



# DEFENDING DISSSENT

foundation



## NOVEMBER 2011 NEWSLETTER

Dear Troublemakers,

The Occupy Wall Street Movement has at times been as much about the right to protest as it is a protest about economic inequality. These predominantly young activists are pushing back against restrictions on where, when and how they can protest, and refusing to be cowed by rubber bullets, tear gas or pepper spray. Public support for the Occupy movement has engendered a new respect for the act of protesting. Support of course isn't universal, police in some cities have responded with violence, or are attempting to undercut support for the protesters by claiming the protests are wasting taxpayer money (to be clear, it's aggressive police responses that waste taxpayer money). I see a difference in public attitude toward the act of protest here in D.C. where I often act as a Legal Observer for the National Lawyers Guild; where people used to be annoyed at the inconvenience, they are now excited to be witness to something extraordinary. And it is something extraordinary!

In Solidarity,

*Sue*

### TAKE ACTION

#### "Why are y'all gearing up like this is war?"

Sgt. Shamar Thomas, a U.S. marine confronting police at Occupy Wall Street in New York (10/15/11).

On October 25, police in Oakland, California, armed with lethal and so-called less-lethal weapons, dressed in riot gear, protected by helmets, shields and bullet proof vests, responded to unarmed protesters with tear gas, 'flash bang' grenades and 'bean bag rounds', resulting in the critical injury of one protester, Scott Olsen. Olsen, an Iraq War Vet who did two tours of duty in Iraq without injury, is recovering in the hospital, but the attack on him has brought necessary attention to police use of 'less lethal' weapons during protests. Police in Oakland operate under a settlement that severely restricts their use of these weapons

DDF immediately issued a press release condemning the actions of the Oakland police and calling on police departments across the country to immediately pledge to stop using less-lethal weapons including rubber bullets, bean bags, tear gas, baton rounds or concussive (flash bang) grenades against unarmed and peaceful protesters. Use of these weapons can seriously injure protesters, and make a volatile situation more dangerous for both protesters and police.

**Take Action:** Join the national campaign against disproportionate police force against protesters! Visit our website to sign and share our petition.

### ACTIVISTS

#### Pushing the Envelope on Protest Rights

Here is a sampling of stories from Occupations around the country:

**Oakland, CA:** Occupy Oakland has emerged re-energized and stronger after the brutal police crackdown on October 25. The Mayor was forced to apologize for the police, and threw her support to the Occupation; protesters took back the park police tried to evict them from; and most importantly, they upped the ante by calling for a general strike on November 2. In calling for the general strike, activists recognized that the police tactics, far from weakening them, gave them attention and momentum to take their protest to the next level. The strike was a major success: the Port of Oakland (the fifth largest in the country) was shut down by protesters, who were supported by the longshoreman's union; thousands of people filled the streets at demonstrations

throughout the city, and many stores were closed in solidarity. There was minimal police presence during the daylight hours, and very few problems. However, after midnight, police in riot gear clashed with protesters again throwing tear gas into the crowd. About 60 people were arrested.

**New York, NY:** As a result of the nationwide outcry (thanks to all who responded to our alert!), the city backed down after threatening to close Zucotti Park (Liberty Square), and the encampment continues. It's an uneasy truce however; the Police Benevolent Association has announced it will sue protesters who injure police, claiming that the Occupy movement has become violent in other cities. The *New York Daily News* has reported that police have been sending drunk people to Zucotti Park in an apparent attempt to undermine the encampment.

**Irvine, CA:** On October 25 the City Council voted 5-0 to allow Occupy Irvine protesters to camp overnight on the lawn of City Hall. The vote came at the end of a five and a half hour meeting where 72 speakers spoke in support of the Tent City, asserting that the act of camping out is protected free speech.

**Bangor, ME:** When city officials threatened to throw the encampment out of a local park because it violated park rules, the public library offered their lawn to Occupy Bangor. The camp moved to library grounds on October 29 and about a dozen protesters slept out, enduring a snowstorm that dumped 6 inches of wet snow on their tents. Elsewhere in Maine, Occupy Augusta and Occupy Portland have been able to camp on state and federal land without issue (except for snow and lousy weather).

**Nashville, TN:** "Notice . . . was inadequate. You can't break a law in a day." asserted a judge in Nashville as he refused to sign arrest warrants for 29 protesters. On October 27, Governor Bill Haslam approved new rules for the park near the State Capitol, where Occupy Nashville had been camping since October 7. The new rules include a 10 p.m. to 6 a.m. curfew and onerous permit requirements for demonstrations, including hefty fees. Fourteen hours after the new rules were approved, state troopers raided the Occupy Nashville encampment, arresting 29 protesters and one reporter. The next night they raided the encampment again, arresting 26. Again, the judge refused to sign arrest warrants. On October 31, officials agreed to stop enforcing the protest, and the Occupation of the State Capitol grounds continues.

**Denver, CO:** On October 29 police used pepper spray and rubber bullets and/or pepper balls to break up an afternoon protest of about 2,000 people at Denver's state Capitol. About 5 people were arrested. Later that day, police converged on the Occupy encampment and moved to tear down tents. They used tear gas and mace, arresting about 20 protesters. But the Occupation continues.

**Richmond, VA:** On October 31, shortly after 1 a.m., Richmond police, including SWAT teams and mounted officers raided Occupy Richmond at Kanawha Plaza. Nine people were arrested and the park is closed. Activists are vowing to take back the park, but have temporarily moved their General Assembly meetings to a local university campus. Four protesters are still in jail, denied bail on misdemeanor charges. "They are being made an example of in order to insure that anyone else who might decide to stand up and assert their rights as the 99% will have a month jail time to consider. Drunk drivers arrested on manslaughter charges are allowed bail. Citizens attempting to peacefully exercise their rights to free speech, freedom of assembly and express their desire for self governance present no threat to public safety..." wrote Alex P, an Occupy activist.

### **A New Kind of Fusion Center?**

Occupy Wall Street is being filmed. Although the protests have been overwhelmingly peaceful, and police are prohibited from filming demonstrations unless it is clear that laws have been, or are about to be broken, the NYPD has parked a surveillance tower at Zucotti Park, presumably to film the entire occupation. The tower and cameras have also been present for Occupy protests in Times Square, again without any provocation. The New York Civil Liberties Union has asked police commissioner Raymond Kelly to stop the surveillance, saying "This type of surveillance substantially chills protest activity and is unlawful. In light of the mayor's recognition of the peaceful nature of these protests, we call on you to stop the videotaping of lawful protest."

The extra cameras are hardly necessary in lower Manhattan, which is has blanket coverage by over 4,000 police and private security cameras. But here's where it gets really troubling: the video footage is monitored and analyzed at a high tech facility called the Lower Manhattan Security Coordination Center, by NYPD staff, along with personnel from Goldman Sachs, Citigroup, the Federal Reserve, and the New York Stock Exchange. The center has no public oversight, although it is funded by taxpayers through the NYPD and grants from the Department of Homeland Security.

## **FOIA NEWS**

### **Obama Administration Backtracks**

A democracy requires accountability, and accountability requires transparency. As Justice Louis Brandeis wrote, "sunlight is said to be the best of disinfectants." In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government. At the heart of that commitment is the idea that accountability is in the interest of the Government and the citizenry alike.

-- January 21, 2009, President Barack Obama  
Memorandum for the Heads of  
Executive Departments and Agencies

Apparently, Mr. Obama has changed his mind about sunlight. The Justice Department has proposed new FOIA rules that allow agencies to claim there are no records when there are. Simply put, if an agency finds that your FOIA request is subject to an exclusion (say it relates to an ongoing investigation, an informant, foreign intelligence or international terrorism), they can simply deny the records exist instead of saying they are subject to an exclusion.

It doesn't take a cynic to see that the new rule allows the government to lie to FOIA requesters. The new rule means that all of you who have submitted FOIA requests only to get a letter saying that the FBI has no records about you... still don't know if the FBI has records on you. As a member of the OpenTheGovernment.org coalition, DDF commented against the rule change (see our website for a link to the comments)

### **Do As I Say, Not As I Do**

In August, a U.S. District Court Judge ruled that White House visitor logs are subject to disclosure under FOIA. The Obama Administration is appealing that ruling, saying the visitor logs are presidential records, not subject to FOIA (that's the same argument the Bush Administration took). You'll remember that in September 2009, Obama tried to distinguish himself from Bush by saying it would voluntarily release the logs, starting on September 15, 2009. They are fighting a FOIA request asking for logs previous to that date.

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*In Memory of Frank Wilkinson, Director Emeritus, and Chauncey Alexander, President Emeritus, and all who went before*

