most confrontational in its control of space. The NYPD had the resources to mobilize multiple officers and barricades to cordon off sections to prevent protester access. It also employed flexible fencing to kettle protesters and used police scooter squads to herd protesters during marches, occasionally opting to close off entire streets with no explanation given to protesters.[528] Perhaps the most visible of this was the arrest of over 700 protesters on the Brooklyn Bridge.[529] The bridge was closed

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525 Noakes, Klocke, and Gillham, "Whose Streets?"

526 Ibid.

527 Hoffman and Mesh, "Pearl District Occupation Ends."

528 Knuckey, Glenn, and MacLean, *Suppressing Protest*, 111.

529 Unknown, *March on Brooklyn Bridge*; "Brooklyn Bridge Video: Police Arrest Occupy Wall Street Protesters," YouTube video; Long, "700 Wall Street Protesters Arrested on Brooklyn Bridge."

as a result of the march and remained closed as protesters were arrested. Table 5 illustrates the outcome of those 732 arrests as reported by the *New York Times* in October of 2013:[530] The table is significant because it represents a paradox. One side will view the arrest and release of hundreds of people without subsequent prosecution as wasteful and an expression of "New York exceptionalism," wherein the NYPD employed tactics of strategic incapacitation. Others will view this in the context of the NYPD making the statement to the activists that they will not be allowed to shut down a major thoroughfare in New York City without proper permitting and approval.

Result	**Number***
Cases dismissed at request of prosecutor	195
Cases dismissed by court	40
Dismissed with 6-month condition of no re-arrest	445
DA declined to prosecute	21
Acquitted at trial	2
Resolved with plea in unrelated case	1
Warrants issued for failing to show up to court	17
TOTAL NUMBER OF DISMISSALS OR ACQUITTALS	680
Pleaded guilty to Disorderly Conduct	(6)
Convicted at trial	(5)
TOTAL CONVICTIONS	(11) = 1.5%

*Convictions indicated by parentheses.

Table 5. Outcome of Brooklyn Bridge Arrests in Numbers

The city of Dallas tied this restriction of space into the negotiated settlement, and, some could argue, criminalized the group's later non-adherence to those restrictions. For example, City Manager Mary Suhm cited the group's violation of the agreement as one of the reasons on which the city leaders based their decision to evict the protesters, which then made their occupation of public property after midnight a criminal act.[531] As Graham and others point out, by "prioritizing security" or securitizing space and "private interests," civil liberties are diminished and diminish diversity in those public spaces.[532]

530 Moynihan, "Last Scheduled Case of Brooklyn Bridge Arrests."

531 Suhm, "Memo to Dallas Mayor and Dallas City Council."

532 Stephen Graham, *Cities under Siege: The New Military Urbanism* (London: Verso Books, 2011); Németh, "Controlling the Commons: How Public Is Public Space?."

Private interests were involved in New York with Zuccotti Park. This park is a creation of semi-public space through zoning concessions. Simply put, developers are allowed to deviate from certain zoning restrictions on capacity for occupancy in exchange for creating public spaces, although not always parks in the traditional sense. Zuccotti Park is one such park controlled by Brookfield Office Properties and under the terms of its development was required to be accessible to the public 24 hours per day. This was in contrast to New York's and the other cities' parks, which had curfew, or closure hours that prohibited occupation or use during certain periods of the day (usually overnight).

These restrictions on space as exhibited by the cities are in keeping with trends across the country with the establishment of "free speech zones" or designated protest areas among others.[533] For example, take Boston's collaboration with the American Civil Liberties Union before designating a "protest zone" for the Democratic National Convention in 2004—the underlying basis of which likely comes back to the desire for predictability and order maintenance by the police.[534] The argument can be made that although the Occupy protest for the studied cities was not a planned event like a convention, the restriction of the occupiers to a specific place and not allowing expansion, is another way of establishing a "free speech zone" or an area where protest is allowed.

The control of public space was central to the criticisms of the police by protesters and were around which many of the violent encounters centered. Because of the nature of public expression of dissent, this issue will continue to be a factor that must be considered by police and civic leaders. In some instances, as in New York, there may be "no-win" situations considering that most major cities can ill afford to have main thoroughfares closed with little or no warning. Leaders must strive to balance that control in a strategic fashion that recognizes the importance of activists' First Amendment rights.

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533 Németh, "Controlling the Commons;" Gillham, Edwards, and Noakes, "Strategic Incapacitation;" Gillham, "Securitizing America: Strategic Incapacitation."

534 Narr, *Police Management of Mass Demonstrations*, 17.

6. Police Militarization and Tactics

An increase in the militarization of the police culture has grown in recent years as topic of discussion among police leaders across the country. With the removal of troops from Iraq and reductions in force in Afghanistan in recent years, those former soldiers are entering the domestic job market. Many choose police work. In fact, military.com lists the job of police officer as one of "5 Hot Jobs" for former soldiers.[535] Table 6 shows that based on analysis of the data in the cases, the effect of militarization was prevalent in only the Oakland response.

Militarization	Effects of Militarization
Dallas	
Oakland	☆
New York	
Portland	

Table 6. Militarization

Evidence of this militarization was prevalent in the response by the Oakland Police Department's follow up to the eviction of protesters. Within five days of the start of Occupy Oakland protests, Oakland police donned riot gear with helmets, face shields and gas masks; molded body armor to protect from blunt objects; knee, shoulder and elbow pads; gloves and shin guards—all black and likely intimidating to those who might stand against them. The tactic of "holding" and defending ground and the establishment of a "line in the sand" so to speak, which culminated with the shooting of Scott Campbell on November 3, 2011. This tactic of outfitting officers with riot gear may be too often overlooked as a contributing factor to instances of violence. The challenge in evaluating

535 rbodapati, "Five Hot Jobs for Ex-Military Personnel," accessed February 8, 2014, http://www.military.com/veteran-jobs/career-advice/military-transition/hot-jobs-for-former-military-personnel.html.

the level of militarization and its influence was due to these events being relatively short in duration.

Zimbardo articulates how this can actually contribute to officers taking actions more violent in nature than they normally would.[536] He describes "bad barrels" or situations that are made to exist where there is a greater propensity for more violent treatment.[537] He contrasts the individual versus the situational characteristics. The Oakland police leadership created a situation that increased the likelihood of violence on the part of the police. Oakland officers were deindividuated with their riot gear and made to look virtually indistinguishable from one another.[538] Add to that, the aggressive position communicated by the supervisors on the scene advising officers of the point at which, upon crossing, any protester would be shot (with less-lethal rounds). This removed the possibility of any measured or proportional response while decreasing the likelihood that the officers would respond as individuals. Instead, this was more in keeping with the behavior of an occupying force than a police force. Supervisors arguably should have been advising those both above and below on ways of deescalating the use of force. This was made all the more unlikely as lower level supervisors deindividuated themselves by wearing the very same gear. This is not to suggest that in situations where officers are likely to face violent resistance that they should not wear appropriate protective gear. It is important, however, to recognize that doing so will contribute to the likelihood of a violent interaction based on something other than the protesters' reaction to the officers.

The above incident and the shooting of the Iraqi war veteran by Oakland police were arguably "transformative events" in the Occupy Movement. It was transformative in the sense that the news of Olsen's injury spread remarkably quickly because of both social and conventional media. In all of the other cities studied, activists recognized the

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536 Philip G Zimbardo, *The Lucifer Effect: Understanding How Good People Turn Evil* (New York: Random House, 2007).

537 Ibid.

538 Deindividuation in social psychology refers to the idea of losing one's own identity or self-awareness in a particular group setting or situation—sometimes a crowd or mob mentality.

violence occurring in Oakland and some protested against Oakland's use of force.[539] Images of Olsen's bloody face were broadcast across the country and depicted the activists more clearly as victims than perhaps they ever had been. Hess and Martin contend that "transformative events [are] crucial turning point[s] for a social movement."[540] Olsen's injury at the hands of the Oakland police may ultimately be more transformative for police and the repertoires they employ then it was transformative for the activists' cause.

In spite of the NYPD not using officers outfitted in riot gear until the final eviction of protesters from Zuccotti Park, some of their authoritarian tactics can be attributed to a frame of increased militarism. Vitale refers to their approach of policing protest as "command and control" meaning that they afford protesters little or no opportunity to negotiate an amicable outcome.[541] In fairness, a lack of cohesive central leadership on the part of the various Occupy contingents made negotiations difficult and highly unlikely at best. In all, however, NYPD's response was more akin to what one might call "New York exceptionalism" than militaristic.

I characterize "New York exceptionalism" as fueled by the NYPD's ability to deal with its citizenry in ways that other, less robustly staffed and equipped cannot. One example is the ability of the NYPD to divert hundreds of officers from other precincts to handle the Occupy Movement. Other departments studied here did not have the same capability and therefore had to make operational decisions accordingly. This "exceptionalism" was also displayed in their destruction of the activists' property following the eviction of Zuccotti Park.[542]

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539 Jesse Mckinley and Malia Wollan, "Outrage Grows over Scott Olsen, Veteran Wounded at Occupy Oakland Protest," *New York Times*, October 27, 2011, sec. U.S, http://www.nytimes.com/2011/10/28/us/veterans-injury-at-occupy-protest-prompts-outrage.html.

540 David Hess and Brian Martin, "Repression, Backfire, and the Theory of Transformative Events," *Mobilization: An International Quarterly* 11, no. 2 (2006): 249–267.

541 Vitale, "From Negotiated Management to Command and Control."

542 Jonathan Allen, "Occupy Wall Street Lawsuits: NYC Agrees to Pay Protesters for Destroying Library, Property," *Huffington Post*, April 9, 2013, http://www.huffingtonpost.com/2013/04/09/occupy-wall-street-lawsuits-nyc-library-property_n_3048772.html.

Earl and Soule note that with regard to disorder, "many within policing see this as a loss of control" and thus a "mark of failure."[543] This would tend to support the NYPD's tendency toward more command and control styled tactics. This exceptionalism also seems driven by events beginning with the 1993 bombing of the World Trade Center, the 9/11 attacks and is in keeping with Gillham's assertion of a move on its part toward strategic incapacitation.[544] Earl also notes that at least with relation to releasing information on its operations, the NYPD's justifications rely on the idea that because the nation is involved in a war on terror and because New York has been targeted, for secrecy and security purposes, they are not obliged to release the information.[545]

The cities of Dallas and Portland engaged in less militaristic responses and in fact focused more on community policing aspects, especially in the case of Portland. As noted in the case study, the Portland Police Bureau picked officers that could be expected to develop a rapport with the protesters and work to foster a cooperative relationship between police and protesters. Dallas also tried to establish rapport by initially assigning its Central Business District (CBD) officers to police the protests. The decision to do so placed officers familiar with the CBD and more trained in community oriented policing and problem solving policing rather than reassigning officers from other patrol divisions. Balko notes that in the history of some police departments, their reactive nature to crime, as opposed to a preventative one, encouraged an adversarial nature between police and citizenry.[546] This confrontational attitude is observed in the clashes at the Bank One building in Dallas, indicating that the DPD at times shifted to a more militaristic response. Following this incident where (off duty) Officer Hollis pushed the protester off the raised planter, SWAT officers were called in to manage the protesters. The idea that SWAT operators are believed to be more disciplined and therefore likely to follow specific directions was likely the impetus for the change in assignments. Interestingly, Dallas police called upon SWAT, arguably a more militaristic unit than patrol, and

[543] Earl and Soule, "Seeing Blue," 148.

[544] Gillham, Edwards, and Noakes, "Strategic Incapacitation."

[545] Earl, "Information Access and Protest Policing," 45.

[546] Radley Balko and Laura Odato, "Rise of the Warrior Cop: The Militarization of America's Police Forces" (2013).

utilized it to achieve more peaceful results. Commanders appear to have relied on their discipline as opposed to their tactical capabilities.

Analysis of my case studies indicates that more study in the effects of militarism on civilian policing is called for. Giving due consideration to the influx of military trained personnel into the ranks of police departments across the country will be imperative for police leaders in the immediate future. If scholars can, in some way, identify and summarily quantify the effects of this increase police leadership will be better positioned to account for those effects and develop long-term hiring goals accordingly.

7. Social Media Use by Police

All of the studied cities, to varying degrees, were using social media during the Occupy Movement. All were at least monitoring what was made available publically by the protesters themselves. The decision to do so highlights shifts in how police gather intelligence about protest groups. The need to gather intelligence on criminal groups is juxtaposed with the desire of police leadership not to infringe on the civil liberties of its citizenry. While police are legally justified in monitoring information published publically on social media sites, in most instances, widespread reporting on "monitoring" of public activities could arguably tend to increase the feeling of mistrust between police and the general public. There are also legitimate concerns of undercover police infiltrating legal groups for the purpose of collecting intelligence. New York continues to deal with complaints regarding the monitoring of various political and religious groups not involved in criminal activity.[547]

In Table 7, I outline that all of the studied cities were actively posting, in one form or another, on social media. Only the two cities that employed the tenants of community oriented policing however, actively posted items of an informative nature to their social media accounts related to the Occupy Movement. Additionally, in each case, the studied cities monitored social media for intelligence purposes (with varying degrees of success).

[547] Associated Press, "NYPD Monitored Muslim Students All over Northeast," *USAToday*, February 18, 2012, http://www.usatoday.com/news/nation/story/2012-02-18/NYPD-Intelligence/53143776/1.

For example, Portland, as mentioned, monitored the 24-hour-a-day feed from the camp. The NYPD monitored social media through their intelligence centers. Dallas police used commercial software available through Twitter called “Tweetdeck” to monitor multiple hashtags and postings in its fusion center.

Use of Social Media	Actively Posted To Social Media	Posted About Occupy	Monitored Social Media
Dallas	☆	☆ *	☆
Oakland	☆		☆
New York	☆		☆
Portland	☆	☆ *	☆

* Dallas and Portland posted items on Facebook related to either the arrest of individuals related to the occupy movement or to a press conference. There were no postings of officers' positive interactions or about partnerships formed.

Table 7. Use of Social Media during Occupy Movement

Portland took very limited advantage of its social media footprint and posted relevant arrests from the Occupy camp. Likewise, Dallas police posted a clip of a press conference related to the alleged sexual assault of a juvenile in the Occupy camp. Any one of the cities had the availability to post photographs of the unsanitary camp conditions, videos of protesters violating the law, or any of a host of other newsworthy or noteworthy conditions that police were privy to given their role and proximity to the events or conditions. The NYPD and Portland were already recording video of the protesters with department equipment for evidentiary purposes. Had they released some of this video, it could have served multiple purposes. For instance, by providing video or pictures available to police based on their level of access, they would be releasing exclusive content that few or no media outlet would have. This would tend to drive more people to their social media sights and increase their following and thus their ability to reach the communities they serve.

Social media was relied on heavily in all of the Occupy Movement cities. It affected how police leaders made decisions and will continue to be a factor for law enforcement in general to not only understand its evolving capabilities with but also maximize its use for their benefit. For example, during the next Boston-style bombing, police can utilize social media to broadcast pertinent information from the field.[548] As noted by Bill Braniff, Executive Director of the National Consortium for the study of Terrorism and Response, "one of the first places people go in events like this is to social media, to see what the crowd is saying about what to do next."[549] How and to what extent social media affected positive or negative outcomes for police is a potential for future study. With technologies adapting and changing rapidly, police leaders can ill afford to consider social media something for the citizens only and neglect their officers. Occupy provided a glimpse into what is possible for police and the broadcast of ideas and information. By increasing the frequency and the substance of communication with the public they serve, police can leverage social media to increase their legitimacy. Coupling this with a robust community policing philosophy and the police likely reduce the likelihood of being perceived as an occupying force and more likely to be viewed as members of the community they serve.

8. "Emergent Practice" in a Complex Adaptive System

Public protest, as was outlined in every case studied here, is a fluid, dynamic and complex environment in which to make decisions. "How" or "if" police understand the nature of the interactions between their officers and the public, dictate the legitimacy and efficacy of their orders. Disconnected leadership or leadership that focuses too much on the tactical and not on the value of strategic planning and decision making will likely find chaotic results—as was exhibited in Oakland.

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548 "Boston-style" refers to the bombings of the Boston Marathon on April 15, 2013 where social media was used extensively during the aftermath.

549 Dan Gilgoff and Jane J. Lee, "Social Media Shapes Boston Bombings Response," *National Geographic*, April 15, 2013, http://news.nationalgeographic.com/news/2013/13/130415-boston-marathon-bombings-terrorism-social-media-twitter-facebook/.

Analyzing the actions taken by the various departments within the Cynefin framework (a "sense-making device") illustrates that when dealing with protest situations, police are dealing with a complex adaptive system.[550] As described by Snowden, the Cynefin framework is a model for conceptualizing the decision making process.[551] Snowden articulates that as opposed to a categorization model where a "framework precedes—decision-making—data," the sense-making model allows for "the—decision-making—data to precede the framework."[552] This is consistent with real-world protests and that evolve and change based on the input of both police and activists resulting in a complex adaptive environment. Snowden articulates "categorization models are… poor during periods of change."[553] The example of the Occupy Movement was thousands of individual protesters to some unknown degree interacting with police. Those individual protesters were likewise dealing with and reacting to members of their own group—thousands upon thousands of interactions affecting the ability of police to generalize some predictability. Additionally, a crowd that negotiates and follows directions might be reasonably likely to continue to follow police direction—all other things being stable/equal.

Analysis of emergent practice of the response to the protests by the departments is outlined in Table 8. New York is shown to have used a "simple" response, Oakland a "chaotic" response, and Portland and Dallas are depicted as having used a "complex" response to their Occupy activists. The departments' responses are based on how they conformed to normal practice and policy versus use of adaptive and proportioned responses based upon the emergent nature of the Occupy Movement. New York applied a "simple" response to the Occupy Movement protests based on the Cynefin framework.

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550 Kurtz and Snowden, "The New Dynamics of Strategy," 462.

551 "The Cynefin Framework," YouTube video, posted by CognitiveEdge, July 11, 2010, http://www.youtube.com/watch?v=N7oz366X0-8&feature=youtube_gdata_player.

552 Ibid.

553 Ibid.

For example, take the response of the NYPD to the march on the Brooklyn Bridge. Kurtz and Snowden point out that in the simple or ordered domain, "single-point forecasting, field manuals, and operational procedures are legitimate and effective practices."[554] Consider that if one person walks in the street, in most if not all large cities, that would constitute a criminal offense of pedestrian in the roadway or some other such title. The simple response from police would be arrest or citing of the individual. Thousands of protesters marching in the street disrupting traffic for hours is a much different scenario calling for a complex response. Protesters marched in the street, police held the stance that marching in the street was against the law and the law would be enforced. Overall, the NYPD response to the Occupy Movement was simple in that it was primarily in keeping with strategic management in nature and possessing an inherent rigidity. Table 8 presents the categorization of the cities' strategic responses based my analysis and application of the Cynefin framework. Figure 12 is a visual diagram of the Cynefin framework.

		Simple Response	Complicated Response	Complex Response	Chaotic Response
Strategic Response	Dallas			☆	
	Oakland				☆
	New York	☆			
	Portland			☆	

Table 8. Strategic Response Based on Cynefin Framework

554 Ibid., 468.

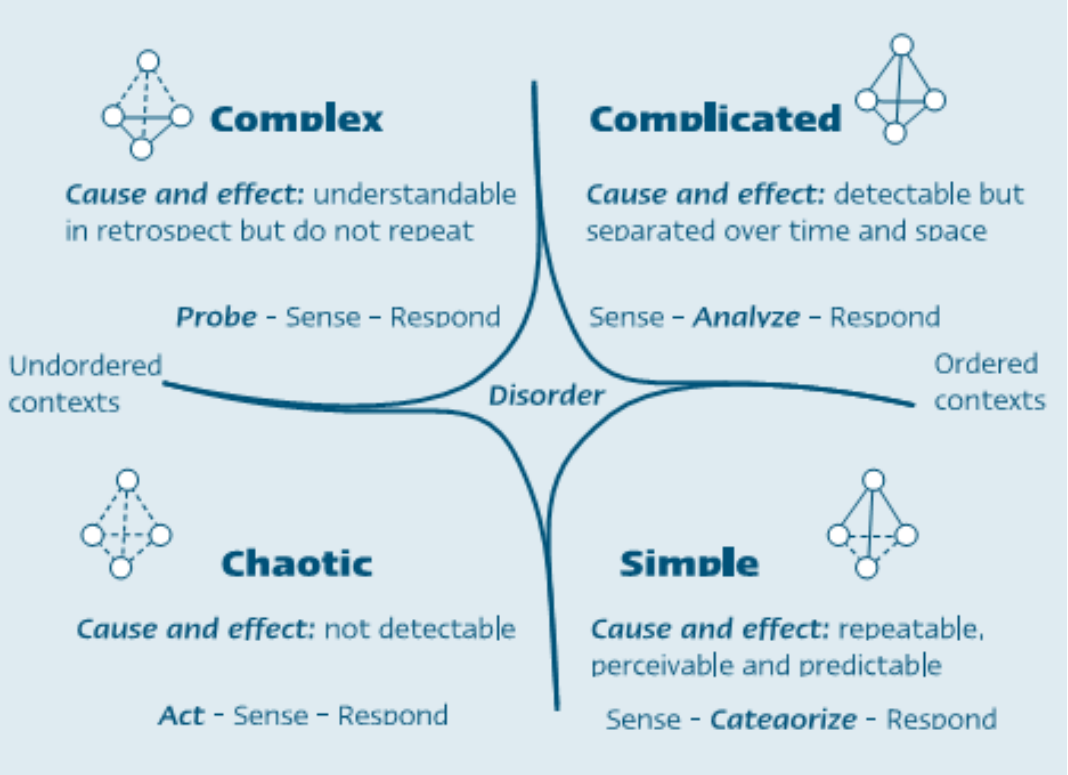

Figure 12. Cynefin Framework Diagram[555]

The cities of Dallas and Portland generally engaged in complex responses to the Occupy Movement. Leadership held multiple meetings with the various department heads to formulate a strategy and put forth a response to a protest movement that was unlike others the cities had dealt with. For example, recall the protest at Chase Bank where some of the protesters chose to block the entrance to the bank and other protesters stood by as observers. Dallas police leadership evaluated the situation and opted to arrest only those protesters who were obstructing a passageway, but it allowed the rest to continue protesting in a lawful manner.

As illustrated in Figure 9, simple decision-making environments are at the lower right quadrant and are characterized by decision makers sensing the environment, deciding on a course of action and then responding. Complicated environments generally require the input of experts for decision making and involve sensing the environment,

555 "Cynefin Framework" [image], Wageningen University & Research Center, accessed February 18, 2014, http://www.wageningenportals.nl/msp/tool/cynefin-framework.

analyzing the results, and then responding. Complex environments are depicted in the upper left quadrant and call for leaders to probe the environment because cause and effect are not known. Assembling a group of experts to assist in the deciding how to probe the environment and then alter or "dampen" results of probing is recommended here.[556] Chaotic environments are depicted in the lower left quadrant; in those situations, leaders must act first to restore some sort of order before identifying more strategic options of response. The area in the middle labeled "Disorder" is where, Snowden contends we spend most of our time before identifying what quadrant applies to our particular situation.[557]

At times, Oakland exhibited elements of complicated response. Overall though, Oakland was influenced by the lack of cohesive leadership and exhibited a chaotic response to its Occupy contingent. Oakland police planned for a conventional eviction of protesters with the assistance of outside agencies. This consultation might well be considered a "best practice." However, it follows old paradigms. Often when looking at this through the Cynefin framework, "applying best practice is probably what precipitated chaos" in Oakland.[558] Following the October 25 eviction, Oakland experienced rioting and violence after inadequately planning for a second operational period. Oakland advised its Occupy contingent that expansion of the camp would be prohibited, then failed to take action to substantiate that claim. Oakland was forced to evict its contingent twice.

Oakland police leadership was content use "best practice" with little consideration for the very different style of protest the city was experiencing. Police officers used riot gear assumedly to provide protection to their officers with inappropriate consideration as to the second and third order consequences for this and other decisions. This is a prime illustration of how following "best practices" can be the catalyst for moving into chaos. This overreliance on the "tactical" and under reliance on the strategic planning aspect of

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556 "The Cynefin Framework," YouTube video.

557 Complete description of the Cynefin framework can be found in the following articles: Kurtz and Snowden, "The New Dynamics of Strategy;" David J. Snowden and Mary E. Boone, "A Leader's Framework for Decision Making," *Harvard Business Review* 85, no. 11 (2007): 68.

558 Kurtz and Snowden, "The New Dynamics of Strategy," 469.

Oakland's response, exacerbated not only the risk of injury to police and citizens but also with all the accompanying consequences. Ultimately, considering the chaotic state of the leadership during this protest, a more appropriate response to the protesters was unlikely. There was no plan to account for any failure. Police leadership, in stacking its first operational period of the October 25 eviction with the majority of experienced commanders and with predominantly Oakland officers, doomed the subsequent operational periods to an increased risk of failure.

Police and city leaders must understand the complex nature of public protest and perhaps more importantly, understand that traditional reliance on "best practices" may result in increased confrontations or unintended results. Two examples of this are Seattle's experience at the 1999 WTO demonstrations, where negotiated management was unsuccessful, and now Oakland's similar response to the Occupy Movement.[559] There are also consequences in the form of a loss of legitimacy for misunderstanding the nature of interactions between police and activists in public demonstrations. Application of the Cynefin framework can help in these situations

Analysis of the data in each of the four cases revealed themes that were common in most, if not all of the studied cities. Lack of traditional management in spite of efforts by police and other was clear in most cases. While the leaderless structure can be cited by police as contributing to the difficulties they experienced in trying negotiation, success or failure in the ability to negotiate remains something for which the police should plan. The data revealed instances where city and police leaders failed to come together and provide stable cohesive leadership to the detriment of both police and activists. How the police timed their eventual evictions, how they controlled public space and how they allowed or contributed to degradation of camp conditions were issues that they all faced. Moving forward, the issues of social media use, the effects of civilian police forces with more

[559] When some activists refused to negotiate at the WTO protests, Seattle reverted to escalated force tactics and utilized massive amounts of tear gas and other less-lethal ammunition. Seattle Police Department, *The Seattle Police Department After Action Report: World Trade Organization Ministerial Conference Seattle, Washington November 29–December 3, 1999*, www.seattle.gov/police/publications/WTO/WTO_AAR.PDF; Patrick F. Gillham and John A. Noakes, "More than a March in a Circle: Transgressive Protests and the Limits of Negotiated Management," *Mobilization: An International Quarterly* 12, no. 4 (December 2007): 341–357.

members having had military and combat experience, and how police and city leaders deal with the emergent nature of public demonstration are widely applicable issues. Police and city leaders have the opportunity now to address each of them and develop a strategic plan for how they will do that.

In the concluding chapter, I provide conclusions and recommendations for doing just that. I draw a roadmap for leadership to prepare now for the activists, protests, and demonstrations in the future that will employ new and emerging strategies and tactics. Police do not have to know, and likely cannot predict, what new and emergent tactics or technologies the activists will employ, but they can strategically plan for how to respond to what I have identified as a complex adaptive environment using proven methods.

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VIII. CONCLUSIONS AND RECOMMENDATIONS

In this concluding chapter, I outline strategy and not tactics. Tactics or specifically "what" to do has limited applicability and often is not universally transferrable. Strategic response that I present here is however applicable across the spectrum of cities and police agencies regardless of size or location. These strategic principles and practices will help leadership identify where they are lacking and need to improve and then identify how best to approach the challenges of twenty-first century protests and demonstrations

Since the 1960s, policing protest in America has been in evolution from a strong reliance on use of force in an escalated force model by police. Consider Birmingham, Alabama and the iconic images of police turning fire hoses and dogs loose on protesters. This evolution has been to a more communicative one in a negotiated management style.[560] The nature of response continues to evolve and change as technology and the public's priorities change. In recent decades, terror attacks have placed a focus on safety and security in mass gatherings, and consequently, police and city leaders have had to adjust their responses. Some scholars contend that civilian police are posturing toward a reduction in the allowance for civil liberties and placing an emphasis on the "order maintenance" and securitization aspects of response to dissent.[561] Now, two years removed from major activities of the Occupy Movement, we are better able to see what patterns emerged from those protests and gauge how police responded to a novel way of expressing dissent. Ahead of the next evolution of protest, city and police leaders need to assess where they are in relationship to what the twenty-first century protests will look like.

The Occupy Movement illustrated that the interconnectedness of modern protest necessitates a change in the very way that police leaders should conceive of a response to future protests. Tactics are not the issue; strategic planning—and even before that—

[560] della Porta and Reiter, *Policing Protest*.

[561] Gillham, "Securitizing America: Strategic Incapacitation"; Vitale, "From Negotiated Management to Command and Control."

strategic thinking and framing are what need to be addressed. As technology evolves and our daily lives and attendant expectations are changed by the adoption and evolution of that technology, police leadership cannot afford to look at past incidents as indicators of future ways to respond. Leadership needs to "break out of old ways of thinking and to consider intractable problems in new ways."[562] Using the Cynefin framework as a "sense-making" framework provides a strategic option for policing twenty-first century protest. Table 9 on the next page is a "leader's framework for policing protest."

[562] Kurtz and Snowden, "The New Dynamics of Strategy," 468.

A Leader's Framework for Policing Protest

	THE CONTEXT'S CHARACTERISTICS	THE LEADER'S JOB	DANGER SIGNALS	RESPONSE TO DANGER SIGNALS
SIMPLE	Protests are small and limited to few people Willing to negotiate and follow direction Known knowns Fact- based management Notifications may be of occurrence only	Sense, categorize, respond Ensure that standard response / Best Practices are in place Delegate responsibilities Officers adhere to basics of training Discretion of enforcement is at lowest level	Complacency and comfort Desire to make problems simple – "This is the same protest group from last time." Neglected analysis of protesters Overreliance on best practices if context shifts	Create communication – reach out to supervisors, troops and protesters and channel orthodoxy Stay connected – avoid micromanaging Don't assume this is "just a simple protest" Recognize both the value and limitations of "Best Practices," SOPs and GOs
COMPLICATED	Larger or more prolonged protest with different tactics - greater power for generating media attention Cause-and-effect relationships discoverable but not immediately Input of control not likely to result in predictability of outcome Known unknowns Fact-based management	Sense, analyze, respond Create panels of experts Listen to conflicting advice Be prepared to alter from standard procedures or general orders Discretion of enforcement raised to on-scene commander	Experts overconfident in their own solutions or in the efficacy of past solutions or responses to protest groups "Analysis paralysis" – Experts freeze or cannot reach a decision Viewpoints of non-experts excluded	Encourage external and internal stakeholders to challenge expert opinions to combat entrained thinking Use experiments, table-top exercises, and scenario- based analysis to force people to think critically and in different ways about a response
COMPLEX	Flux and unpredictability Protesters utilizing unconventional tactics or methods – extended operations far beyond normal No right answers; emergent instructive patterns Unknown unknowns – what will the focus be Many competing ideas Need for creative and innovative approaches Pattern-based leadership – conferences to determine patterns	Probe, sense, respond Try different tactics and be prepared for them not to work and be ready to switch Create environments and experiments that allow patterns to emerge Increase levels of interaction and communication Use methods that can help generate ideas; Open up discussion (as through large group methods); set barriers; stimulate attractors; encourage dissent and diversity amongst your team; manage starting conditions and monitor for emergence Discretion of enforcement pushed to strategic level for discussion	Temptation to fall back into habitual, command-and-control mode Tendency toward authoritarian response model when not called for. Exercising arbitrary modes of control that will exacerbate problems (kettling or herding when unnecessary) Temptation to look for facts rather than allowing patterns to emerge Desire for accelerated resolution of problems or exploitation of opportunities	Be patient and allow time for reflection Use approaches that encourage interaction so patterns can emerge Understand that every protest action or march does NOT require a police response
CHAOTIC	High turbulence, civil unrest RIOTING No clear cause-and-effect relationships, so no point in looking for right answers Many decisions to make and no time to think Pattern-based leadership	Act, sense, respond Look for what works instead of seeking right answers Take immediate action to preserve life and property Enact emergency plans / mutual aid / mass arrest Provide clear, direct communication to officers, protesters and media alike	Applying a command-and-control approach longer than needed "Cult of the Leader" – leader cannot be challenged with critical thought Missed opportunity for innovation Chaos unabated	Set up mechanisms (such as parallel teams) to take advantage of opportunities afforded by a chaotic environment Right time for innovative groups Encourage your command staff to challenge your point of view once the crisis has abated. Work to shift the context from chaotic to complex and to re-normalize operations

Table 9. A Leader's Framework for Policing Protest

Police and city leadership must be cohesive, engaged, and free to interact with one another. The Occupy Movement showed what could happen if there are significant differences that remain unresolved between the various heads of departments. Oakland floundered under the confusion created when city and police leadership had competing agendas and were unclear on directives to both the protesters and the police department. New York leaders displayed a solid cohesiveness and were clearly in sync with their

approach and how they wanted to respond to the Occupy protesters. However, what New York did was apply "best practice" that evolved from protests that were unlike the Occupy Movement with respect to its lack of central leadership yet strong, technologic interconnectedness, and national footprint. These "best practices" are a misnomer in this example because while New York was able to reassign large numbers of officers and make massive arrests and afford not to negotiate or consider conciliatory options, there were negative consequences associated with this use of "best practice." The key here is that to be labeled a "best practice," the tactic produced some solution that leaders thought desirable. It is easy to consider one positive aspect in the application of a "best practice," such as clearing of a street or eviction of activists. It is more difficult, however, to envision the second and third order effects on society and the willingness of citizens to publically express dissent after employing such tactics. This staunch refusal to alter their methodology in the face of a growing movement could be characterized as in keeping with New York exceptionalism that is displayed in how the NYPD polices its community in the wake of the 1993 World Trade Center bombings, the September 11, 2001, attacks and other plots targeting that city. Dallas and Portland stand as examples of both a community policing approach, and as examples of embracing emergent practice in their response to their Occupy contingents.

Going forward, city leaders should consider what the benefits are for applying simple solutions to emerging situations. Furthermore, they should address the areas where they find that they are not in agreement in advance of the next protest. Now is the time to have the "what if…" discussion and to "red team" their current standard operating procedures for those "un-standard" situations.[563]

Many departments have policies advocating for a negotiated management approach to dealing with protesters. As the Occupy Movement and others (especially Seattle 1999) indicated, a lack of a cohesive central leadership on the part of the protesters or unwillingness on their part to engage in negotiated management will quickly invalidate that method as a strategy for dealing with them. City and police leaders should

[563] Red-teaming refers to taking an opposing position to one's own and trying to identify weaknesses or problems with that position or approach, sometimes called "playing devil's advocate."

already have a strategic plan in place to deal with that eventuality. Whether that plan calls for an authoritarian response or a response that involves concessions and compromise and to what degree is all-dependent upon leadership agreement.

In those leadership discussions, as well as in the zoning and planning meetings, leadership should consider the impact of decisions about access to public space. Dallas Mayor Mike Rawlings addressed the issue of safety and first amendment rights of protesters ahead of the eviction of the Occupy Dallas camp. Absent court rulings specifically addressing this issue, city and police leadership should have discussions about how they will address concerns about this issue. Ahead of the protest is the time to discuss what metrics will be involved in reaching the decision of when to intervene in an ongoing display of dissent. Some decisions will be easy and others will likely involve more critical thought.

Occupy showed that laws governing the occupation of certain spaces were difficult, if not impossible, to enforce given available resources. How will municipal leaders prioritize those decisions and which factors does the community at large see as most important? As Dallas and Portland experienced, the decision to forego the enforcement of certain laws governing the occupation of certain public areas made responding to the on-going protests more manageable in some regards. It is not important and would likely be counterproductive to decide now or in advance of a city's next big protest, exactly what concessions will be made. More important is defining how the leadership will reach that decision when the situation emerges.

City leaders should also consider carefully the second- and third-order effects of enacting laws to prevent the recurrence of an "Occupy-style" movement. Analysis seemed to indicate that in having an overall tolerance for the unconventional method of expressing dissent used in the Occupy protests, cities like Portland and Dallas, were able to avoid more violent opposition and situations. The fundamental right to peaceably assemble and redress the government with their grievances will be central to any argument against such legislation. More study in this area is called for with respect to how the cities studied here and others responded in the wake of the Occupy Movement and what, if any, new laws were enacted in response.

The Occupy Movement put on display varying tactics and responses to the expression of dissent across the country. What is difficult to measure by looking at only a two-or three-month time span is the effect of long-term changes. More comprehensive study into the changes in military experience of recruit officers hired is called for. By examining the evolving statistics related to military experience among civilian law enforcers, we might better be able to assess the influence on strategy and tactics for policing protest.

The factors addressed by Zimbardo and others regarding the use of force and the tendency toward deindividuation of officers in crowd control and riot response are critical. Leadership needs to be keenly aware of how orders are altered in the minds of the officers on the front lines when their self-perception is altered. Zimbardo addresses this "bad barrel" situational approach and suggests how to "resist" them and "celebrate heroism."[564] Coupled with what Kelman and Hamilton point out in *Crimes of Obedience*, supervisors are in position to "influence" officers' "prestige or status" in stressful or high profile incidents, such as these, and thus what the supervisor or "influencing agent says or does may have considerable relevance to that person's (officer's) goal achievement."[565] Therefore, with the tendency toward less restrained "deindividuated behavior," leadership must consider what message is communicated and what kind of supervision is occurring and make deployment decisions accordingly.

Specific study on the factors influencing police behavior during riots and especially in the time and interactions after donning riot gear is called for. Comparing that information with the breakdown of prior military experience might give leadership a better idea of what influences police in these situations. City and police leaders also need to be able to answer the unasked question about what effects the on-going state of war in America has on how it polices its population—especially considering the highly publicized nature of protest.

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[564] Zimbardo, "The Lucifer Effect," 444.

[565] Herbert C Kelman, *Crimes of Obedience: Toward a Social Psychology of Authority and Responsibility* (Binghamton, NY: Yale University Press, 1989), 83.

Arguably the most rapidly changing topic surrounding twenty-first century protest policing is that of technology. Advances observed during the Occupy Movement have already evolved to their next generations. The ubiquity of mobile devices, including the capability of capturing, recording, and broadcasting, is forever changing the protest landscape. Individual officers engaged in the business of enforcement are increasingly the subjects of video posted to social media but in support of and against the actions directed by police and city leadership. How departments are prepared to address those actions is critical to how they will be portrayed in the media and beyond.

During the Occupy Movement, of the departments studied, only Dallas and Portland posted content to social media sites regarding their actions related to Occupy. This amounted to a lost opportunity for the other cities to highlight the good work of their officers and other city employees working in concert with police to respond to the protesters. In the future, departments and/or cities will need to provide their messages to the public. Avoiding the intermediary (i.e., the media) will be a step to insure that the department's desired message is more accurately conveyed.

City and police leaders should likewise consider the implications for adoption of technologies that make surveillance easier, collection of large amounts of information and the aggregation of such information faster. If those in positions of influence and policy development are not looking to the future to address this evolving technology, then they will find themselves completely reactionary to a situation that will likely quickly move outside their sphere of influence.

As was the case with the Occupy protests, those police departments that applied a "probe—sense—respond" framework method tended to be able to dampen the negative effects of tactics that did not work and amplify the success of those that did. Therefore, based on the analysis of this research, I have developed the below checklist of things that leaders should take into account facing the next evolution of protest that is coming.

Police and city leaders around the world continue to face protests and demonstrations where activists utilized repertoires and tactics on display during the Occupy Movement. Those repertoires likewise continue to evolve and police must be

prepared to respond in appropriate ways that balance the rights of the activists to protest and exercise their rights to publically demonstrate. The studies of these four major U.S. cities have provided timely and relevant data from which to learn those lessons. The successes and failures on the part of New York, Oakland, Portland, and Dallas during their respective Occupy protests have provided a unique opportunity for such study. In this thesis, I have endeavored to capitalize on both my extensive experience in responding to and training those to deal with public protest and demonstration. I have provided insight and perspective of police while considering the rights and responsibilities of those engaged in the protest. Ultimately, I identified central overarching themes and issues related to these cases and articulated real strategies that are universally applicable. Using the "preliminary protest planning matrix" on the following page is the first step for city and police leaders to evaluate their current readiness for strategically dealing with protest. The "leaders framework for policing protest" that I present here is a strategic roadmap for police and city leaders to respond to the protests and public demonstrations that utilize new and emergent tactics not seen before. The application of lessons learned from this thesis will help those future leaders plan for and respond to twenty-first century protest in ways that serve to protect not only the safety and rights of the activists and the general public, but also the safety, legitimacy, and respect of the police themselves.

APPENDIX. PRELIMINARY PROTEST PLANNING MATRIX

Preliminary Protest Planning Matrix	Performed
Examine your relationship and levels of communication with your core leadership both above and below. Are you and your chief/mayor/council on the same page when it comes to acceptance of protest? Do you already know that you have differing expectations of what should be allowed and what should not within the scope of policing protest? How will you resolve these differences? If you're in agreement, what will the consequence of your agreement be? Where will you turn for dissenting opinions?	☐
Do you have plans in place for mutual aid or for what you will do in the event that your resources are taxed beyond capacity? Have you made arrangements or entered agreements for payment for those services? If not, now is the time.	☐
If the protesters adopt tactics that you have not trained for specifically how will your officers/employees respond? Have you trained for integrated operations with your fire personnel?	☐
How will your jurisdiction respond to a protest that is prolonged in nature? Even if you have the resources to respond and arrest or remove the protesters, will that be the most appropriate method of dealing with them? What will your citizens expect of you, and how will they react when you do whatever it is you decide?	☐
How aggressively do you currently respond to protest? Do you routinely take a hard line stance on enforcement? Are your officers more apt to arrest a protester for a minor violation than they are to engage in negotiated management techniques? Are your officers more likely to respect the civil liberties of protesters or those being protested against?	☐
What are the laws of your community, and how are they aligned to either support the First Amendment rights of protesters or to inhibit them? Do your accommodations act as a covert mechanism of deterrence? For example not allowing for trash collection at a prolonged protest, thereby exacerbating deteriorating site conditions.	☐
Are you in the habit of communicating with your citizens via social media? Do they expect to receive important information from your city/department already? If not have you considered the	☐

limitations you will experience if you wait until you need to push a message to a large audience? Are you accustomed to presenting the message of your city/department?	
Who are your applicants and what is their background? What is the percentage of officers with military and especially military combat experience in your organization? How does that compare with the history of your department and has behavior of this culture of officers changed over that period? If so how?	☐
Where do you and your command group stand on the argument of rights versus safety? Some argue that in many circumstances the rights of the people to express dissent outweigh the immediate and (in their view) lesser consideration for minor safety concerns. What is the prevailing view? How far are you prepared to go to maintain order over allowance for protest?	☐

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