

FREE SPEECH THREAT ASSESSMENT # 2

Policing Protest in New York City

April 11, 2012 to April 28, 2012



The NYCLU “Free Speech Threat Assessment” reporting project documents risks to the right to protest as a result of heavy-handed NYPD policing and harassment of individuals engaged in First Amendment activity. These reports highlight incidents of often under-the-radar and unreported harassment and intimidation of protesters by law enforcement. The report is accessible online at www.nyclu.org/protest.

The NYPD’s approach to public protest from April 11, 2012 to April 28, 2012 was characterized by the excessive use of barricades, continued selective enforcement of laws, as well as harassment and arrests without legal cause, some excessive force, and the disparate treatment of non-credentialed journalists.

The NYPD continued to erect obstructive and unnecessary **barricades** that impeded lawful assembly. NYPD continued to barricade Union Square every night at midnight in contrast to prior practice. To evade police harassment at Union Square, protesters began to assemble at Federal Hall, and, as of April 17, they were required to stand inside the [barricades encircling](#) the east steps, which the Federal Parks Service termed the “[1st Amendment Rights Area](#).” Only [25 people](#) were permitted to stand inside at one time without a permit.

The NYPD also engaged in **selective enforcement and illegal policing** of those gathered on the Federal steps. On the evening of April 16, journalists and protesters present at the Federal steps noted that supervising officers, at random and without warning, [pointed to protesters](#) they wanted arrested for [disorderly conduct, unreasonable noise, resisting arrest and obstructing governmental administration](#). One of the approximately [10 protesters arrested](#) was merely [reciting poetry](#).¹ The next night, NYPD and Federal SWAT told protesters that they were not permitted to chant. On April 20, Parks officers even handed out 6 pages of Parks rules, which officers [strictly enforced](#), confiscating large signs and forbidding property larger than 22” x 14” x 9”.

The NYPD and Parks Department also regularly harassed people who were doing nothing illegal. For example, one NYPD officer reportedly threatened to [take a protester’s dog away from him](#). At approximately midnight April 17, a Parks Department employee told a protester that it was illegal to shine his movie on Federal Hall. On April 25, many reported that a demonstrator was [arrested](#) while standing by the “freedom cage” for no reason at all. Then, on

¹ View at minute 48.

April 27, a [NYCLU legal observer](#) was arrested while standing on the sidewalk outside a small picket line at MTA Headquarters. Her charges were dropped.

During the time period of this report, peaceful protesters' movement was unjustly restricted by law enforcement officers. For example, during an action on April 20, a legal observer filmed two officers denying livestreamers and other protesters entry to Wall Street at William Street, while allowing pedestrians to pass freely. At a public foreclosure auction, protesters with Organizing for Occupation ("O4O") noted that court officers permitted investors jump the line of protesters and others, including a man intending to bid on his own home which was up for auction.

Occupy Wall Street protesters were also targeted when they began **sleeping** by the Stock Exchange. For the first few days, they were awakened each morning by officers who wanted to clear the sidewalks, and, beginning on April 13, the City began sending sanitation workers to wash the areas where they were sleeping. After a week of sleeping on the sidewalk, on the morning of April 16, protesters were told to leave, an officer allegedly threw a [punch](#) at a protester, and [four individuals were arrested](#) despite a [court ruling](#) that sleeping as a form of protest is legal. The sidewalk was then hosed down and the protesters relocated to the Federal Hall steps. That night, two other protesters sitting near the Stock Exchange were informed they were in a "[high security area](#)"² and were arrested, and the sidewalk was washed again. That night, officials from the National Park Service announced, "Anyone sleeping on Federal Hall steps will be arrested and brought to federal jail." Protesters later took to lying on the sidewalk as a civil disobedience tactic, and two groups of under 10 protesters each were arrested on [April 20](#) and [April 27](#) while taking up less than half of a sidewalk.

There were also reports of general **overpolicing**, where the police presence at sites of protest was overwhelming and intimidating. For example, on April 20, at Federal Hall, there were "around [70 NYPD](#) officers watching roughly 40 protesters." There were also reports of **excessive force** against assembled protesters. On April 20, a legal observer saw officers clear the entire sidewalk in front of the Federal Hall steps to ease pedestrian passage, although the real impediment was the pervasive barricading by the NYPD, which effectively blocked off the entire pedestrian walkway. Officers forcefully pushed protesters east on Wall Street and arrested one person seemingly without cause.

In one particularly bizarre example of uneven treatment by police, on April 16, one angry local resident walked through a line of police and [assaulted](#) a protester by Federal Hall. The protester was arrested, but officers took no action against the resident. Soon after, one protester was [flung to the ground](#) while another was struck in the head despite the fact that he was not acting aggressively.

Non-credentialed **journalists** covering the protests at Federal Hall also continued to face disparate treatment by the NYPD. On April 20, only [credentialed journalists](#) were permitted to stand next to the Federal Hall steps, where the 25 protesters were separated from the rest of the

² View at 21:55.

assembled protesters. There, a legal observer witnessed a Parks officer tell a photographer that he could not go inside the barricades without a press pass from the Parks Service.

In addition, both Parks and NYPD officers have been heavy handed in their treatment of **non-journalist photographers**. For example, on April 20, 2012, a legal observer was instructed by a dozen NYPD and Parks officers to move off the Federal Steps while she was videotaping Parks officials interrogating a protester. A week later, a protester was [arrested](#) at Penn Station for taking pictures of MTA officers holding semi-automatic weapons. After being released from his cell, he found that his photos had been deleted.

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People who observe law enforcement officers intimidating, harassing or otherwise infringing on the right of people to protest are encouraged to share their stories with the NYCLU by emailing protest@nyclu.org.