

FREE SPEECH THREAT ASSESSMENT # 3

Policing Protest in New York City

April 29, 2012 to May 29, 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 29, 2012 to May 29, 2012 was characterized by continued excessive barricading, the harassment of journalists and others taking pictures, the selective enforcement of laws, false arrests, and numerous instances of excessive force.

Legal observers and others have noted that Union Square was still **barricaded every night** at midnight, sometimes with **scores of police** present, despite the low numbers of protesters. For example, on the evening of May 25, 10 police vans and four white shirt officers were present at Union Square along with only a handful of protesters. The NYPD has also continued to close public parks **before curfew**, including on May 22, when Tomkins Square Park was closed for the **second time** before curfew, and those present in the park were **barricaded inside**. An officer told a legal observer that the park was being closed “because a mob, a demonstration, some kind of mob” was “on its way.” A journalist later heard police announce that a sidewalk was “temporarily closed” and ordered everyone to leave.

On May Day, while **journalists** were not subjected to the same level of suppression witnessed at previous large events, there were **numerous accounts** of credentialed and non-credentialed journalists being harassed or not permitted close to the scene of incidents. One journalist recounted that an officer informed him: **“You’ll be arrested.** I’ve been watching you all day.” Other journalists reported the police were “yanking the press around” and obstructing them from viewing scenes of arrests. Non-journalists taking **videos and photos** also encountered harassment and aggression. For example, a protester filming a police officer had his phone knocked out of his hands by that same officer, cracking the glass. When he asked officers who witnessed this for the officer’s name and badge number, they refused to comply.

Police and Parks Department officers continued to **selectively enforce** Parks Department rules, including questionable interpretations of those rules. For example, on April 29 at Union Square, law enforcement officers harassed protesters using a table to hand out free booklets, telling them that tables were not allowed. The officers were apparently referring to a park rule prohibiting “structures” in the park, although this rule is never enforced against non-protestors in

the area who use tables, for example those playing chess. After informing protestors that “tables were not allowed,” law enforcement immediately began washing the sidewalk, [soaking and ruining the protestors’ literature](#). On March 13, police again selectively enforced legally questionable “no sleeping” prohibitions against protestors peacefully sleeping on a public sidewalk on the grounds that the sidewalk was [park property](#) and that, as such, sleeping was not allowed.

The Parks Department has also been overzealous in their policing of protestors on the Federal Hall steps. For example, on March 4, protestors who were sitting on the west side of the steps with members of the public were singled out and instructed to sit in the “First Amendment area” despite the fact that there were under 25 protestors on either side of the steps, which is the maximum number of persons permitted to assemble on Federal Hall property without a permit. In addition, on March 7 and March 16, protestors were threatened with arrest for being too noisy long before the park’s curfew and despite the fact that the area is a regular and noisy thoroughfare for both tourists and workers in the financial district.

Police have also unreasonably **harassed** protestors. For example, on May Day a police officer berated a group of people playing music, despite the fact that they had a [sound permit](#). In addition, on occasions, police have coordinated with private property owners to bring out hoses and spray down public sidewalks where protestors are gathered, and on March 7, three protestors sitting on a public sidewalk were threatened with arrest for “trespassing.”

Most troublingly, the NYPD embarked on an effort to intimidate protestors by executing old warrants for old petty violations [early in the morning](#) before the May Day protests, [questioning those nearby who were not even the subject of those warrants](#) about their May Day plans, asking for their identification, and checking their IDs to ascertain whether they too had outstanding warrants. Another protester was arrested the night of May 1 by nine plain clothes officers on a warrant for a [different person](#). He was held in isolation for 13 hours overnight and interrogated.

There have been multiple other accounts of **unwarranted arrests**. On May Day, police officers arrested individuals standing in a [POPS](#) that is open 24/7, falsely claiming that it was part of a Vietnam Veterans Memorial Park, which has a 10 p.m. curfew. There were also seemingly unjustified arrests of protestors marching later that night and at a march on [May 22](#), where protestors were picked off the sidewalk and arrested. One protestor was arrested and taken to a police precinct on May 23, where he was interrogated before being released without charges several hours later. While he was in custody, he reported that he saw a large display board covered with pictures of numerous Occupy protestors he personally knew, with black lines connecting certain pictures, suggesting that the NYPD was engaging in **surveillance** of protestors.

On May Day, there were also numerous reports of **excessive force**, including one masked protestor who was [hit in the throat](#) with a baton while crossing the street and another who a legal observer saw being battoned for jaywalking. A march consisting of masked protestors “barely took [two steps](#)” before police began violently shoving and arresting those in the crowd. Approximately an hour later, a protestor’s nose was [bloodied](#) by officers when he was being

arrested. During a later march, a reporter witnessed police lunging into a peaceful march to [grab](#) two women for arrest, throwing others to the ground.

During some particularly [violent episodes](#) around 10:30 p.m., police chased protesters through the streets, arresting, [pushing, and battoning protesters](#) while instructing them to clear the sidewalks, even where they had no room to move. A legal observer witnessed one protestor being [attended to](#) after being battoned several times in the legs. A reporter witnessed another arrested protester bleeding from the head.

That night, legal observers reported that NYPD officers would order a sidewalk to be cleared, stating the people were obstructing pedestrian traffic or that the sidewalk was closed, and shoved those assembled there at random. Sometimes protesters were forced to march in one direction only to have other officers order them to turn the march around minutes later. Officers in riot gear locked arms on the sidewalk and shouted “[Move! Move! Move!](#)” in unison, prodding protesters down various sidewalks. This occurred repeatedly, including one case where three legal observers and approximately five others were forced to move two blocks away from an area where dozens of police awaited the arrival of arrested protesters to put into paddy wagons.

The net effect of these tactics was to separate marchers and disperse the crowd, which was achieved in under an hour. In fact, NYPD supervisors on megaphones repeatedly made statements like “Party’s over!” and “People have to go home!”

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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.