



David Kamperin
<davidk@downtowndc.org>
10/17/2011 02:32 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>
cc "Kathleen_Harasek@nps.gov"
<Kathleen_Harasek@nps.gov>
bcc
Subject FW: Freedom Plaza and McPherson Sq Encampments

Please see attached as an fyi, not sure if you're aware of this group.



Downtown DC
Business Improvement District
1250 H Street, NW
Suite 1000
Washington, DC 20005
www.downtowndc.org

David K. Kamperin
Director of
Public Space Management

202-661-7570 PHONE
202-661-7599 FAX
davidk@downtowndc.org

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Call **911** to report in-progress threats or emergencies.

To learn more, visit <http://www.mpdc.dc.gov/operationtipp>

From: AD- Justin King [mailto:jking@admiralsecurity.com]
Sent: Monday, October 17, 2011 11:35 AM
To: David Kamperin
Cc: Stein, Janet
Subject: RE: Freedom Plaza and McPherson Sq Encampments

David,

I am not sure if you have seen this group yet on Freedom Plaza. They do not appear to be apart of the Freedom Plaza Protestors. They are on the West side of the Plaza with a couch set up. I ran into John Ward of your Homeless Outreach team and he stated that he did not believe that they were apart of the protestor either, they are definitely not homeless. I would think Park Police may want to keep an eye on these individuals.

Justin K. King
Director of Security
Admiral Security
529 14th Street NW,
Washington D.C. 20045
Cell: 301.366.5631
Office: 202.662.7029

Fax: 202.662.1212

Email: jking@admiralsecurity.com

From: David Kamperin [mailto:davidk@downtowndc.org]

Sent: Fri 14-Oct-11 17:04

To: AD- Justin King

Cc: Stein, Janet

Subject: Re: Freedom Plaza and McPherson Sq Encampments

Thanks for the photos I had those and when we met with EOM and The COP yesterday we discussed these and of course with the propane all had concerns.

The meeting with NPS is set for us, them and of course their attorneys - we're taking a broad approach, not only what's currently happening but what is their stance on future encampments , to include homeless that we worked hard on addressing. Of course USPP will be St our Weds meeting but I'm going to ask NPS to be present to discuss their reasoning and address concerns about these encampments- whether or not they accept is anyones guess.

David Kamperin
Director
Public Space Management
Downtown DC BID

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On Oct 14, 2011, at 4:55 PM, "AD- Justin King" <jking@admiralsecurity.com> wrote:

> Good Evening David,
>
> I appreciate the assistance you have provided so far regarding the issues that have arisen. I have attached the pictures that Janet was speaking of in her email regarding the use of propane tanks on city property. They are the same ones that I sent earlier in the week.
>
> I do have one question. The meeting with NPS scheduled for Monday, is that a private meeting between the BID and NPS or are property/security managers from the area invited?
>
> If not I look forward to seeing you at the Monthly BID Meeting on Wednesday.
>
> Also could you add me to your distribution list. I would greatly appreciate it.
>
> Thanks.
>
> Justin K. King
> Director of Security

> Admiral Security
> 529 14th Street NW,
> Washington D.C. 20045
> Cell: 301.366.5631
> Office: 202.662.7029
> Fax: 202.662.1212
> Email: <<mailto:jking@admiralsecurity.com>> jking@admiralsecurity.com<<mailto:jking@admiralsecurity.com>>

>
>
>
>
> From: Stein, Janet [<mailto:JSTEIN@quad1.com>]
> Sent: Fri 14-Oct-11 16:43
> To: David Kamperin
> Cc: AD- Justin King; Wojciech, Ernie
> Subject: RE: Freedom Plaza and McPherson Sq Encampments

> Good afternoon David –

> Thank you very much for reaching out to us. Our team manages National Place – 1331 Pennsylvania Avenue, 1325 Pennsylvania Avenue, the National Theatre and 1301 Pennsylvania Avenue. While we greatly respect the right to assemble, we do have a few photos that I'd like our Director of Security to share with you (via separate e-mail). These photos illustrate clear safety concerns. In addition to the obvious safety concerns, we continue to remain concerned about the practice of congregating on private property during inclement weather; lack of cooperation in moving to alternate locations and use of public areas as a restroom facility.

> Thus, we look forward to receipt of any update you can provide.

> Kind regards.

> Janet Stein
> Assistant Vice President
> QDC Property Management, Inc
> QDC Property Management, LLC
> Direct Dial: 202.662.1205
> Main: 202.662.1200/202.662.7000
> Fax: 202.662.1212
> E-Mail: jstein@quad1.com<<mailto:jstein@quad1.com>>

> From: David Kamperin [<mailto:davidk@downtowndc.org>]
> Sent: Friday, October 14, 2011 3:14 PM
> To: 1425k@blakereal.com; akodithuwakku@axentrealty.com; bob.reisteter@hines.com; Catherine.Smolka@cassidyurley.com; cbrooks@shorenstein.com; cjackson@vno.com; constance.robinson@am.jll.com; ernie.wojciech@marriott.com; Ginap@gaedeke.com; greg.brown@hilton.com; hyawberg@kff.org; jcollier@lpc.com; jlee@vno.com ; joakley@akridge.com; Stein, Janet; kbrokaw@akridge.com; kguy@vno.com; krozek@carrprop.com; lmcnulty@bostonproperties.com ; mlynch@akridge.com; sarah.garodz@ihg.com; ssmith@bostonproperties.com; teresa.eley@cbre.com; vatkinson@shorenstein.com; vdambrosia@tscrealty.com; walsh@sentinelcorp.com
> Subject: Freedom Plaza and McPherson Sq Encampments

> If you received this already, I apologize for the duplication- I have created a new distribution list for those specifically within these areas so that future updates can quickly be put out to each of you. If you're on the list and

do not wish to receive future information about the encampments please just reply back with Remove as subject line. Thank-you.

>

> To: Managers of Property in the Vicinity of Freedom Plaza and McPherson Square:

>

> The Downtown Business Improvement District is briefing you on the latest information surrounding the encampments at Freedom Plaza (13th St and Pennsylvania Avenue) and McPherson Square (15th K Streets NW).

>

> NPS has issued a permit to "Stop the Machine" to use Freedom Plaza. They have not issued a permit for "Occupy DC" to use McPherson Square.

>

> Downtown BID Executive Director Richard H. Bradley has contacted officials at the National Park Service, which controls Freedom Plaza and McPherson Square, and DC Government, expressing concern and urging them to closely monitor activities in the parks. While the Downtown BID recognizes First Amendment rights, we question NPS allowing overnight stays, structures to be erected in the parks and cooking using flammable materials. In addition, the Downtown BID is requesting that Park Police be assigned to secure the parks 24/7, parks maintenance crews be deployed regularly and parks funding be secured to repair damage to the parks.

>

> The Downtown BID is deploying Downtown SAMs to assist with maintenance and public safety.

>

> Should you need to report any activity:

>

> For emergencies: Call 911

>

> For other police related matters in Freedom Plaza or McPherson Square: US Park Police, Central District
202-426-6710

>

> To register complaints with the National Park Service: Call National Mall and Memorial Parks headquarters at 202-485-9880 and/or email districtofcolumbia@nps.gov<<mailto:districtofcolumbia@nps.gov>>

>

> Please feel free to copy me with your comments.

>

> Finally, check back often on our website www.downtowndc.org<<http://www.downtowndc.org/>> as information regarding these protests will be updated

>

> Update 10/14-

>

> We meet with the Mayor's Chief of Staff, Chief Lanier (MPD), Commander Sund (MPD-SOD) and Paul Quander, DM for Public Safety yesterday. They were supportive of our efforts and indicated they would work with us as we pursue the issue with NPS.

>

> We have a meeting set for Monday, October 17th with NPS to discuss these issues and current conditions.

>

>

>

> [image001.jpg]

>

>

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>
> <image001.jpg>
> <IMG00013-20111010-0926.jpg>



> <IMG00014-20111010-0930.jpg> Freedom Plaza Couch (A).jpg



David Kamperin
<davidk@downtowndc.org>

10/18/2011 01:13 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>,
"steve_lorenzetti@nps.gov" <steve_lorenzetti@nps.gov>,
cc Rick Reinhard <reinhard@downtowndc.org>, Richard
Bradley <bradley@downtowndc.org>

bcc

Subject McPherson Sq

Superintendent Vogel;

Again thank you and your staff for your time and attention to the issues at both Freedom Plaza and McPherson. Today I was up at McPherson and noticed it has grown since I last visited and expanded from the N/W corner to not only the N/E side but now takes up approximately the greater part of half of the space. It appears that the fenced area around the statue has two primary usages- dog walking and child play area. Unfortunately today I had the displeasure of watching a dog go to the bathroom in that area without being picked up. I also noticed about 2 dozen large black (30 gallon type) trash bags propped around tree spaces in the park. At the "kitchen" area they were cleaning dishes and pots and then pouring the dirty water and contents around trees near the west side of the park by the sidewalk. Also stacked is a quantity of boards and wood kindling which appear to be ready and collected for future fires or even readily available as weapons should there come an enforcement campaign. Lastly, and most disturbing was the presence of at least 3 1 1/2 gallon gas tanks (apparently filled with a flammable material of sort as they were pouring one in a generator). Although of these observations are disturbing, the last one is the most troubling as it has the potential to have adverse impact on general public safety (I have attached photos of the trash bags, wood pile and gas containers for your records).

Also, there was a mention of an updates superintendent general email account that was being created that we could provide to our property managers- is that available?

Finally, are then any updates from your meeting yesterday that you can share with us?

Thanks for your attention to these matters-

Dave



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McPherson-trash1.jpg McPherson-gas-wood1.jpg







David Kamperin
<davidk@downtowndc.org>
10/19/2011 04:20 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"steve_lorenzetti@nps.gov" <steve_lorenzetti@nps.gov>,
"karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>,
cc Richard Bradley <bradley@downtowndc.org>, Rick Reinhard
<reinhard@downtowndc.org>, "christopher.murphy@dc.gov"
<christopher.murphy@dc.gov>, Karyn LeBlanc
bcc

Subject FW: Occupy DC Update - McPherson Square

Superintendent Vogel

Please see attached the photos taken today of conditions at McPherson. Again troubling is the flammable material being stored on site (notice close proximity of one of the generators to the sidewalk) and the cooking. Also disturbing is the recent stacking of lumber and wood for either use for a bonfire or weapons against law enforcement. The trash continues to pile up within the park and then are removed by the occupants and dumped on the public sidewalks. Recent new rat infestation borrowing has been observed in nearby tree box spaces. As the email below indicates the unhealthy and unsanitary conditions continue as food is dumped as compost, dogs run free throughout the park and children (observed in one of the photos) also play where they go to the bathroom.

We look forward to a more proactive response – to include increased trash pick ups and enforcement of these severe public safety issues.



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From: Blake Holub
Sent: Wednesday, October 19, 2011 4:04 PM
To: David Kamperin
Cc: Kenneth Gregory
Subject: Occupy DC Update - McPherson Square

Dave,

As we had discussed earlier, Kenny and I visited the Occupy DC site today. We noted that the site had

expanded since Monday, roughly totaling 125-150 people with nearly 40 tents. The park grounds themselves look to be in poor to dire condition due to all of the activity. Also, the demonstration has two working generators which they seem to be rotating out. They also have a storage tent which looks like a quasi-pantry for demonstrators to receive rations. Additionally, the smell was quite putrid when we walked through the encampment which most likely stems from the lack of sanitary conditions and the presence of dogs. Lastly, we noted around 15 or so trash bags stacked on the corner of K and 15th St. I have also attached photos for your viewing.

Let me know if you have any questions or comments. Thanks!

Blake Holub, MPA

Quality Control Manager

Public Space Management

Downtown DC BID

1250 H Street, NW Suite 1000

Washington, DC 20005

Desk: (202) 661-7571

Fax: (202) 661-7599

Email: blake@downtowndc.org



Storage_Tent_10-19-11.JPG



Excessive Trash 10-19-11.JPG



Generator_2 10-19-11.JPG



occupy_dc_10_19_11.JPG



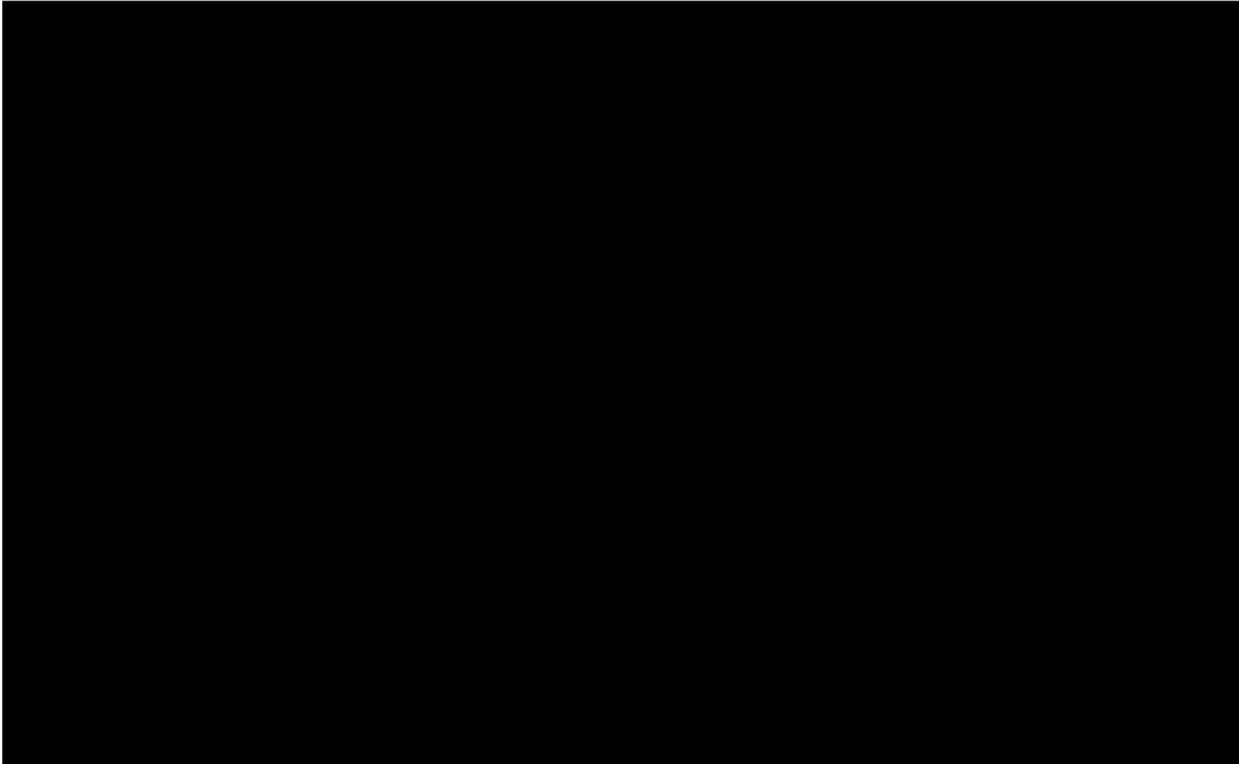
ODC_generator.JPG





Bob Vogel
<bob_vogel@nps.gov>
10/20/2011 10:14 AM

To "Myers, Randolph" <RANDOLPH.MYERS@sol.doi.gov>
cc
bcc
Subject Re: Attorney-Client Privileged: Occupy DC - McPherson
Square -- NAMA Regular Trash Removal



>
>
> Randolph J. Myers
> U.S. Department of the Interior, Office of the Solicitor
> DPW Branch of National Parks
> 1849 C Street, NW, Room 5320
> Washington, D.C. 20240
> w (202) 208-4338 fax (202) 208-3877
> Randolph.Myers@sol.doi.gov
>

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>
>
> -----Original Message-----
> From: Robert_MacLean@nps.gov [mailto:Robert_MacLean@nps.gov]
> Sent: Wednesday, October 19, 2011 4:40 PM
> To: Myers, Randolph

> Cc: Smith, Patrick C.; Harasek, Kathleen; Guddemi, Charlie
> Subject: Fw: Occupy DC Update - McPherson Square

> Randy,

> More pressure from the community.

> Major Robert D. MacLean
> Commander, Homeland Security Division
> United States Park Police
> (202) 619-7085 - Office

> robert_maclean@nps.gov - Email

> CONFIDENTIALITY NOTICE

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> ----- Forwarded by Robert MacLean/USPP/NPS on 10/19/2011 04:39 PM -----

> Teresa
> Chambers/USPP/NPS

> 10/19/2011 04:34
> PM

To
"Robert MacLean"
<Robert_MacLean@nps.gov>, "Patrick
Smith" <Patrick_Smith@nps.gov>

cc

Subject
Fw: Occupy DC Update - McPherson
Square

> Things are heating up . . .
> Teresa Chambers, Chief
> United States Park Police
> Work: 202-619-7350

> From: David Kamperin [davidk@downtowndc.org]

> Sent: 10/19/2011 08:20 PM GMT

> To: Bob Vogel; Steve Lorenzetti; Karen Cucurullo; Kathleen Harasek; Teresa

Chambers; "kevin_hay@nps.gov" <kevin_hay@nps.gov>
> Cc: Richard Bradley <bradley@downtowndc.org>; Rick Reinhard
<reinhard@downtowndc.org>; "christopher.murphy@dc.gov"
> <christopher.murphy@dc.gov>; Karyn LeBlanc <karyn@downtowndc.org>
> Subject: FW: Occupy DC Update - McPherson Square
>
>
>
> Superintendent Vogel
> Please see attached the photos taken today of conditions at McPherson.
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proximity of one of the generators to the sidewalk) and the cooking.
> Also disturbing is the recent stacking of lumber and wood for either use for
a bonfire or weapons against law enforcement. The trash continues to pile up
within the park and then are removed by the occupants and dumped on the public
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conditions continue as food is dumped as compost, dogs run free throughout the
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> photos) also play where they go to the bathroom.
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> We look forward to a more proactive response - to include increased trash
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>
>
>
> (Embedded image moved to file: pic19882.jpg)
>
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>
> From: Blake Holub
> Sent: Wednesday, October 19, 2011 4:04 PM
> To: David Kamperin
> Cc: Kenneth Gregory
> Subject: Occupy DC Update - McPherson Square
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> Dave,
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>
> Let me know if you have any questions or comments. Thanks!
>
> Blake Holub, MPA
> Quality Control Manager
> Public Space Management

> Downtown DC BID
> 1250 H Street, NW Suite 1000
> Washington, DC 20005
> Desk: (202) 661-7571
> Fax: (202) 661-7599
> Email: blake@downtowndc.org
> (See attached file: Storage_Tent_10-19-11.JPG) (See attached file:
> Excessive Trash 10-19-11.JPG) (See attached file: Generator_2 10-19-11.JPG)
> (See attached file: occupy_dc_10_19_11.JPG) (See attached file:
> ODC_generator.JPG)



Richard Bradley
<bradley@downtowndc.org>
10/19/2011 08:05 PM

To David Kamperin <davidk@downtowndc.org>, "bob_vogel@nps.gov" <bob_vogel@nps.gov>, "steve_lorenzetti@nps.gov" <steve_lorenzetti@nps.gov>, cc Rick Reinhard <reinhard@downtowndc.org>, "christopher.murphy@dc.gov" <christopher.murphy@dc.gov>, Karyn LeBlanc bcc

Subject RE: Occupy DC Update - McPherson Square

Hi Bob,

We welcomed the chance to meet on Monday and get a chance to understand the present situation and the context in which you are working. We expressed our frustration about the lack of communication with us in advance of the emergence of these encampments in downtown. We have assumed we were moving toward and improvement in at least this aspect of the situation. But Dave reached out to you yesterday and I tried to reach Steve today. Is there a any way we can get this matter improved while we hope we are moving toward a remedy for the present safety and sanitation concerns?

Rich

From: David Kamperin
Sent: Wednesday, October 19, 2011 4:20 PM
To: bob_vogel@nps.gov; steve_lorenzetti@nps.gov; karen_cucurullo@nps.gov; Kathleen_Harasek@nps.gov; teresa_chambers@nps.gov; kevin_hay@nps.gov
Cc: Richard Bradley; Rick Reinhard; christopher.murphy@dc.gov; Karyn LeBlanc
Subject: FW: Occupy DC Update - McPherson Square

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To: David Kamperin

Cc: Kenneth Gregory

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Email: blake@downtowndc.org

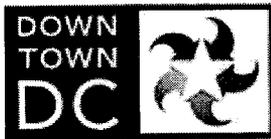


David Kamperin
 <davidk@downtowndc.org>
 10/20/2011 04:28 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>, "teresa_chambers@nps.gov" <teresa_chambers@nps.gov>, "Kathleen_Harasek@nps.gov"
 cc Richard Bradley <bradley@downtowndc.org>, "christopher.murphy@dc.gov" <christopher.murphy@dc.gov>, "paul.quander@dc.gov"
 bcc

Subject McPherson Sq

Photos are from a property manager near McPherson.. Most disturbing is the wood pallets, trash and propane stove on top of it ... also the child is still in the park and now a compost bin and makeshift recycling center.



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McPherson recycling area1 10-20-11.jpg McPherson-trash- gas grill 110-20-11.jpg



McPherson-same child as last week -returns to living in park1 10-20-11.jpg









David Kamperin
<davidk@downtowndc.org>
10/21/2011 06:37 AM

To Robert Vogel <bob_vogel@nps.gov>, Steve Lorenzetti
<steve_lorenzetti@nps.gov>, Karen Cucurullo
<karen_cucurullo@nps.gov>
cc Kathleen_Harasek <Kathleen_Harasek@nps.gov>,
"Jerry_Marshall@nps.gov" <Jerry_Marshall@nps.gov>
bcc

Subject Post Article -McPherson

<http://link.email.washingtonpost.com/r/JDFA9Q/S3OSNY/GJHNFH/QX33WG/IW3RT/GX/h>

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10/21/2011 10:39 AM

To "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov>
cc "Karen_Cucurullo@nps.gov" <Karen_Cucurullo@nps.gov>, Rick Reinhard <reinhard@downtowndc.org>, Everett Scruggs <everett@downtowndc.org>, David Kamperin
bcc

Subject Trash Pickups at the Encampments

History:  This message has been forwarded.

Hi Bob,

Thanks for the chance to chat last night. I appreciated the chance to get an update on the deliberations going on at NPS.

I did want to follow up on the matter of trash pickups. Last night we observed 15-20 bags of trash on the corners of McPherson at 10:30 PM. I am sure this is consequence of dinner activities. It seems we need to arrange for several pickups during the day as well as the evening. What is the planned pickup schedule. We can supplement but need to know how often you are coming through.

What are the plans for this weekend? We will probably get weekend warriors joining in. Can we make sure Franklin is covered as well?

Thanks.

Rich



Richard Bradley
<bradley@downtowndc.org>
10/21/2011 11:04 AM

To "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov>,
"Karen_Cucurullo@nps.gov" <Karen_Cucurullo@nps.gov>
cc
bcc

Subject FW: Trash and Sanitation Report

History: This message has been replied to and forwarded.

I wanted to forward this recent report. I think the sanitation matters are now spreading. Any plans in this regard?

From: Everett Scruggs
Sent: Friday, October 21, 2011 10:57 AM
To: Richard Bradley; Rick Reinhard; David Kamperin; Blake Holub
Subject: RE: Trash at Freedom Plaza, McPherson Square

I have Ron in discussion again with the workabee level of NPS...with hopes of developing a workin schedule for trash pick up as now it is haphazard at best...I just received a request this morning from McPherson Square for blue bags to use for their recycling...I got them on hold as I think we need to be clear on our stance in terms of our support for these encampments...ie... as Rick asked....Do we intentional draw back to support the point that they cannot adequately sustain themselves or do we take up the mantle in conjunction with NPS to support their shortcomings...Yesterday, I also received reports that there is abnormal amount of human feces behind the wall at McPherson square metro (no portal potties @ McPherson)... And observance of more dog feces around tree boxes...I am meeting Ron as we speak @ McPherson and putting my eyes on these issues as well as the ones at Freedom Plaza..... I'll get back to all on my thoughts later this pm....

From: Richard Bradley
Sent: Friday, October 21, 2011 10:13 AM
To: Rick Reinhard; David Kamperin; Everett Scruggs; Blake Holub
Subject: RE: Trash at Freedom Plaza, McPherson Square

When I spoke to Bob Vogel, the Superintendent last evening he indicated that he expected the NPS would step up this part of their responsibility. But at the same time David tells me that when Ron called Sean, Sean hadn't gotten the word. Can we call Sean again and see what his pick up plans are. I will follow up with Bob Vogel. We should also be picking up "on occasion" but not replacing their responsibility. Let's see if we can line of communication open for this weekend as well.

Rich

From: Rick Reinhard
Sent: Friday, October 21, 2011 9:41 AM
To: David Kamperin; Everett Scruggs; Richard Bradley; Blake Holub
Subject: Trash at Freedom Plaza, McPherson Square

What is our stance on removing trash bags from the encampment areas near Freedom Plaza and McPherson Square? What should it be?

Last night at 1030pm, there were 15-20 large plastic bags full of trash at the northeast corner of McPherson Square. Are we focusing our efforts on having the Downtown SAMs remove the trash? Are

we coordinating with NPS and DPW to ask them to remove the trash? Are we willfully ignoring the trash in hopes that it piles up so we can complain?

Thanks for the clarification.



Bob Vogel/NAMA/NPS
10/21/2011 04:10 PM

To "Steve Lorenzetti" <Steve_Lorenzetti@nps.gov>, "Karen Cucurullo" <karen_cucurullo@nps.gov>
cc
bcc
Subject Fw: Trash Pickups at the Encampments

From: Richard Bradley [bradley@downtowndc.org]
Sent: 10/21/2011 02:39 PM GMT
To: Bob Vogel
Cc: Karen Cucurullo; Rick Reinhard <reinhard@downtowndc.org>; Everett Scruggs <everett@downtowndc.org>; David Kamperin <davidk@downtowndc.org>
Subject: Trash Pickups at the Encampments

Hi Bob,

Thanks for the chance to chat last night. I appreciated the chance to get an update on the deliberations going on at NPS.

I did want to follow up on the matter of trash pickups. Last night we observed 15-20 bags of trash on the corners of McPherson at 10:30 PM. I am sure this is consequence of dinner activities. It seems we need to arrange for several pickups during the day as well as the evening. What is the planned pickup schedule. We can supplement but need to know how often you are coming through.

What are the plans for this weekend? We will probably get weekend warriors joining in. Can we make sure Franklin is covered as well?

Thanks.

Rich



Bob Vogel/NAMA/NPS
10/21/2011 04:12 PM

To "Steve Lorenzetti" <steve_lorenzetti@nps.gov>, "Karen Cucurullo" <karen_cucurullo@nps.gov>
cc
bcc
Subject Fw: Occupy DC - Update

Fyi

From: David Kamperin [davidk@downtowndc.org]
Sent: 10/21/2011 06:34 PM GMT
To: Bob Vogel; Steve Lorenzetti; Karen Cucurullo
Cc: Kathleen Harasek; Jerry Marshall; Teresa Chambers
Subject: FW: Occupy DC - Update

Superintendent Vogel

I want to provide you, on a regular basis, information we are seeing at the locations. This is intended for informational purposes only to assist you in updates.

Dave



Downtown DC
Business Improvement District
1250 H Street, NW
Suite 1000
Washington, DC 20005
www.downtowndc.org

David K. Kamperin
Director of
Public Space Management

202-661-7570 PHONE
202-661-7599 FAX
davidk@downtowndc.org

Preventing terrorism is everybody's business.

If you SEE something, SAY something.

Call the Metropolitan Police Department at **(202) 727-9099** or email at SAR@DC.GOV to report suspicious activity or behavior that has already occurred.

Call **911** to report in-progress threats or emergencies.

To learn more, visit <http://www.mpdcc.gov/operationtipp>

From: Blake Holub
Sent: Thursday, October 20, 2011 4:37 PM
To: David Kamperin
Cc: Kenneth Gregory
Subject: Occupy DC - Update

Dave,

I walked down to McPherson Square just awhile ago to monitor the area. It is very much the same environment as yesterday, other than a few things. The trash accumulation at the corner of 15th and K St remains steady. Also, the movement seems to have expanded adding roughly ten new tents. The total count was at about 45 all together, including a medic, pantry, and communal tent. As of now there is only one small section of McPherson which is not occupied by demonstrators. I would also estimate that the total count of people in that park is near 150 to 160. I have attached photos, and will be placing all of the demonstration pics in a share drive folder.

In regards to Freedom Plaza, the movement looked very frail and small compared to "Occupy DC." Although occupancy-wise there are probably 35 tents or so, there are far fewer people demonstrating in this area probably near 60 or so. Additionally, I noted that trash and debris is littering the bushes along the north side of Pennsylvania Ave. Lastly, there are port-a-jons for the demonstrators, six to be exact, for them to use.

One thing to be concerned about, especially in regard to McPherson Square is the capacity level. It won't take too much longer before the entire park is amassed with protestors. Once this occurs we will most likely see this movement move towards another park, possibly Franklin. I'm sure this has come up in your meetings with NPS and USPP, but it's just something to think about moving forward.

If you have any questions or comments please feel free to let me know. Thanks!

Blake Holub, MPA

Quality Control Manager

Public Space Management

Downtown DC BID

1250 H Street, NW Suite 1000

Washington, DC 20005

Desk: (202) 661-7571

Fax: (202) 661-7599

Email: blake@downtowndc.org



FP_Trash Accumulation 10-20-11.jpg



FP_Trash_Debris 10-20-11.jpg



FP_Trash_Debris 10-20-11_2.jpg



Freedom Plaza 10-20-11.jpg



Occupy DC 10-20-11.jpg



Occupy DC 10-20-11_2.jpg



Occupy DC Trash 10-20-11.jpg



McPherson-trash- gas grill 110-20-11.jpg



McPherson recycling area1 10-20-11.jpg



McPherson-gas-wood1.jpg





















Bob Vogel/NAMA/NPS
10/21/2011 07:44 PM

To Sean Kennealy/NACC/NPS@NPS
cc
bcc
Subject Re: Trash and Sanitation Report 

Thanks Sean. I appreciate your help!

Bob

From: Sean Kennealy
Sent: 10/21/2011 06:31 PM EDT
To: Karen Cucurullo; Bob Vogel; "Richard Bradley" <bradley@downtowndc.org>
Cc: Martha Ellis; Mark White
Subject: Re: Trash and Sanitation Report

Hello everyone,

Here is what revised services we will provide effective Saturday, Oct. 22:

1. We will run a daily trash pickup route to McPherson at 9 am, 2 pm and 7 pm.
2. Supervisor Baker will visit the park on Saturday morning to inspect and resupply bags and make contact with organizer.
3. Supervisor Gunter will do the same Sunday.
4. The trash truck will also service Freedom Plaza around those same times.
5. We will re-evaluate needs Monday.

Thanks, Sean

Sean Kennealy
Chief, Division of Facility Management
National Mall and Memorial Parks
Office: 202-245-4685
Fax: 202-426-0099

From: Sean Kennealy
Sent: 10/21/2011 06:11 PM EDT
To: Karen Cucurullo; Bob Vogel; "Richard Bradley" <bradley@downtowndc.org>
Cc: Martha Ellis
Subject: Re: Trash and Sanitation Report

We have our trash packer scheduled to pick up the trash twice daily, between 9-10 AM and 2-2:30 PM, 7 days a week.

I inspected the park this morning and found it to be very orderly and tidy. I also spoke with some of the organizers

and they agreed to help bag the trash and place at the NW corner for pickup. Martha delivered 3 cases of clear trash bags to them this morning.

Thanks, Sean

Sean Kennealy
Chief, Division of Facility Management
National Mall and Memorial Parks
Office: 202-245-4685
Fax: 202-426-0099

From: Karen Cucurullo
Sent: 10/21/2011 05:20 PM EDT
To: Bob Vogel; "Richard Bradley" <bradley@downtowndc.org>
Cc: Sean Kennealy
Subject: Re: Trash and Sanitation Report

This morning at 8:00am, Sean was in the park and said that it was pretty clean. He spoke to some of the demonstrators and they agreed to place bagged trash on the NW side of the park for pick up by NPS. The trash was to be picked up a couple of time a day.

Karen

From: Bob Vogel
Sent: 10/21/2011 04:30 PM EDT
To: "Richard Bradley" <bradley@downtowndc.org>
Cc: Karen Cucurullo
Subject: Re: Trash and Sanitation Report

I have asked karen to get back with you in regards to the trash schedule. I am hoping we can improve the situation.

Bob

From: Richard Bradley [bradley@downtowndc.org]
Sent: 10/21/2011 03:04 PM GMT
To: Bob Vogel; Karen Cucurullo
Subject: FW: Trash and Sanitation Report

I wanted to forward this recent report. I think the sanitation matters are now spreading. Any plans in this regard?

From: Everett Scruggs
Sent: Friday, October 21, 2011 10:57 AM
To: Richard Bradley; Rick Reinhard; David Kamperin; Blake Holub
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Rich

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Thanks for the clarification.



Bob Vogel/NAMA/NPS
10/25/2011 11:19 AM

To "Karen Cucurullo" <karen_cucurullo@nps.gov>, "Steve Lorenzetti" <steve_lorenzetti@nps.gov>

cc

bcc

Subject Fw: rat issues

Not sure which of you should respond to Ms. Kimbel.

Peter May

----- Original Message -----

From: Peter May
Sent: 10/25/2011 11:08 AM EDT
To: Tara Morrison; Bob Vogel
Subject: Fw: rat issues

Tara and Bob,

Please see the message below from Councilmember Jack Evans' office regarding rat problems in your respective parks. I hope there is some action that you can take. I would love it if you can respond directly to Ms. Kimbel, but please let me know what action you take. Thanks!

Peter

Peter May
Associate Regional Director
Lands, Resources, and Planning
National Park Service - National Capital Region
1100 Ohio Drive SW
Washington, DC 20242
(202) 619 7025 - Office
(202) 401 0017 - Fax
peter_may@nps.gov

----- Forwarded by Peter May/NCR/NPS on 10/25/2011 11:06 AM -----



"Kimbel, Sherri (COUNCIL)"
<SKimbel@DCCOUNCIL.US>

10/25/2011 10:34 AM

To "Peter_May@nps.gov" <Peter_May@nps.gov>

cc "Evans, Jack (COUNCIL)"
<JACKEVANS@DCCOUNCIL.US>

Subject rat issues

Good Morning Peter,

We've received many emails about rats overrunning the waterfront park in Georgetown. I would appreciate it if you could have someone look at this and take whatever steps are necessary to get the rats under control. If there is anything we can assist with, let me know. On the same subject, I know we discussed the rat problem in Washington Circle, and I thought it had been abated, however we got this email from one of the nearby residents:

re: Rats at Washington Circle / GW Circle. This morning I counted 35 rats while walking my dog around the circle. They blanketed the grass. I called the DPR (202-673-7649) and they referred me to the National Park Service (202-245-4715). NPS said that they are well aware of the growing rat problem in

the park but it's not their job to clean them up. To make me feel better, they said it is worse at McPherson Square. This is neither an answer nor a solution.

I surely hope that the person who answered the phone was wrong, or that the resident embellished what he heard. Please let me know what NPS is willing to do about this. Thank you.

Sherri Kimbel

Director of Constituent Services

OFFICE OF COUNCILMEMBER JACK EVANS

202-724-8058

www.jackevans.org



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David Barna/WASO/NPS
10/26/2011 07:00 AM

To Bob Vogel/NAMA/NPS@NPS, Steve
Lorenzetti/NACC/NPS@NPS, Carol B
Johnson/NACC/NPS@NPS, William Line/NCR/NPS@NPS,

cc

bcc

Subject newsclip: Wash Post/ AP : As some cities crack down on
anti-Wall Street protesters, tent cities in DC continue to
expand

Washington Post / AP

As some cities crack down on anti-Wall Street protesters, tent cities in DC continue to expand

**By Associated Press
October 25**

WASHINGTON — While police and neighbors in some cities are losing patience with anti-Wall Street protests, demonstrators in the nation's capital are continuing to expand their tent cities with little interference.

Authorities in several cities have started arresting or threatening to evict demonstrators, in part because of concerns about noise, sanitation and health.

But in Washington, a city accustomed to protests, relations between police and participants in two similar, open-ended demonstrations have been largely peaceful. McPherson Square was packed with more than 100 tents Tuesday, and there were more than 60 tents in Freedom Plaza a few blocks away.

At McPherson Square, Wes Kirkpatrick of the Occupy D.C. movement was hanging leaflets Tuesday afternoon with information about arrests and confrontations between police and protesters in other cities. U.S. Park Police are patrolling the square twice daily but have done little else, and officers have given no indication they plan to start arresting or evicting the protesters, said Kirkpatrick, 27.

Police are arresting protesters "everywhere but here, essentially," Kirkpatrick said. He said he believed Occupy D.C. was benefiting from its location just blocks from the White House and said he did not expect the federal government to crack down on the demonstration.

Assemblies in McPherson Square don't require permits as long as they don't exceed 500 people, but people are barred from camping or cooking there, and the demonstrators are doing both in plain view of police.

McPherson Square is surrounded by businesses, including banks, restaurants and law firms, but Kirkpatrick said there had been few if any confrontations with local merchants and residents. Bill Line, a National Park Service spokesman, said the park service decided recently to start picking up trash twice a day in the square because of concerns about buildup. He also said police were counting the protesters and would take action if their numbers exceeded 500.

Patrick Segui, who owns a hair salon on McPherson Square, said the demonstration hasn't harmed his business.

"There hasn't been any trouble. As far as protesting, that's the way to do it. They're very clean," Segui said. "Politically, it's a different story, but we don't need to go there."

Ayanna Brown, general manager of the popular restaurant Georgia Brown's, said the protesters and the restaurant have coexisted peacefully, and she noted that most of the staff supports them.

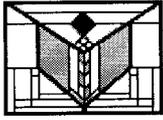
"They don't even come in and ask to use the restroom," Brown said. "We were concerned mostly about trash. We can get rats if we don't maintain a certain level of cleanliness, and they have done that."

The demonstrators in Freedom Plaza have a permit that runs through Dec. 30, but they are also camping and cooking in defiance of park service rules. Kevin Zeese, an organizer of the October 2011 Stop the Machine demonstration, said officers patrolling the plaza have told him "they're getting pressure to evict us." But he said demonstrators would return if they were kicked out.

The park service was planning to hand out leaflets to the Freedom Plaza protesters addressing health and safety matters that they're expected to abide by, Line said.

Freedom Plaza is bordered by local and federal government buildings, the National Theater and a Marriott hotel. Zeese said he hasn't heard any complaints from neighbors.

"I would guess the Marriott's \$500-a-night rooms aren't too happy, but they haven't said anything to us," he said.



Steve Lorenzetti/NACC/NPS

10/26/2011 09:52 AM

To bob_vogel@nps.gov

cc karen_cucurullo@nps.gov, Kathleen Harasek/USPP/NPS@NPS, Randolph.Myers@sol.doi.gov, carol_b_johnson@nps.gov, william_line@nps.gov

bcc

Subject McPherson Square Use Handout

History:  This message has been forwarded.

Bob,

Here is the final draft of the McPherson Square Use Handout. It has been vetted by Randy and the USPP.

steve

Stephen Lorenzetti
Deputy Superintendent - Planning
National Mall and Memorial Parks
900 Ohio Drive, S.W.
Washington, D.C. 20024-2000
Work: (202) 245-4662
Fax: (202) 426-9309



McPherson Use Handout 2011-10-26.doc



Help Us Preserve McPherson Square

National Mall and Memorial Parks – National Park Service



The National Park Service has a long and proud tradition of providing opportunities for the exercise of First Amendment rights. The national parks of Washington, DC are used almost every day as places for First Amendment demonstrations and for citizens engaged in civil debate over serious issues facing our nation.

The National Park Service is also required to protect our important cultural and natural resources. To help you help us with that responsibility and comply with park regulations, we are providing some guidelines for visitors using the parks, regardless of the reason for their visit.

Safety Guidelines:

Generators: For safety reasons and to protect natural resources, any generator must:

- Be surrounded by a fence of at least three feet in height;
- Be placed on matting. Matting must be made of three-quarter inch plywood, or other material agreed to by the National Park Service, topped by a plastic tarp impermeable to fuel, with absorbent material on top of tarp;
- Have a drip pan under the fueling nozzle.

You may refuel generators on parkland only between the hours of 5:00 am and 8:00 am. Storage of generator fuel in the park is not allowed. Fuel is defined as a hazardous material by the Environmental Protection Agency, and fuel spills pose a danger to human health. You must immediately report all fuel spills to the District of Columbia Fire Department by dialing 911 and to the United States Park Police dispatch at (202) 610-7500 so that corrective action can be taken.

Restrooms: There are no restrooms in the park although organizers may provide their own portable temporary toilets in coordination with the park. The National Park Service recommends a minimum of one portable toilet per 300 people, with at least 20 percent of facilities handicapped accessible. Public urination or defecation is prohibited.

Trash: The National Park Service will provide trash receptacles in convenient locations and will empty them at least three times per day. All trash and debris must be cleared from the park and placed in the park trash receptacles at the conclusion of each day's events.

Resource Protection Guidelines

Existing natural and cultural resources, and landscape features, must be protected from damage or injury. The following rules apply to McPherson Square:

- In order to protect the General McPherson statue, food or drink should not be consumed at the base of the statue. Food and drinks, particularly drinks with a high sugar content and dyes (such as soda and sports drinks), leave permanent stains;
- Nothing may be attached or affixed to the statue or passed through landscape features, trees or other vegetation;
- To help allow the turf to get the sunlight and water needed to survive, we recommend that any temporary structures or tents with attached flooring placed on grass should be relocated every four days.

While temporary structures or tents are allowed in the park under some circumstances, camping is not permitted. Camping is defined at 36 CFR § 7.96(i)(1) as *"the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping) or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking. . . "*. To allow for visual inspection and monitoring, all temporary structures and tents must have at least one open side.

The basis for these rules and guidelines can be found in Title 36 Code of Federal Regulations sections 2.1, 2.14, 2.31 and 7.96; the National Mall and Memorial Parks Compendium compiled under 36 C.F.R. § 1.7; and the National Park Service, National Capital Region - Requirements for Special Events Held on Parkland. These documents can be viewed and downloaded at www.nps.gov/nama/planyourvisit/permits.htm.

National Park Service rangers will be distributing this notice, as well as well as posting it, at the park. National Park Service rangers and United States Park Police officers will continue to monitor the park to ensure compliance and answer questions. Your cooperation is appreciated.

If you have any questions, or would like a copy of the regulations, please contact Robbin Owen, Chief, Permits Management at 202-245-4715.



Bob Vogel/NAMA/NPS
10/26/2011 10:05 AM

To Maureen Foster/WASO/NPS
cc
bcc
Subject IMPORTANT

Maureen,

This is a copy of the handout which we will be distributing to demonstrators at Freedom Plaza and McPherson Square today. It has been fully vetted with Randy Meyers and USPP. We believe it to be non-controversial and will be presented in a friendly manner by park rangers not USPP. It is necessary in our overall legal strategy for this to go out. Please let me know if there is a problem.



McPherson Use Handout 2011-10-26.doc

Bob

Jerry Marshall/USPP/NPS
10/31/2011 11:52 AM

To David Kamperin <davidk@downtowndc.org>
cc "bob_vogel@nps.gov" <bob_vogel@nps.gov>, Richard
Bradley <bradley@downtowndc.org>,
"karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>,
bcc
Subject Re: McPherson Occupants

I will have officers make frequent checks.

Lieutenant Jerry Marshall
District 1
Administrative Commander
"law don't go around here, savvy"
Office# 202 426 6710
[REDACTED]
Fax# 202 426 6779

David Kamperin <davidk@downtowndc.org>



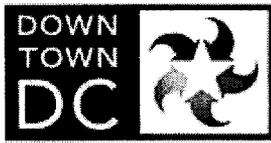
David Kamperin
<davidk@downtowndc.org>
10/31/11 11:33 AM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"steve_lorenzetti@nps.gov" <steve_lorenzetti@nps.gov>,
"karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>,
"teresa_chambers@nps.gov" <teresa_chambers@nps.gov>,
"Jerry_Marshall@nps.gov" <Jerry_Marshall@nps.gov>,
"Kathleen_Harasek@nps.gov"
<Kathleen_Harasek@nps.gov>
cc Richard Bradley <bradley@downtowndc.org>, Rick Reinhard
<reinhard@downtowndc.org>, Karyn LeBlanc
<karyn@downtowndc.org>
Subject McPherson Occupants

Superintendent Vogel

I received information (unconfirmed at this time) that the encampment at McPherson looked somewhat vacant Saturday night- as it appeared many had left there tents but may have gone home. Could you or USPP please check this and Freedom Plaza over the nighttime as I'm concerned if people are abandoning their tents what could be stored inside of them (flammable liquids and other incendiary devices) that could pose an eminent security risk. Also, if that is the case would NPS consider seizing control of the property and treat it as abandoned on public space?

Thanks- Dave



Downtown DC
Business Improvement District
1250 H Street, NW
Suite 1000
Washington, DC 20005
www.downtowndc.org

David K. Kamperin
Director of
Public Space Management

202-661-7570 PHONE
202-661-7599 FAX
davidk@downtowndc.org

Preventing terrorism is everybody's business.

If you SEE something, SAY something.

Call the Metropolitan Police Department at **(202) 727-9099** or email at SAR@DC.GOV to report suspicious activity or behavior that has already occurred.

Call **911** to report in-progress threats or emergencies.

To learn more, visit <http://www.mpdc.dc.gov/operationtipp>



David Kamperin
<davidk@downtowndc.org>

10/31/2011 02:15 PM

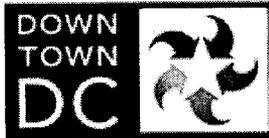
To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"steve_lorenzetti@nps.gov" <steve_lorenzetti@nps.gov>,
"karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>,

cc

bcc

Subject Occupy DC Dumping Trash at Businesses

Today a group of protestors from Occupy DC at McPherson dumped bags of garbage at the lobby of the Eagle Bank at 1425 K St NW. When they went to remove it the bottom of the bag broke (apparently weakened by the protestors) and cups of urine and human or animal excrement dumped out.



Downtown DC
Business Improvement District
1250 H Street, NW
Suite 1000
Washington, DC 20005
www.downtowndc.org

David K. Kamperin
Director of
Public Space Management

202-661-7570 PHONE
202-661-7599 FAX
davidk@downtowndc.org

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Garbagedumpedat1425KNW.jpg



David Barna/WASO/NPS
11/01/2011 02:32 PM

To Bob Vogel/NAMA/NPS@NPS, Carol B
Johnson/NACC/NPS@NPS, Teresa
Chambers/USPP/NPS@NPS, David

cc

bcc

Subject newsclip: Huffington Post - Occupy DC: McPherson Square
Protesters Can't Camp. Or Can They?

Huffington Post
Nov. 1, 2011

Occupy DC: McPherson Square Protesters Can't Camp. Or Can They?

WASHINGTON -- A month into their protest in McPherson Square in downtown D.C., Occupy DC protesters don't know whether the National Park Service thinks they are breaking park rules or not.

Last week after Park Police took down an Occupy DC flag from the park's statue of Maj. Gen. James B. McPherson, the park service then distributed a flier in McPherson Square with some park rules.

One key rule the flier outlines: "In order to protect the General McPherson statue, food or drink should not be consumed at the base of the statue. Food and drinks, particular drinks with a high sugar content and dyes (such as soda and sports drinks), leave permanent stains."

Another rule could be harder to follow: "Camping is not permitted."

But the handout, which is also posted around the park, has some other statements that seem to contradict that no-camping rule.

One says: "To allow for visual inspection and monitoring, all temporary structures and tents must have at least one open side."

Another reads: "To help allow the turf to get the sunlight and water needed to survive, we recommend that any temporary structures or tents with attached flooring placed on grass should be relocated every four days."

And generators, says the flier, should be "surrounded by a fence at least three feet in height" and "placed on matting."

Jeff Light, an attorney advising Occupy DC, says since receiving the flier, the group has put up a fence around the generator, and put the generator on some wooden pallets. Other than that, the members of Occupy DC haven't decided how -- or if -- they will respond to the flier, or if they will specifically ask for clarification on the camping issue.

"This is not issued like an order," Light said. "It's a flier that they gave us."

Carol Johnson, a spokeswoman for the National Park Service, tells The Huffington Post that NPS is not expecting a response to the flier.

"We wanted to provide education to the protesters about the kinds of things that would make it a better experience, and would help them keep within the regulations," Johnson said.

But under the regulations, camping is not permitted in McPherson Square. So has the park service changed its camping policy?

"Camping is making preparations for sleeping, sleeping, setting up housekeeping," said Johnson. "But, all that said, tents are allowed there. And a 24-hour vigil is allowed there."

But she acknowledged that sometimes it can be difficult to tell the difference between a vigil and camping.

"We have to use discernment," Johnson said. "The Park Police are monitoring the situation, and are going in to make sure that people are safe. We'll continue to monitor."

Johnson says that Occupy DC isn't being given special treatment, pointing toward the Stop the Machine protest that has been camping out in Freedom Plaza since Oct. 6, and Concepcion Picciotto who has been camped out in Lafayette Park, across from the White House, protesting nuclear weapons since 1981. (Picciotto's advice to the Occupy protesters was to "just be peaceful and stay the course.")

"We're trying to balance the needs of the First Amendment and the needs of protecting cultural resources," Johnson said, adding that the Park Service is also responding to the concerns of local businesses. For instance, they've increased the number of trash pickups at the park to three per day.

Light said that he expects the protesters to decide if they will respond to the flier later this week. He also expects that regardless of their response, the McPherson Square demonstrators' relationship with law enforcement will stay friendly and flexible.

"We haven't had a single arrest. We're trying to make sure that everybody there is safe, and not causing any problems," Light said. "Some of the things they are saying in the flier are not based in any regulations, but they nevertheless may be a good idea to follow anyway."



David Kamperin
 <davidk@downtowndc.org>
 11/01/2011 04:47 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>
 cc Richard Bradley <bradley@downtowndc.org>
 bcc
 Subject FW: McPherson Park 11/1/11

Superintendent Vogel-
 Please see the information from a property manager in the area of McPherson Sq- not sure if USPP or your staff have observed any of these noted changes...



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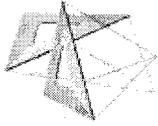
To learn more, visit <http://www.mpdc.dc.gov/operationstipp>

David,

The park has a very interesting dynamic today. Seems like the flower children have gone home and we are left with a more "cede" environment. It appears as if the park has been taken over by homeless placeholders. Not real savory looking group of people and there are several dogs in the park today. Some on leashes, some not for playing purposes.

Any update on what the park police are thinking for the an eviction on the park squatters?

Thank you,



Kathleen Harasek/USPP/NPS
11/01/2011 06:31 PM

To Teresa Chambers/USPP/NPS@NPS, David
Schlosser/USPP/NPS@NPS
cc Peter Shannon/USPP/NPS@NPS, Dennis
Maroney/USPP/NPS@NPS, Jackie Burks/USPP/NPS@NPS,
Robert MacLean/USPP/NPS@NPS
bcc Bob Vogel/NAMA/NPS
Subject : McPherson Sq 

Dave,
We are all in agreement on this oneUSPP received complaint of assault, responded and located victim who positively identified assailant. The Park is used throughout the day by numerous visitors and there is typically low criminal activity within the area.

Capt. Kathleen Harasek
U.S. Park Police
202-426-6710
Teresa Chambers

----- Original Message -----

From: Teresa Chambers
Sent: 11/01/2011 06:18 PM EDT
To: David Schlosser
Cc: Peter Shannon; Dennis Maroney; Jackie Burks; Robert MacLean; Kathleen Harasek
Subject: Re: McPherson Sq

David -- I agree with your approach. Simply answer the questions as you would for any other assault / destruction of property arrest. Then, shoot an email to Barna. This is bigger than the USPP. Thanks for your wisdom.

TC

Chief Teresa C. Chambers
United States Park Police
1100 Ohio Drive, SW
Washington, DC 20024
202-619-7350
David Schlosser/USPP/NPS

David Schlosser/USPP/NPS
11/01/2011 06:08 PM

To Teresa Chambers/USPP/NPS@NPS
cc
Subject McPherson Sq

It begins...

I am getting calls re an arrest at McPherson Park.

Car 102 Sgt Green states that a demonstrator took umbrage with a passerby photographing him.

Demonstrator grabs camera and smashes it. He is charged with simple assault and destruction of property.

While this is simple and straight forward, this type of activity is getting huge attention nationwide. [REDACTED]

David



David Kamperin
 <davidk@downtowndc.org>
 11/03/2011 03:51 PM

To "Steve_Lorenzetti@nps.gov" <Steve_Lorenzetti@nps.gov>, "bob_vogel@nps.gov" <bob_vogel@nps.gov>, "karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>, cc Richard Bradley <bradley@downtowndc.org>, Karyn LeBlanc <karyn@downtowndc.org>

bcc

Subject FW: McPherson Park challenge

Superintendent

Please see the concerns below from one of our property managers. As you can imagine they have in place evacuation plans for a variety of incidents. For example, the day of the earthquake (where plans call for evacuation away from buildings when safe to do so) McPherson was used and is used by this property, and quite frankly other properties around the park. Has the NPS worked with MPD or HSEMA to provide alternate locations while McPherson is being occupied? I would appreciate some guidance and/or suggestions from your group and the law enforcement team to assist to ensure, should there be a homeland security event, these people have an alternatives – (as you can imagine Franklin, and Lafayette will be crowded with people from buildings adjacent or nearby to them). Thanks.



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Good afternoon,

We are in search of some guidance on a very important safety issue.

Historically, McPherson Park has been used during the business day as a safe spot or fall back position for many of the local buildings in the event of a fire evacuation or other such evacuation emergency. Since the park is now filled with the Occupy DC squatters, the homeless, and quite frankly, undesirables. Our tenants are quite concerned that they have no safe spot to fall back on should there be a building emergency. We need a safe fall back position for our tenants here at 1500 K if this type of event were to occur. Additionally, we think it would not be a wise idea for the spot to be anywhere in the vicinity of the current Occupy DC protesters or to reach a safe spot, we do not want our tenants to have to move

through this crowd and tension between the “squatters vs. workers” is already at a high and I think you can agree we do not want anything bad to happen.

Your assistance in finding a new safe spot or any recommendations you might have as to a new area, and/or the removal of said squatters would be much appreciated.

Thank you,
CER



Karen Cucurullo/NACC/NPS
11/04/2011 04:24 PM

To "Bob Vogel" <Bob_Vogel@nps.gov>
cc
bcc
Subject Fw: Farragut Park

FYI, I will discuss with Sean.

----- Original Message -----

From: Jenna Grant [jgrant@goldentriangledc.com]
Sent: 11/04/2011 01:22 PM MST
To: Sean Kennealy; Mark White; Martha Ellis
Cc: Karen Cucurullo; Leona Agouridis <lagouridis@goldentriangledc.com>; Paul Batlan
Subject: RE: Farragut Park

Thanks, Sean. Let us know what works best for you.

-----Original Message-----

From: Sean_Kennealy@nps.gov [mailto:Sean_Kennealy@nps.gov]
Sent: Friday, November 04, 2011 3:35 PM
To: Jenna Grant; Mark_White@nps.gov; Martha_Ellis@nps.gov
Cc: Karen_Cucurullo@nps.gov; Leona Agouridis; Paul_Batlan@nps.gov
Subject: Re: Farragut Park

Mark and Martha,

Please see below and have a conversation with the supervisor and staff that work in this area. As discussed, please continue to run the 3rd trash pick up while the McPherson event continues (servicing Freedom Plaza, Farragut, and Washington Circle too).

Jenna - At some point, my staff and I need to meet with you to discuss how we can share resources to keep this park clean and provide the necessary services. I will work with Paul to arrange a meeting.

Thanks, Sean

Sean Kennealy
Chief, Division of Facility Management
National Mall and Memorial Parks
202-245-4685 (office)
202-426-0099 (fax)

Jenna Grant
<jgrant@goldentriangledc.com>

11/04/2011 12:03 PM MST

To
"Paul_Batlan@nps.gov"
<Paul_Batlan@nps.gov>, "Sean
Kennealy (sean_kennealy@nps.gov)"
<sean_kennealy@nps.gov>

cc

Leona Agouridis
<lagouridis@goldentriangledc.com>,
"Karen_Cucurullo@nps.gov"
<Karen_Cucurullo@nps.gov>

Subject

Farragut Park

Paul & Sean,

There were 10-12 food trucks at Farragut Park today - and as is typically the case when the weather is nicer - the trash cans were overflowing. Do you have staff tasked with emptying the cans and taking the bags away in the afternoon? I'm asking because there were two NPS staff persons in the park who emptied one can, threw it in their truck and then watched from their truck as ambassadors emptied the other cans. When our supervisor asked them if they could take the rest of the trash, it sounds like they said the trash truck was done for the day?

What should we expect from NPS in terms of trash collection?

Jenna Grant
Operations Program Manager
Golden Triangle BID
1120 Connecticut Ave. NW, Ste 260
Washington, DC 20036
(202) 463-1933
www.goldentriangledc.com

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TWITTER: TWITTER.COM/GOLDENTRIDc



Karen Cucurullo/NACC/NPS
11/05/2011 05:53 PM

To Bob Vogel/NAMA/NPS@NPS, "Robbin Owen"
<Robbin_Owen@nps.gov>
cc
bcc
Subject Re: Fwd: McPherson Park- 2 sani jons installed 11-4-11

Not that I am aware of.

From: Bob Vogel
Sent: 11/05/2011 03:26 PM EDT
To: Karen Cucurullo
Subject: Fw: Fwd: McPherson Park- 2 sani jons installed 11-4-11

We didn't install these did we?

From: David Kamperin [davidk@downtowndc.org]
Sent: 11/05/2011 03:01 AM GMT
To: Bob Vogel; Steve Lorenzetti; Karen Cucurullo
Cc: Richard Bradley <bradley@downtowndc.org>; Karyn LeBlanc <karyn@downtowndc.org>
Subject: Fwd: McPherson Park- 2 sani jons installed 11-4-11

Superintendent Vogel

This is clearly disappointing and it appears that NPS' only response to this illegal activity is to enable them and make their unlawful camping more comfortable. It also appears that NPS has accepted this and will continue to promote this illegal activity instead of enforcing current laws. Ironically the warning signs posted are still being ignored- generators are running, gas containers with flammable liquids are being stored near propane stoves-a potential grave risk to the public safety of the residents, workers and visitors near the area- not to mention the obvious presence of illegal narcotics (marijuana can readily be smelled throughout the encampment).

Finally, I am sure that if these protestors attempted their encampment on the National Mall with flammable liquids, potential projectiles and illegal drugs openly being used the response by NPS would be substantially different. Sadly when activities are adversely impacting businesses and the rights of workers and residents to enjoy the park occurs out of site of the White House, Dept of Interior and NPS the response appears to be to make them more comfortable. When severe cold weather arrives I imagine the staked pile of wood will be used for a bonfire to warm the campers up.

I hope NPS has a "line in the mud" at McPherson that when crossed by this group they take action, and I hope this action is not reactive because of a grave or injurious incident to an innocent victim.

Thank you-

David Kamperin
Downtown DC BID
202-661-7570

Sent from my iPhone

Begin forwarded message:

From: "Robinson, Constance (US)" <Constance.Robinson@am.jll.com>
Date: November 4, 2011 4:21:10 PM EDT
To: "nama_superintendent@nps.gov" <nama_superintendent@nps.gov>
Cc: "David Kamperin <davidk@downtowndc.org> (davidk@downtowndc.org)" <davidk@downtowndc.org>
Subject: McPherson Park- 2 sani jons installed 11-4-11

Good afternoon,

We have received several comments from our tenants regarding the installation of the sani jons at McPherson park for the squatters that call themselves "Occupy DC". If we had to sum the comments up in one single word, that word would be... REALLY??!?

What is the NPS reasoning and strategy behind allowing the squatters to continue this blatant disregard for established laws that seemingly every other person has to abide by?

The business people in the immediate area of McPherson park are not impressed with how NPS is handling this situation.

Please advise.

CER

Constance E. Robinson
Vice President and General Manager
Jones Lang LaSalle Americas, Inc.
1500 K Street, NW, Suite 100

Washington, DC 20005

Tel: (202) 638 1500

Direct: (202) 624 3201

Fax: (202) 347 8171

Mobile: (202) 438 9499

Constance.Robinson@am.jll.com

www.joneslanglasalle.com/us



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"If you see something, say something"

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Bob Vogel/NAMA/NPS

11/08/2011 03:46 PM

To Steve Whitesell/WASO/NPS

cc

bcc

Subject Occupy concern

MPD has requested to come on to park property and issue a flyer regarding DC laws this evening at McPherson. We(USPP and NAMA) have indicated our preference that MPD not do this as we think it has potential to escalate the tenuous relationship between MPD and occupy. We are not sure whether MPD will honor our request. I have asked that if anything goes wrong not to call us in the middle of the movie tonight! We are preparing to brief you next Tuesday morning on the latest action steps with the USA and solicitors and the District Court.

Robert A. Vogel
Superintendent
National Mall and Memorial Parks
(202) 245-4661



David Kamperin
<davidk@downtowndc.org>

11/08/2011 04:37 PM

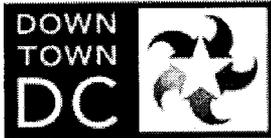
To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"Steve_Lorenzetti@nps.gov" <Steve_Lorenzetti@nps.gov>

cc

bcc

Subject FW: McPherson Square Park

FYI



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From: Lisa Mize [mailto:lmize@Shorenstein.com]

Sent: Monday, November 07, 2011 2:13 PM

To: David Kamperin

Subject: McPherson Square Park

I know the Downtown BID has expressed concerns about potential damage to the McPherson Square Park as a result of the protestors camping there. I am curious whether anyone has given any consideration to the impact on the ducks which congregate there every evening. I believe that the ducks in DC are protected under federal legislation (a wildlife protection act) – not sure if that also extends to the areas where they congregate, but was curious as to whether anyone has given this any consideration.

Thank you.

Lisa Mize
Group Manager
Shorenstein Realty Services, L.P.
600 14th Street, N.W., Suite 100
Washington, D.C. 20005
Phone: 202-388-0110

Fax: 202-388-4221



David Kamperin
<davidk@downtowndc.org>

11/08/2011 05:05 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"Kathleen_Harasek@nps.gov"
<Kathleen_Harasek@nps.gov>,
cc Karyn LeBlanc <karyn@downtowndc.org>, Richard Bradley
<bradley@downtowndc.org>, "christopher.murphy@dc.gov"
<christopher.murphy@dc.gov>

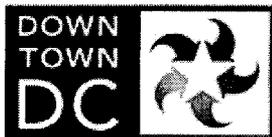
bcc

Subject Wall Street coming to Occupy DC

http://m.nbcwashington.com/nbcwashington/pm_107902/contentdetail.htm?contentguid=NCYHezA0

Superintendent-

As space is becoming limited at McPherson I hope NPS has plans to prevent them taking over a third park (ie Franklin) and control/confine the group to current locations so as not to destroy another green space in Downtown DC. With these groups now apparently merging maybe the National Mall would be an ideal and centralized location for these encampments.



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David Kamperin
<davidk@downtowndc.org>
11/08/2011 04:28 PM

To "bob_vogel@nps.gov" <bob_vogel@nps.gov>,
"Steve_Lorenzetti@nps.gov" <Steve_Lorenzetti@nps.gov>,
"karen_cucurullo@nps.gov" <karen_cucurullo@nps.gov>,
cc Richard Bradley <bradley@downtowndc.org>

bcc

Subject FW: McPherson Sq vandalism

Please see link below and graffiti



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From: Karyn LeBlanc

Sent: Tuesday, November 08, 2011 4:24 PM

To: David Kamperin

Subject: McPherson Sq vandalism

#OccupyDC is in a tailspin. Protesters bickering among themselves after some members deface statue <http://yfrog.com/odfhvojj>

Karyn G. Le Blanc
Director of Communications
DowntownDC Business Improvement District
202-661-7560, office
202-497-4572, cell
Karyn@DowntownDC.org
[@DowntownDCBID](#)



"Myers, Randolph"
<RANDOLPH.MYERS@sol.doi.gov>

11/10/2011 10:30 AM

To "Vogel, Bob A." <Bob_Vogel@nps.gov>, "Cucurullo, Karen" <Karen_Cucurullo@nps.gov>, "Lorenzetti, Steve" <Steve_Lorenzetti@nps.gov>, "Owen, Robbin"

cc

bcc

Subject fyi: MPD Occupy Wall Street Statement and Handout

Bob & Company: Thanks again for our very useful meeting yesterday.

As promised, attached is the MPD Chief Statement found on their DC.Gov website as well as the MPD handout that their officers distributed at Freedom Plaza and McPherson Square two days ago...

Randy

Randolph J. Myers
U.S. Department of the Interior, Office of the Solicitor
DPW Branch of National Parks
1849 C Street, NW, Room 5320
Washington, D.C. 20240
w (202) 208-4338 fax (202) 208-3877
Randolph.Myers@sol.doi.gov

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Statement from Chief Lanier on Occupy DC 11.7.11 [http___newsroom.dc.gov_show](http://newsroom.dc.gov/show) visited 11.9.11.pdf



MPD Guidelines for Peaceful Demonstrations 11 08 11.pdf



Derek Bottcher

11/28/2011 03:20 PM

To bob_vogel@nps.gov, steve_whitesell@nps.gov

cc

bcc

Subject McPherson Square -- camping

Mssrs Vogel and Whitesell:

For over three years, I have worked at 875 15th Street N.W., which is on the corner of 15 and I ("eye") streets in the District. I get to work each morning by taking the 16-Y Metro Bus from my home in Arlington to the corner of 15 and K Streets, getting off in front of the CVS. I then walk diagonally across McPherson Square to get to my office. I've had the opportunity - and recently, the incredible disappointment - of witnessing McPherson Square's facelift and its subsequent trashing at the hands of the Occupy DC movement.

I read with disappointment this afternoon that the National Park Service recently distributed flyers informing the Occupiers that their continued camping in McPherson Square is illegal. It is disappointing because it signals NPS's continued unwillingness to take concrete action to evict the Occupiers and return the park to its intended purpose: to be a place of enjoyment for all Americans.

I would like to know why NPS has allowed the Occupiers to take over McPherson Square, denying enjoyment of the park to everyone else who might pass through it or wish to spend time in it. The park, which was a beautiful green space in the center of the city, has been trashed and much of the improvements implemented during the recent facelift have been destroyed. The sod has been trampled and turned to muck in many areas. There is trash scattered throughout the park. Drinking fountains have makeshift pipes connected to them to fill up the campers' water jugs. I have witnessed Occupiers smoking marijuana some evenings when I walk through the park to catch my bus home. A couple of the Occupiers have called out to me, as I walked through the park, with derisive comments about my "lobbying efforts." I dress professionally for my job but I am not a lobbyist -- not that this matters one bit. If all of the above was not enough reason to put an end to the squalor in McPherson Square, the Occupiers have used the area at the base of the monument to General McPherson as a place to hang out, store childrens' toys, store food and drinks, store posterboard and other trash, and even as a dog park. This is outrageous and an insult to the memory of General McPherson, and the sacrifice of Americans who served their country in uniform. I would be happy to supply photographs of each of the above examples, excepting the marijuana smoking and of course the derisive comments.

It is baffling to me why NPS has not evicted these campers. What is particularly disappointing to me, with respect to your stewardship of this National Park, is the fact that there was never any question as to the legality of the Occupiers' camping. Multiple signs posted in McPherson Square state clearly that camping is prohibited. My understanding is the Occupiers have received no special relief from this prohibition, therefore their camping in McPherson Square is illegal. Further, preventing the Occupiers from overnight camping in McPherson Square would not impinge upon their First Amendment rights. As I am sure you know, there is no First

Amendment right to camp in National Parks. This question was settled by the Supreme Court in its 1984 decision, *Clark v. Community Creative Non-Violence* . The Occupiers can congregate in McPherson Square during the day if they wish, but they should not be allowed to turn it into their personal squatters' campground.

The fact that NPS has permitted McPherson Square to be transformed from a beautiful park into a place of squalor is incredibly disappointing. The entire premise of the National Parks program is that certain places of natural beauty should be preserved for the enjoyment of all Americans -- with access denied by none. Right now the Occupiers' campground in McPherson Square is making a mockery of that solemn premise. And it is a shame that the National Park Service knows it and does nothing to rectify the situation.

Best regards,

Derek Bottcher

[REDACTED]
Arlington VA 22204

[REDACTED]
202-569-8511



Lisa
Mendelson-Ielmini/NCR/NPS
12/02/2011 02:54 PM

To Bob Vogel/NAMA/NPS@NPS
cc
bcc
Subject Re: Occupy DC versus other park users - I count too!

Thanks Bob.

Lisa A Mendelson-Ielmini, AICP
Deputy Regional Director
National Capital Region NPS
202 619 7023 office

[REDACTED] ell
Bob Vogel

----- Original Message -----

From: Bob Vogel
Sent: 12/02/2011 02:51 PM EST
To: Carter DeWitt <cdewitt@taxfoundation.org>
Cc: Karen Cucurullo; Kathleen Harasek; Lisa Mendelson-Ielmini; Steve Whitesell; Teresa Chambers; Tonya Thomas
Subject: RE: Occupy DC versus other park users - I count too!

Dear Ms. DeWitt:

This responds to your e-mail to Deputy Superintendent Karen Cucurullo dated November 28, 2011, that asks about the National Park Service (NPS) regulation that authorizes temporary structures as well as a copy of the Court ruling referred to in her e-mail to you dated November 25, 2011.

We are pleased to provide you with the information you requested. As for the NPS regulation on temporary structures, the introductory sentence of 36 CFR 7.96(g)(5)(iv) specifically provides that temporary structures are allowed as part of a permitted demonstration "for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas or the provision of shelter for electrical and other sensitive equipment or displays."

As for the Court ruling, attached is a copy of *Clark v. Community for Creative Non-Violence*, 468 U.S. 288 (1984), where the Supreme Court upheld the NPS camping regulation, and noted that allowing the two symbolic tent cities "left the demonstration intact, with its symbolic city, signs, and the presence of those who were willing to take their turns in a day-and-night vigil." Please also note that the duration of a demonstration is not limited by the National Park Service's National Capital Region. This stems from the Court of Appeals decision in *Quaker Action v Morton*, 516 F2d 717, 734 (D.C. Cir. 1975), that struck down as invalid the NPS regulatory restriction on the duration of demonstrations. Since then, 24/7 demonstration/vigils are a rare but regular feature in some of the Federal parks in Washington DC, which generally are never closed.

Finally, the National Park Service and United States Park Police fully agree that people have the right to protest. We also share your concern that people using parkland should also comply with applicable laws and regulations. In that regard, we have taken proactive steps as well as

distributed the Notice dated November 23, 2011 and found on our website at www.nps.gov/nama/parkmgmt/upload/FreedomPlazaMcPhersonNotification_Nov23_2011.pdf, that reminds people of the NPS camping regulation and that temporary structures may not be used for camping. In the event that voluntary compliance does not occur, consistent with First Amendment jurisprudence, the National Park Service and United States Park Police plan to take a reasoned and measured approach to achieve compliance, while hoping to avoid the civil disorder that has occurred in other jurisdictions.

Superintendent Bob Vogel
National Mall and Memorial Parks
Bob_Vogel@nps.gov

Chief Teresa C. Chambers
United States Park Police
Teresa_Chambers@nps.gov

Robert A. Vogel
Superintendent
National Mall and Memorial Parks
(202) 245-4661

[attachment "Clark v CCNV 468 US 288 (1988).pdf" deleted by Lisa Mendelson-lelmi/NCR/NPS]

Carter DeWitt Good afternoon Karen,

12/02/2011 02:08:13 PM



Carter DeWitt
<cdewitt@taxfoundation.org>
12/02/2011 02:07 PM

To "Karen_Cucurullo@nps.gov" <Karen_Cucurullo@nps.gov>
cc "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov>, "Steve_Whitesell@nps.gov" <Steve_Whitesell@nps.gov>, "Lisa_Mendelson-lelmi@nps.gov" <Lisa_Mendelson-lelmi@nps.gov>, "Teresa_Chambers@nps.gov" <Teresa_Chambers@nps.gov>, "Kathleen_Harasek@nps.gov" <Kathleen_Harasek@nps.gov>, "tonya_robinson@nps.gov" <tonya_robinson@nps.gov>
Subject RE: Occupy DC versus other park users - I count too!

Good afternoon Karen,

Than you for your response last Friday. Please send me the court ruling which you refer to below by the statement - "**the courts have ruled that temporary structures that support First Amendment activities are allowed.**" I would like that case number as soon as possible. I can find no record of that, nor can the attorney in my building.

Thank you for your help in this matter.

Carter

Ms. Carter DeWitt
Vice President of Development
Tax Foundation
National Press Building
529 14th St., NW, Suite 420
Washington, DC 20045
(202) 464-5110 (Direct line)
www.TaxFoundation.org

The Tax Foundation is guided by the principles of sound tax policy -- neutrality, simplicity, transparency, and stability

From: Carter DeWitt

Sent: Monday, November 28, 2011 5:29 PM

To: 'Karen_Cucurullo@nps.gov'

Cc: Bob_Vogel@nps.gov; Steve_Whitesell@nps.gov; Lisa_Mendelson-Ielmini@nps.gov;
Teresa_Chambers@nps.gov; Kathleen_Harasek@nps.gov; tonya_robinson@nps.gov

Subject: RE: Occupy DC versus other park users - I count too!

Thank you for your response. I found it inaccurate in claiming to follow the letter of the law - -

I certainly appreciate the right to protest under constitutional law - however, this right does not supersede current laws requiring permits or acts already prohibited by federal regulation etc. Federal law prohibits camping overnight in the McPherson Square Park - period. This OCCUPY camp by federal regulations definition is not a protest - but a newly formed shanty town.

Please send me the court ruling which you refer to below by the statement - "**the courts have ruled that temporary structures that support First Amendment activities are allowed.**" I would like that as soon as possible as we are taking further action.

According to The Code of Federal regulations, Title 36, Parks, Forests, and Public property - temporary structures may not be used outside designated camping areas (McPherson Square does not have a federally designated camping area) for living accommodation activities such as sleeping, or making preparations to sleep including the laying down of beddings for the purpose of sleep, or storing personal belongings or making fire, or ... the above listed activities constitute camping when it reasonably appears in light of all the circumstance, that the participants in conducting these activities are in fact using this as a living accommodation *regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.*

They can certainly protest, they can get a permit and march or picket - but they cannot camp in a federal park that is not specially designated for camping.

Just spent 50 minutes being transferred from one national park department to the other - no one taking responsibility for this mess you all have created.

I have been a resident of DC for three years. In that time I have paid my fair share of federal and DC taxes, donated to charities and supported several volunteer efforts. I live across from McPherson Square Park and almost every Saturday took my book into the park and read. Almost every night I would feed the ducks with bread I purchased at CVS. I fed the squirrels with the nuts Peapod delivered to my door. I am a single mom - my husband passed away six years ago - and I work very hard to pay for two children in college and keep a roof over my head. Do you have any idea how hard that is to do? I am not some spoiled trust fund baby.

Now the ducks are gone, the squirrels are gone and my park bench no longer available thanks to by Occupy DC. The grass is ruined, the trash is horrendous and the rat population has at least tripled. At night I get to listen to their parties, I see under age minors camping there without adult supervision. I get to hear sex, see public urination and be subjected to early morning drums when I have my one day off - Saturday. Even worse is the knowledge that my tax dollars support this irresponsible behavior by the city and federal park service and that you provide police protection to them as they march and as they disturb my peace, my travel to and from work.

Sounds to me like you don't recognize who votes for you - and who butters your bread with their labor. It isn't Occupy DC - it isn't the new generation of class warfare you are propping up - it is me. I am disgusted. I am angry and want this to end. Yesterday I read that the Occupy DC residents at McPherson Square expect to stay into next year. I sincerely hope this is not the case. They need to go home and have someone else support them if they are not willing to work. I have no desire to pay for this via my tax dollars you take from me in so many ways. They do not have a permit and it is unlawful for them to be there. If I tried to camp in one of these parks you would make me leave -

There are thousands of us unhappy and complaining about them - why are you not hearing us?

Laurie Carter DeWitt

Washington, DC 20005

Carter
Ms. Carter DeWitt
Vice President of Development
Tax Foundation
National Press Building
529 14th St., NW, Suite 420
Washington, DC 20045
(202) 464-5110 (Direct line)
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neutrality, simplicity, transparency, and stability



Bob Vogel/NAMA/NPS
12/04/2011 01:14 PM

To "Peggy O'Dell" <Peggy_O'Dell@nps.gov>, steve@whitsell
cc
bcc
Subject Fw: Structure in McPherson Park - fyi

Fyi
Karen Cucurullo

----- Original Message -----

From: Karen Cucurullo
Sent: 12/04/2011 12:38 PM EST
To: Kathleen Harasek; Bob Vogel
Subject: Fw: Structure in McPherson Park - fyi

Baker said that it is one story about the size of a solar decathlon home, demonstrators are sitting in it, refusing to leave.

Sean Kennealy

----- Original Message -----

From: Sean Kennealy
Sent: 12/04/2011 12:01 PM EST
To: Karen Cucurullo; Steve Lorenzetti; Jorge Alvarez; Bob Vogel; Martha Ellis; Kathleen Harasek; Jennifer Talken-Spaulding; Carolyn Richard
Cc: Keith Rogers
Subject: Structure in McPherson Park - fyi

Hello everyone,

Keith Rogers contacted me regarding a structure being constructed in McPherson park this morning. It was described as a multi level structure with studs, joists and plywood.

Our weekend supervisor, Johnny Baker, was contacted to provide staff and a stakebody truck to assist the USPP in removing the structure since the organizers are refusing to do so.

Thanks, Sean

Sean Kennealy
Chief, Division of Facility Management
National Mall and Memorial Parks
Office: 202-245-4685
Fax: 202-426-0099



Karen Cucurullo/NACC/NPS
12/04/2011 01:46 PM

To "Bob Vogel" <Bob_Vogel@nps.gov>
cc
bcc
Subject Fw: McPherson Park

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 01:31 PM EST
To: USPP_Notifications@nps.gov
Subject: Fw: McPherson Park

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 01:22 PM EST
Subject: Fw: McPherson Park

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 12:37 PM EST
Subject: Fw: McPherson Park

Police tape has been placed around the structure. Two individuals crossed the tape and have been arrested for crossing a police line. One individual was arrested for interfering. They have been taken to AOF for processing. Currently, there are 6 individuals who climbed to the top of the structure. SWAT and CIB are en route.

DC Fire is on scene. They are calling an inspector to advise us on their ability to assist.

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 11:50 AM EST
Subject: McPherson Park

Currently D-1 units are at McPherson Park investigating the establishment of a large wooden frame, similar to a house, just south of the statue. The protesters were advised that the structure needed to be broken down; they were giving a one hour time frame to disassemble it. Right now, the group is congregating, deciding what actions they will take.

Captain Rogers has notified NPS Maintenance. D C Fire is also en route to access the structure. Units from outer districts have been called to assist.



Karen_cucurullo@nps.com
12/06/2011 06:17 AM

To Bob_vogel@nps.gov
cc
bcc
Subject Article sent from wtop.com

I thought you might be interested in this article on wtop.com. occupy
DC

Police must give 24 hours notice to evict Occupy D.C.
<http://www.wtop.com/?nid=109&sid=2658656>



David Kamperin
<davidk@downtowndc.org>

12/12/2011 02:22 PM

To "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov>

cc

bcc

Subject RE: Upcoming Safety Alliance Meeting

Thank you sir- USPP has been doing a great job, it will be civil I can assure you and won't let it get out of hand – hope here is to make it informational.... Thanks for your consideration

Dave



Downtown DC
Business Improvement District
1250 H Street, NW
Suite 1000
Washington, DC 20005
www.downtowndc.org

David K. Kamperin
Director of
Public Space Management

202-661-7570 PHONE
202-661-7599 FAX
davidk@downtowndc.org

Preventing terrorism is everybody's business.

If you SEE something, SAY something.

Call the Metropolitan Police Department at **(202) 727-9099** or email at SAR@DC.GOV to report suspicious activity or behavior that has already occurred.

Call **911** to report in-progress threats or emergencies.

To learn more, visit <http://www.mpd.dc.gov/operationtipp>

From: Bob_Vogel@nps.gov [mailto:Bob_Vogel@nps.gov]

Sent: Monday, December 12, 2011 2:20 PM

To: David Kamperin; Tonya Thomas; Karen Cucurullo; Steve Lorenzetti

Subject: Re: Upcoming Safety Alliance Meeting

Dave,

Not yet sure of my schedule for that day--but if I can not personally attend, I will send a rep. Thanks for asking!

Bob

From: David Kamperin [davidk@downtowndc.org]

Sent: 12/12/2011 06:30 PM GMT

To: Bob Vogel

Subject: Upcoming Safety Alliance Meeting

Superintendent Vogel

We hold a monthly safety alliance meeting at the BID attended by property and security managers. USPP is a participant as well as other law enforcement agencies within DC. Our next meeting is Wednesday, December 21, 2011 at 1pm. As you can imagine we still get a lot of questions about the Occupy encampments and would like to know if you are a representative from NPS could attend this meeting and provide any updates or information that you could share in such a meeting. Thanks for your consideration-

Dave



Downtown DC
Business Improvement District
1250 H Street, NW
Suite 1000
Washington, DC 20005
www.downtowndc.org

David K. Kamperin
Director of
Public Space Management

202-661-7570 PHONE
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Karen Cucurullo/NACC/NPS
12/14/2011 06:41 AM

To "Bob Vogel" <Bob_Vogel@nps.gov>
cc
bcc
Subject Fw: [Infozone] Fwd: News clip: Fox News - Issa: \$400G in Stimulus Funds Stomped On at Occupy D.C. Park

From: David Barna [david_barna@nps.gov]
Sent: 12/13/2011 07:54 PM EST
To: Infozone News List <infozone@webmail.itc.nps.gov>
Subject: [Infozone] Fwd: News clip: Fox News - Issa: \$400G in Stimulus Funds Stomped On at Occupy D.C. Park

Print Close

Issa: \$400G in Stimulus Funds Stomped On at Occupy D.C. Park

Published December 13, 2011 | FoxNews.com

ADVERTISEMENT

Rep. Darrell Issa, the chairman of the House oversight committee, is asking the Obama administration to explain how it could allow Occupy protesters to destroy \$400,000 worth of landscaping and refurbishment by setting up camp in a D.C. park. Issa wrote to Interior Secretary Ken Salazar on Tuesday requesting he reply to an eight-page letter detailing the decisions of the National Park Service to withhold evictions of protesters who had clearly set up a tent city despite NPS' rules barring camping at the park.

Issa said NPS' laxity toward enforcing its own rules has resulted in protesters killing "newly planted grass that had been funded by the stimulus" and "wasting much of the hundreds of thousands of dollars in taxpayer money used to rehabilitate McPherson Square."

"While the merits of this stimulus funding are debatable, we can all agree that once the federal government invested the funds, no government agency should have allowed it to be damaged or destroyed when it legally could have been prevented," Issa wrote.

"The National Park Service and U.S. Park Police are firmly committed to upholding Americans' First Amendment rights while also enforcing our nation's laws, guarding public safety, and protecting the resources with which we are entrusted," Adam Fetcher, a spokesman of the Interior Department said in a statement to Fox News. "To that end, the U.S. Park Police have been working closely with the District of Columbia, the Metropolitan Police Department, the DC Department of Health and others to ensure that demonstrations associated with the 'Occupy' movement are conducted safely and in compliance with the law," the statement said.

Issa pointed to Recovery.gov, which says Fort Myer Construction Corporation was awarded \$424,600 to rehabilitate the park with new grass, concrete curbs, refurbished benches, light poles, water fountains, paint, chain fencing, trash cans and light meters.

Issa said much of the refurbishment was "damaged or destroyed" by Salazar's department permitting "illegal camping" in the park. Issa went into great detail about NPS' definition of camping, and accused NPS of rejecting its own rules by declaring the protest a "24-hour vigil" rather than camping.

"This situation raises questions about why those decisions were made, who participated in making them, and whether political judgments played a role in not enforcing the law," Issa added. The rehabilitation work was completed in Spring 2011.

Among other things, the letter asked Salazar to document communications between the Interior Department and the White House regarding the Occupy protests as well as NPS communications about its deliberations on whether to evict the demonstrators.

Last month, NPS warned the group that it would be evicted from the park, which is just blocks from the White House. D.C. police tried to forcibly remove them earlier this month when they tried to build a wooden structure without a permit.

But the protesters filed a motion with a district judge who approved an injunction to allow the group to remain in the park until it receives notice from NPS 24 hours in advance that they are to vacate. Without it, U.S. District Court Judge James Boasberg say they can not be forced to leave. He then scheduled motions for Jan. 31, allowing protesters to claim victory against any "surprise" evictions.

"We are reviewing the letter from Chairman Issa and will respond accordingly," Fetcher said.

Infozone mailing list
Infozone@webmail.itc.nps.gov
<http://webmail.itc.nps.gov/mailman/listinfo/infozone>



Carter DeWitt
<cdewitt@taxfoundation.org>

12/04/2011 02:45 PM

To "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov>
cc "Karen_Cucurullo@nps.gov" <Karen_Cucurullo@nps.gov>,
"Kathleen_Harasek@nps.gov"
<Kathleen_Harasek@nps.gov>,
bcc

Subject Re: Occupy DC versus other park users - I count too!

New permanent structure - McPherson park Sunday afternoon - what are you thinking? National park service let this aural out of control

Sent from my iPhone

On Dec 2, 2011, at 2:56 PM, "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov> wrote:

> Dear Ms. DeWitt:
> This responds to your e-mail to Deputy Superintendent Karen Cucurullo
> dated November 28, 2011, that asks about the National Park Service (NPS)
> regulation that authorizes temporary structures as well as a copy of the
> Court ruling referred to in her e-mail to you dated November 25, 2011.
>
>
> We are pleased to provide you with the information you requested. As for
> the NPS regulation on temporary structures, the introductory sentence of 36
> CFR 7.96(g)(5)(iv) specifically provides that temporary structures are
> allowed as part of a permitted demonstration "for the purpose of
> symbolizing a message or meeting logistical needs such as first aid
> facilities, lost children areas or the provision of shelter for electrical
> and other sensitive equipment or displays."
>
>
> As for the Court ruling, attached is a copy of Clark v. Community for
> Creative Non-Violence, 468 U.S. 288 (1984), where the Supreme Court upheld
> the NPS camping regulation, and noted that allowing the two symbolic tent
> cities "left the demonstration intact, with its symbolic city, signs, and
> the presence of those who were willing to take their turns in a
> day-and-night vigil." Please also note that the duration of a
> demonstration is not limited by the National Park Service's National
> Capital Region. This stems from the Court of Appeals decision in Quaker
> Action v Morton, 516 F2d 717, 734 (D.C. Cir. 1975), that struck down as
> invalid the NPS regulatory restriction on the duration of demonstrations.
> Since then, 24/7 demonstration/vigils are a rare but regular feature in
> some of the Federal parks in Washington DC, which generally are never
> closed.
>
> Finally, the National Park Service and United States Park Police fully
> agree that people have the right to protest. We also share your concern
> that people using parkland should also comply with applicable laws and
> regulations. In that regard, we have taken proactive steps as well as
> distributed the Notice dated November 23, 2011 and found on our website at
>
> www.nps.gov/nama/parkmgmt/upload/FreedomPlazaMcPhersonNotification_Nov23_2011.pdf
> , that reminds people of the NPS camping regulation and that temporary
> structures may not be used for camping. In the event that voluntary
> compliance does not occur, consistent with First Amendment jurisprudence,
> the National Park Service and United States Park Police plan to take a

> reasoned and measured approach to achieve compliance, while hoping to avoid
> the civil disorder that has occurred in other jurisdictions.

>
> Superintendent Bob Vogel
> National Mall and Memorial Parks
> Bob_Vogel@nps.gov

>
> Chief Teresa C. Chambers
> United States Park Police
> Teresa_Chambers@nps.gov

>
> Robert A. Vogel
> Superintendent
> National Mall and Memorial Parks
> (202) 245-4661

> (See attached file: Clark v CCNV 468 US 288 (1988).pdf)

>
> Carter DeWitt
> <cdewitt@taxfound
> ation.org>

> 12/02/2011 02:07
> PM

> "Karen_Cucurullo@nps.gov" To
> <Karen_Cucurullo@nps.gov>
> cc
> "Bob_Vogel@nps.gov"
> <Bob_Vogel@nps.gov>,
> "Steve_Whitesell@nps.gov"
> <Steve_Whitesell@nps.gov>,
> "Lisa_Mendelson-Ielmini@nps.gov"
> <Lisa_Mendelson-Ielmini@nps.gov>,
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> <Teresa_Chambers@nps.gov>,
> "Kathleen_Harasek@nps.gov"
> <Kathleen_Harasek@nps.gov>,
> "tonya_robinson@nps.gov"
> <tonya_robinson@nps.gov>

> Subject
> RE: Occupy DC versus other park
> users - I count too!

> Good afternoon Karen,

>
> Than you for your response last Friday. Please send me the court ruling
> which you refer to below by the statement - "the courts have ruled that
> temporary structures that support First Amendment activities are allowed."
> I would like that case number as soon as possible. I can find no record of



**CLARK, SECRETARY OF THE INTERIOR, ET AL. v. COMMUNITY FOR
CREATIVE NON-VIOLENCE ET AL.**

No. 82-1998

SUPREME COURT OF THE UNITED STATES

468 U.S. 288; 104 S. Ct. 3065; 82 L. Ed. 2d 221; 1984 U.S. LEXIS 136; 52 U.S.L.W.
4986

March 21, 1984, Argued

June 29, 1984, Decided

PRIOR HISTORY: CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

DISPOSITION: 227 U. S. App. D. C. 19, 703 F.2d 586, reversed.

DECISION:

National Park Service anti-camping regulation held constitutionally applied to Washington, D.C., demonstrators.

SUMMARY:

The Community for Creative Non-Violence and several individuals brought suit in the United States District Court for the District of Columbia to prevent the application of a National Park Service regulation, prohibiting camping in national parks except in designated campgrounds, to a proposed demonstration in Lafayette Park and the Mall, in the heart of Washington, D.C., in which demonstrators would sleep in symbolic tents to demonstrate the plight of the homeless. The District Court granted summary judgment in favor of the Park Service. The United States Court of Appeals for the District of Columbia Circuit reversed on the ground that the application of the regulation so as to prevent sleeping in the tents would infringe the demonstrators' First

Amendment right of free expression (703 F2d 586).

On certiorari, the United States Supreme Court reversed. In an opinion by White, J., expressing the views of Burger, Ch. J., and Blackmun, Powell, Rehnquist, Stevens, and O'Connor, JJ., it was held that the Park Service regulation did not violate the First Amendment when applied to the demonstrators because the regulation was justified without reference to the content of the regulated speech, was narrowly tailored to serve a significant governmental interest, and left open ample alternative channels for communication of the information.

Burger, Ch. J., while concurring fully in the court's opinion, filed a concurring opinion stating that the camping was conduct and not speech.

Marshall, J., joined by Brennan, J., dissented on the ground that the demonstrators' sleep was symbolic speech and that the regulation of it was not reasonable.

LAWYERS' EDITION HEADNOTES:

[***LEdHN1]

CONSTITUTIONAL LAW §960

demonstration -- camping --

Headnote:[1A][1B][1C]

468 U.S. 288, *, 104 S. Ct. 3065, **;
82 L. Ed. 2d 221, ***LEdHN1; 1984 U.S. LEXIS 136

A National Park Service regulation prohibiting camping in national parks except in campgrounds designated for that purpose does not violate the First Amendment when applied to prohibit demonstrators from sleeping in Lafayette Park and the Mall, in the heart of Washington, D. C., in connection with a demonstration intended to call attention to the plight of the homeless. (Marshall and Brennan, JJ, dissented from this holding.)

***LEdHN2]

PARKS, SQUARES, AND COMMONS §2

camping --

Headnote:[2A][2B]

Sleeping in tents for the purpose of expressing the plight of the homeless falls within the definition of "camping" in a National Park Service regulation defining camping as the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or other structure for sleeping or doing any digging or earth breaking or carrying on cooking activities when it appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

***LEdHN3]

EVIDENCE §102

First Amendment -- application --

Headnote:[3A][3B]

Although it is common to place the burden on the government to justify impingements on First Amendment interests, it is the obligation of the person desiring to engage in assertedly expressive conduct to demonstrate that the First Amendment even applies.

***LEdHN4]

CONSTITUTIONAL LAW §934

expression -- restriction --

Headnote:[4]

Expression, whether oral or written or symbolized by conduct, is subject to reasonable time, place, and manner restrictions.

***LEdHN5]

CONSTITUTIONAL LAW §934

expression -- regulation --

Headnote:[5]

Restrictions on expression, whether oral or written or symbolized by conduct, are valid provided that they are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.

***LEdHN6]

CONSTITUTIONAL LAW §934

symbolic speech -- regulation --

Headnote:[6]

Symbolic expression delivered by conduct intended to be communicative and in context reasonably understood by the viewer to be communicative may be forbidden or regulated if the conduct itself may constitutionally be regulated, if the regulation is narrowly drawn to further a substantial governmental interest, and if the interest is unrelated to the suppression of free speech.

***LEdHN7]

UNITED STATES §57

regulation -- situs --

Headnote:[7A][7B]

When the government seeks to regulate conduct that is ordinarily nonexpressive it may do so regardless of the situs of the application of the regulation.

***LEdHN8]

468 U.S. 288, *; 104 S. Ct. 3065, **;
82 L. Ed. 2d 221, ***LEdHN8; 1984 U.S. LEXIS 136

PARKS, SQUARES, AND COMMONS §2

expressive violations --

Headnote:[8A][8B]

Even against people who choose to violate National Park Service regulations for expressive purposes, the Park Service may enforce regulations relating to grazing animals, flying model planes, gambling, hunting and fishing, setting off fireworks, and urination.

[***LEdHN9]

CONSTITUTIONAL LAW §934

expression-restriction --

Headnote:[9A][9B]

Reasonable time, place, and manner restrictions are valid even though they directly limit oral or written expression.

SYLLABUS

In 1982, the National Park Service issued a permit to respondent Community for Creative Non-Violence (CCNV) to conduct a demonstration in Lafayette Park and the Mall, which are National Parks in the heart of Washington, D. C. The purpose of the demonstration was to call attention to the plight of the homeless, and the permit authorized the erection of two symbolic tent cities. However, the Park Service, relying on its regulations -- particularly one that permits "camping" (defined as including sleeping activities) only in designated campgrounds, no campgrounds having ever been designated in Lafayette Park or the Mall -- denied CCNV's request that demonstrators be permitted to sleep in the symbolic tents. CCNV and the individual respondents then filed an action in Federal District Court, alleging, *inter alia*, that application of the regulations to prevent sleeping in the tents violated the First Amendment. The District Court granted summary judgment for the Park Service, but the Court of Appeals reversed.

Held : The challenged application of the Park Service regulations does not violate the First Amendment. Pp. 293-299.

(a) Assuming that overnight sleeping in connection

with the demonstration is expressive conduct protected to some extent by the First Amendment, the regulation forbidding sleeping meets the requirements for a reasonable time, place, or manner restriction of expression, whether oral, written, or symbolized by conduct. The regulation is neutral with regard to the message presented, and leaves open ample alternative methods of communicating the intended message concerning the plight of the homeless. Moreover, the regulation narrowly focuses on the Government's substantial interest in maintaining the parks in the heart of the Capital in an attractive and intact condition, readily available to the millions of people who wish to see and enjoy them by their presence. To permit camping would be totally inimical to these purposes. The validity of the regulation need not be judged solely by reference to the demonstration at hand, and none of its provisions are unrelated to the ends that it was designed to serve. Pp. 293-298.

(b) Similarly, the challenged regulation is also sustainable as meeting the standards for a valid regulation of expressive conduct. Aside from its impact on speech, a rule against camping or overnight sleeping in public parks is not beyond the constitutional power of the Government to enforce. And as noted above, there is a substantial Government interest, unrelated to suppression of expression, in conserving park property that is served by the proscription of sleeping. Pp. 298-299.

COUNSEL: Deputy Solicitor General Bator argued the cause for petitioners. With him on the briefs were Solicitor General Lee, Assistant Attorney General McGrath, Alan I. Horowitz, Leonard Schaitman, and Katherine S. Gruenheck.

Burt Neuborne argued the cause for respondents. With him on the brief were Charles S. Sims, Laura Macklin, Arthur B. Spitzer, and Elizabeth Symonds. *

* Ogden Northrop Lewis filed a brief for the National Coalition for the Homeless as *amicus curiae* urging affirmance.

JUDGES: WHITE, J., delivered the opinion of the Court, in which BURGER, C. J., and BLACKMUN, POWELL, REHNQUIST, STEVENS, and O'CONNOR, JJ., joined. BURGER, C. J., filed a concurring opinion, post, p. 300. MARSHALL, J., filed a dissenting opinion, in which BRENNAN, J., joined, post, p. 301.

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OPINION BY: WHITE

OPINION

[*289] [***224] [**3067] JUSTICE WHITE delivered the opinion of the Court.

[***LEdHR1A] [1A]The issue in this case is whether a National Park Service regulation prohibiting camping in certain parks violates the First Amendment when applied to prohibit demonstrators from sleeping in Lafayette Park and the Mall in connection with a demonstration intended to call attention to the plight of the homeless. We hold that it does not and reverse the contrary judgment of the Court of Appeals.

I

The Interior Department, through the National Park Service, is charged with responsibility for the management and maintenance of the National Parks and is authorized to promulgate rules and regulations for the use of the parks in accordance with the purposes for which they were established.

[*290] 16 U. S. C. §§ 1, 1a-1, 3. ¹ [***225] The network of National Parks includes the National Memorial-core parks, Lafayette Park and the Mall, which are set in the heart of Washington, D. C., and which are unique resources that the Federal Government holds in trust for the American people. Lafayette Park is a roughly 7-acre square located across Pennsylvania Avenue from the White House. Although originally part of the White House grounds, President Jefferson set it aside as a park for the use of residents and visitors. It is a "garden park with a . . . formal landscaping of flowers and trees, with fountains, walks and benches." National Park Service, U.S. Department of the Interior, White House and President's Park, Resource Management Plan 4.3 (1981). The Mall is a stretch of land running westward from the Capitol to the Lincoln Memorial some two miles away. It includes the Washington Monument, a series of reflecting pools, trees, lawns, and other greenery. It is bordered by, *inter alia*, the Smithsonian Institution and the National Gallery of Art. Both the Park and the Mall were included in Major Pierre L'Enfant's original plan for the Capital. Both are visited by vast numbers of visitors from around the country, as well as by large numbers of residents of the Washington metropolitan area.

1 The Secretary is admonished to promote and regulate the use of the parks by such means as conform to the fundamental purpose of the parks, which is "to conserve the scenery and the natural and historic objects and the wild life therein . . . in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 39 Stat. 535, as amended, 16 U. S. C. § 1.

Under the regulations involved in this case, camping in National Parks is permitted only in campgrounds designated for that purpose. 36 CFR § 50.27(a) (1983). No such campgrounds have ever been designated in Lafayette Park or the Mall. Camping is defined as

"the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose [*291] of sleeping), or storing personal belongings, or making any fire, or using any tents or . . . other structure . . . for sleeping or doing any digging or earth breaking or carrying on cooking activities." *Ibid*.

These activities, the regulation provides,

"constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging." *Ibid*.

[**3068] Demonstrations for the airing of views or grievances are permitted in the Memorial-core parks, but for the most part only by Park Service permits. 36 CFR § 50.19 (1983). Temporary structures may be erected for demonstration purposes but may not be used for camping. 36 CFR § 50.19(e)(8) (1983). ²

2 Section 50.19(e)(8), as amended, prohibits the use of certain temporary structures:

"In connection with permitted demonstrations or special events, temporary structures may be erected for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas or the provision of shelter for electrical and other sensitive equipment or displays. Temporary structures may not be

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used outside designated camping areas for living accommodation activities such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging."

In [***226] 1982, the Park Service issued a renewable permit to respondent Community for Creative Non-Violence (CCNV) to conduct a wintertime demonstration in Lafayette Park and the Mall for the purpose of demonstrating the plight of the [*292] homeless. The permit authorized the erection of two symbolic tent cities: 20 tents in Lafayette Park that would accommodate 50 people and 40 tents in the Mall with a capacity of up to 100. The Park Service, however, relying on the above regulations, specifically denied CCNV's request that demonstrators be permitted to sleep in the symbolic tents.

[**LEdHR2A] [2A]CCNV and several individuals then filed an action to prevent the application of the no-camping regulations to the proposed demonstration, which, it was claimed, was not covered by the regulation. It was also submitted that the regulations were unconstitutionally vague, had been discriminatorily applied, and could not be applied to prevent sleeping in the tents without violating the First Amendment. The District Court granted summary judgment in favor of the Park Service. The Court of Appeals, sitting en banc, reversed. *Community for Creative Non-Violence v. Watt*, 227 U. S. App. D. C. 19, 703 F.2d 586 (1983). The 11 judges produced 6 opinions. Six of the judges believed that application of the regulations so as to prevent sleeping in the tents would infringe the demonstrators' First Amendment right of free expression. The other five judges disagreed and would have sustained the regulations as applied to CCNV's proposed demonstration. ³ We granted the Government's petition for certiorari, 464 U.S. 1016 (1983), and now reverse. ⁴

³ The *per curiam* opinion preceding the individual opinions described the lineup of the

judges as follows:

"Circuit Judge Mikva files an opinion, in which Circuit Judge Wald concurs, in support of a judgment reversing. Chief Judge Robinson and Circuit Judge Wright file a statement joining in the judgment and concurring in Circuit Judge Mikva's opinion with a caveat. Circuit Judge Edwards files an opinion joining in the judgment and concurring partially in Circuit Judge Mikva's opinion. Circuit Judge Ginsburg files an opinion joining in the judgment. Circuit Judge Wilkey files a dissenting opinion, in which Circuit Judges Tamm, MacKinnon, Bork and Scalia concur. Circuit Judge Scalia files a dissenting opinion, in which Circuit Judges MacKinnon and Bork concur." 227 U. S. App. D. C., at 19-20, 703 F.2d, at 586-587.

4 [**LEdHR2B] [2B]

As a threshold matter, we must address respondents' contention that their proposed activities do not fall within the definition of "camping" found in the regulations. None of the opinions below accepted this contention, and at least nine of the judges expressly rejected it. *Id.*, at 24, 703 F.2d, at 591 (opinion of Mikva, J.); *id.*, at 42, 703 F.2d, at 609 (opinion of Wilkey, J.). We likewise find the contention to be without merit. It cannot seriously be doubted that sleeping in tents for the purpose of expressing the plight of the homeless falls within the regulation's definition of camping.

[*293] II

[**LEdHR3A] [3A] [**LEdHR4] [4] [**LEdHR5] [5]We need not differ with the view of the Court of Appeals that overnight [**3069] sleeping in connection with the demonstration is expressive conduct protected to some [***227] extent by the First Amendment. ⁵ We assume for present purposes, but do not decide, that such is the case, cf. *United States v. O'Brien*, 391 U.S. 367, 376 (1968), but this assumption only begins the inquiry. Expression, whether oral or written or symbolized by conduct, is subject to reasonable time, place, or manner restrictions. We have often noted that restrictions of this kind are valid provided that they are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental

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interest, and that they leave open ample alternative channels for communication of the information. *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984); *United States v. Grace*, 461 U.S. 171 (1983); *Perry Education Assn. v. Perry Local Educators' Assn.*, 460 U.S. 37, 45-46 (1983); *Heffron v. International Society for Krishna Consciousness*, [*294] *Inc.*, 452 U.S. 640, 647-648 (1981); *Virginia Pharmacy Board v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 771 (1976); *Consolidated Edison Co. v. Public Service Comm'n of N. Y.*, 447 U.S. 530, 535 (1980).

5 [***LEdHR3B] [3B]

We reject the suggestion of the plurality below, however, that the burden on the demonstrators is limited to "the advancement of a plausible contention" that their conduct is expressive. *Id.*, at 26, n. 16, 703 F.2d, at 593, n. 16. Although it is common to place the burden upon the Government to justify impingements on First Amendment interests, it is the obligation of the person desiring to engage in assertedly expressive conduct to demonstrate that the First Amendment even applies. To hold otherwise would be to create a rule that all conduct is presumptively expressive. In the absence of a showing that such a rule is necessary to protect vital First Amendment interests, we decline to deviate from the general rule that one seeking relief bears the burden of demonstrating that he is entitled to it.

[***LEdHR6] [6]It is also true that a message may be delivered by conduct that is intended to be communicative and that, in context, would reasonably be understood by the viewer to be communicative. *Spence v. Washington*, 418 U.S. 405 (1974); *Tinker v. Des Moines School District*, 393 U.S. 503 (1969). Symbolic expression of this kind may be forbidden or regulated if the conduct itself may constitutionally be regulated, if the regulation is narrowly drawn to further a substantial governmental interest, and if the interest is unrelated to the suppression of free speech. *United States v. O'Brien*, *supra*.

[***LEdHR1B] [1B]Petitioners submit, as they did in the Court of Appeals, that the regulation forbidding

sleeping is defensible either as a time, place, or manner restriction or as a regulation of symbolic conduct. We agree with that assessment. The permit that was issued authorized the demonstration but required compliance with 36 CFR § 50.19 (1983), which prohibits "camping" on park lands, that is, the use of park lands for living accommodations, such as sleeping, storing personal belongings, making fires, digging, or cooking. These provisions, including the ban on sleeping, are clearly limitations on the manner in which the demonstration could be carried out. That sleeping, like the symbolic tents themselves, may be expressive and part of the message delivered by [***228] the demonstration does not make the ban any less a limitation on the manner of demonstrating, for reasonable time, place, or manner regulations normally have the purpose and direct effect of limiting expression but are nevertheless valid. *City Council of Los Angeles v. Taxpayers for Vincent*, *supra*; *Heffron v. International Society for Krishna Consciousness, Inc.*, *supra*; *Kovacs v. Cooper*, 336 U.S. 77 (1949). Neither does the fact that sleeping, *arguendo*, may be expressive [*295] conduct, rather than oral or written expression, render [**3070] the sleeping prohibition any less a time, place, or manner regulation. To the contrary, the Park Service neither attempts to ban sleeping generally nor to ban it everywhere in the parks. It has established areas for camping and forbids it elsewhere, including Lafayette Park and the Mall. Considered as such, we have very little trouble concluding that the Park Service may prohibit overnight sleeping in the parks involved here.

The requirement that the regulation be content-neutral is clearly satisfied. The courts below accepted that view, and it is not disputed here that the prohibition on camping, and on sleeping specifically, is content-neutral and is not being applied because of disagreement with the message presented.⁶ Neither was the regulation faulted, nor could it be, on the ground that without overnight sleeping the plight of the homeless could not be communicated in other ways. The regulation otherwise left the demonstration intact, with its symbolic city, signs, and the presence of those who were willing to take their turns is a day-and-night vigil. Respondents do not suggest that there was, or is, any barrier to delivering to the media, or to the public by other means, the intended message concerning the plight of the homeless.

6 Respondents request that we remand to the

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Court of Appeals for resolution of their claim that the District Court improperly granted summary judgment on the equal protection claim. Brief for Respondents 91, n. 50. They contend that there were disputed questions of fact concerning the uniformity of enforcement of the regulation, claiming that other groups have slept in the parks. The District Court specifically found that the regulations have been consistently applied and enforced in a fair and non-discriminatory manner. App. to Pet. for Cert. 106a-108a. Only 5 of the 11 judges in the Court of Appeals addressed the equal protection claim. 227 U. S. App. D. C., at 43-44, 703 F.2d, at 610-611 (opinion of Wilkey, J., joined by Tamm, MacKinnon, Bork, and Scalia, JJ.). Our review of the record leads us to agree with their conclusion that there is no genuine issue of material fact and that the most that respondents have shown are isolated instances of undiscovered violations of the regulations.

[*296] It is also apparent to us that the regulation narrowly focuses on the Government's substantial interest in maintaining the parks in the heart of our Capital in an attractive and intact condition, readily available to the millions of people who wish to see and enjoy them by their presence. To permit camping -- using these areas as living accommodations -- would be totally inimical to these purposes, as would be readily understood by those who have frequented the National Parks across the country and observed the unfortunate consequences of the activities of those who refuse to confine their camping to designated areas.

It is urged by respondents, and the Court of Appeals was of this view, that if the symbolic city of tents was to be permitted and if the demonstrators did not intend to cook, dig, [***229] or engage in aspects of camping other than sleeping, the incremental benefit to the parks could not justify the ban on sleeping, which was here an expressive activity said to enhance the message concerning the plight of the poor and homeless. We cannot agree. In the first place, we seriously doubt that the First Amendment requires the Park Service to permit a demonstration in Lafayette Park and the Mall involving a 24-hour vigil and the erection of tents to accommodate 150 people. Furthermore, although we have assumed for present purposes that the sleeping banned in this case would have an expressive element, it is evident that its

major value to this demonstration would be facilitative. Without a permit to sleep, it would be difficult to get the poor and homeless to participate or to be present at all. This much is apparent from the permit application filed by respondents: "Without the incentive of sleeping space or a hot meal, the homeless would not come to the site." App. 14. The sleeping ban, if enforced, would thus effectively limit the nature, extent, and duration of the demonstration and to that extent ease the pressure on the parks.

Beyond this, however, it is evident from our cases that the validity of this [**3071] regulation need not be judged solely by reference [*297] to the demonstration at hand. *Heffron v. International Society for Krishna Consciousness, Inc.*, 452 U.S., at 652-653. Absent the prohibition on sleeping, there would be other groups who would demand permission to deliver an asserted message by camping in Lafayette Park. Some of them would surely have as credible a claim in this regard as does CCNV, and the denial of permits to still others would present difficult problems for the Park Service. With the prohibition, however, as is evident in the case before us, at least some around-the-clock demonstrations lasting for days on end will not materialize, others will be limited in size and duration, and the purposes of the regulation will thus be materially served. Perhaps these purposes would be more effectively and not so clumsily achieved by preventing tents and 24-hour vigils entirely in the core areas. But the Park Service's decision to permit nonsleeping demonstrations does not, in our view, impugn the camping prohibition as a valuable, but perhaps imperfect, protection to the parks. If the Government has a legitimate interest in ensuring that the National Parks are adequately protected, which we think it has, and if the parks would be more exposed to harm without the sleeping prohibition than with it, the ban is safe from invalidation under the First Amendment as a reasonable regulation of the manner in which a demonstration may be carried out. As in *City Council of Los Angeles v. Taxpayers for Vincent*, the regulation "responds precisely to the substantive problems which legitimately concern the [Government]." 466 U.S., at 810.

[***LEdHR7A] [7A] [***LEdHR8A] [8A] We have difficulty, therefore, in understanding why the prohibition against camping, with its ban on sleeping overnight, is not a reasonable time, place, or manner regulation that withstands constitutional scrutiny. Surely the regulation

is not unconstitutional on its face. None of its provisions appears unrelated to the ends that it was designed to serve. Nor is it any less valid when applied to prevent camping [***230] in Memorial-core parks by those who wish to demonstrate [*298] and deliver a message to the public and the central Government. Damage to the parks as well as their partial inaccessibility to other members of the public can as easily result from camping by demonstrators as by nondemonstrators. In neither case must the Government tolerate it. All those who would resort to the parks must abide by otherwise valid rules for their use, just as they must observe the traffic laws, sanitation regulations, and laws to preserve the public peace.⁷ This is no more than a reaffirmation that reasonable time, place, or manner restrictions on expression are constitutionally acceptable.

7 [***LEdHR7B] [7B] [***LEdHR8B] [8B]

When the Government seeks to regulate conduct that is ordinarily nonexpressive it may do so regardless of the situs of the application of the regulation. Thus, even against people who choose to violate Park Service regulations for expressive purposes, the Park Service may enforce regulations relating to grazing animals, 36 CFR § 50.13 (1983); flying model planes, § 50.16; gambling, § 50.17; hunting and fishing, § 50.18; setting off fireworks, § 50.25(g); and urination, § 50.26(b).

[***LEdHR1C] [1C] [***LEdHR9A] [9A] Contrary to the conclusion of the Court of Appeals, the foregoing analysis demonstrates that the Park Service regulation is sustainable under the four-factor standard of *United States v. O'Brien*, 391 U.S. 367 (1968), for validating a regulation of expressive conduct, which, in the last analysis is little, if any, different from the standard applied to time, place, or manner restrictions.⁸ No one contends that aside [*299] from [**3072] its impact on speech a rule against camping or overnight sleeping in public parks is beyond the constitutional power of the Government to enforce. And for the reasons we have discussed above, there is a substantial Government interest in conserving park property, an interest that is plainly served by, and requires for its implementation, measures such as the proscription of sleeping that are designed to limit the wear and tear on park properties.

That interest is unrelated to suppression of expression.

8 [***LEdHR9B] [9B]

Reasonable time, place, or manner restrictions are valid even though they directly limit oral or written expression. It would be odd to insist on a higher standard for limitations aimed at regulable conduct and having only an incidental impact on speech. Thus, if the time, place, or manner restriction on expressive sleeping, if that is what is involved in this case, sufficiently and narrowly serves a substantial enough governmental interest to escape First Amendment condemnation, it is untenable to invalidate it under *O'Brien* on the ground that the governmental interest is insufficient to warrant the intrusion on First Amendment concerns or that there is an inadequate nexus between the regulation and the interest sought to be served. We note that only recently, in a case dealing with the regulation of signs, the Court framed the issue under *O'Brien* and then based a crucial part of its analysis on the time, place, or manner cases. *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804-805, 808-810 (1984).

We are unmoved by the Court of Appeals' view that the challenged regulation is unnecessary, and hence invalid, because there are less speech-restrictive alternatives that could have satisfied the Government interest in preserving park lands. There is no gainsaying that preventing overnight sleeping will avoid a measure of actual or threatened damage to Lafayette Park and the Mall. The Court of Appeals' suggestions that the Park Service minimize the possible injury by reducing the size, duration, or frequency of demonstrations would still curtail the [***231] total allowable expression in which demonstrators could engage, whether by sleeping or otherwise, and these suggestions represent no more than a disagreement with the Park Service over how much protection the core parks require or how an acceptable level of preservation is to be attained. We do not believe, however, that either *United States v. O'Brien* or the time, place, or manner decisions assign to the judiciary the authority to replace the Park Service as the manager of the Nation's parks or endow the judiciary with the competence to judge how much protection of park lands is wise and how that level of conservation is to be attained.⁹

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9 We also agree with Judge Edwards' observation that "[to] insist upon a judicial resolution of this case, given the facts and record at hand, arguably suggests a lack of common sense." 227 U. S. App. D. C., at 33, 703 F.2d at 600. Nor is it any clearer to us than it was to him "what has been achieved by this rather exhausting expenditure of judicial resources." *Id.*, at 34, 703 F.2d, at 601.

Accordingly, the judgment of the Court of Appeals is
Reversed.

CONCUR BY: BURGER

CONCUR

[*300] CHIEF JUSTICE BURGER, concurring.

I concur fully in the Court's opinion.

I find it difficult to conceive of what "camping" means, if it does not include pitching a tent and building a fire. Whether sleeping or cooking follows is irrelevant. With all its frailties, the English language, as used in this country for several centuries, and as used in the Park Service regulations, could hardly be plainer in informing the public that camping in Lafayette Park was prohibited.

The actions here claimed as speech entitled to the protections of the First Amendment simply are not speech; rather, they constitute conduct. As Justice Black, who was never tolerant of limits on speech, emphatically pointed out in his separate opinion in *Cox v. Louisiana*, 379 U.S. 536, 578 (1965):

"The First and Fourteenth Amendments, I think, take away from government, state and federal, all power to restrict freedom of speech, press, and assembly *where people have a right to be for such purposes*. . . . Picketing, though it may be utilized to communicate ideas, is not speech, and therefore is not of itself protected by the First Amendment." (Emphasis in original; citations omitted.)

Respondents' attempt at camping in the park is a form of "picketing"; it is conduct, not speech. Moreover, it is conduct that interferes with the rights of others to use Lafayette Park for the purposes for which [*3073] it was created. Lafayette Park and others like it are for all the people, and their rights are not to be trespassed even

by those who have some "statement" to make. Tents, fires, and sleepers, real or feigned, interfere with the rights of others to use our parks. Of [*301] course, the Constitution guarantees that people may make their "statements," but Washington has countless places for the kind of "statement" these respondents sought to make.

It trivializes the First Amendment to seek to use it as a shield in the [***232] manner asserted here. And it tells us something about why many people must wait for their "day in court" when the time of the courts is pre-empted by frivolous proceedings that delay the causes of litigants who have legitimate, nonfrivolous claims. This case alone has engaged the time of 1 District Judge, an en banc court of 11 Court of Appeals Judges, and 9 Justices of this Court.

DISSENT BY: MARSHALL

DISSENT

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

The Court's disposition of this case is marked by two related failings. First, the majority is either unwilling or unable to take seriously the First Amendment claims advanced by respondents. Contrary to the impression given by the majority, respondents are not supplicants seeking to wheedle an undeserved favor from the Government. They are citizens raising issues of profound public importance who have properly turned to the courts for the vindication of their constitutional rights. Second, the majority misapplies the test for ascertaining whether a restraint on speech qualifies as a reasonable time, place, and manner regulation. In determining what constitutes a sustainable regulation, the majority fails to subject the alleged interests of the Government to the degree of scrutiny required to ensure that expressive activity protected by the First Amendment remains free of unnecessary limitations.

I

The proper starting point for analysis of this case is a recognition that the activity in which respondents seek to engage -- sleeping in a highly public place, outside, in the winter for the purpose of protesting homelessness -- is symbolic speech protected by the First Amendment. The majority [*302] assumes, without deciding, that the respondents' conduct is entitled to constitutional

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protection. *Ante*, at 293. The problem with this assumption is that the Court thereby avoids examining closely the reality of respondents' planned expression. The majority's approach denatures respondents' asserted right and thus makes all too easy identification of a Government interest sufficient to warrant its abridgment. A realistic appraisal of the competing interests at stake in this case requires a closer look at the nature of the expressive conduct at issue and the context in which that conduct would be displayed.

In late autumn of 1982, respondents sought permission to conduct a round-the-clock demonstration in Lafayette Park and on the Mall. Part of the demonstration would include homeless persons sleeping outside in tents without any other amenities.¹ Respondents sought to begin their demonstration on a date full of ominous meaning to any homeless person: the first day of winter. Respondents were similarly purposeful in choosing demonstration sites. The Court portrays these sites -- the Mall [***233] and Lafayette Park -- in a peculiar fashion. According to the Court:

"Lafayette Park and the Mall . . . are unique resources that the Federal Government holds in trust for the American people. Lafayette Park is a roughly [*3074] 7-acre square located across Pennsylvania Avenue from the White House. Although originally part of the White House grounds, President Jefferson set it aside as a park for the use of residents and visitors. It is a 'garden park with a . . . formal landscaping of flowers and trees, with fountains, walks and benches.' . . . The Mall is a [*303] stretch of land running westward from the Capitol to the Lincoln Memorial some two miles away. It includes the Washington Monument, a series of reflecting pools, trees, lawns, and other greenery. It is bordered by, *inter alia*, the Smithsonian Institution and the National Gallery of Art. Both the Park and the Mall were included in Major Pierre L'Enfant's original plan for the Capital. Both are visited by vast numbers of visitors from around the country, as well as by large numbers of residents of the Washington metropolitan area." *Ante*, at 290.

Missing from the majority's description is any inkling that Lafayette Park and the Mall have served as the sites for some of the most rousing political demonstrations in the Nation's history. It is interesting to learn, I suppose, that Lafayette Park and the Mall were both part of Major Pierre L'Enfant's original plan for the

Capital. Far more pertinent, however, is that these areas constitute, in the Government's words, "a fitting and powerful forum for political expression and political protest." Brief for Petitioners 11.²

1 The previous winter respondents had held a similar demonstration after courts ruled that the Park Service regulations then in effect did not extend to respondents' proposed activities. *Community for Creative Non-Violence v. Watt*, 216 U. S. App. D. C. 394, 670 F.2d 1213 (1982) (*CCNV I*). Those activities consisted of setting up and sleeping in nine tents in Lafayette Park. The regulations at issue in this case were promulgated in direct response to *CCNV I*. 47 Fed. Reg. 24299 (1982).

2 At oral argument, the Government informed the Court "that on any given day there will be an average of three or so demonstrations going on" in the Mall-Lafayette Park area. Tr. of Oral Arg. 3-4. Respondents accurately describe Lafayette Park "as the American analogue to 'Speaker's Corner' in Hyde Park." Brief for Respondents 16, n. 25.

The primary³ purpose for making *sleep* an integral part of the demonstration was "to re-enact the central reality of [*304] homelessness," Brief for Respondents 2, and to impress upon public consciousness, in as dramatic a way as possible, that homelessness is a widespread problem, often ignored, that confronts its victims with life-threatening deprivations.⁴ [***234] As one of the homeless men seeking to demonstrate explained: "Sleeping in Lafayette Park or on the Mall, for me, is to show people that conditions are so poor for the homeless and poor in this city that we would actually sleep *outside* in the winter to get the point across." *Id.*, at 3.

3 Another purpose for making *sleep* part of the demonstration was to enable participants to weather the rigors of the round-the-clock vigil and to encourage other homeless persons to participate in the demonstration. As respondents stated in their application for a demonstration permit:

"If there was ever any question as to whether sleeping was a necessary element in this demonstration, it should be answered by now [in light of the previous year's demonstration]. No matter how hard we tried to get [homeless

468 U.S. 288, *304; 104 S. Ct. 3065, **3074;
82 L. Ed. 2d 221, ***234; 1984 U.S. LEXIS 136

persons] to come to Reaganville [the name given to the demonstration by respondents], they simply would not come, until sleeping was permitted." App. 14.

4 Estimates on the number of homeless persons in the United States range from two to three million. See Brief for National Coalition for the Homeless as *Amicus Curiae* 3. Though numerically significant, the homeless are politically powerless inasmuch as they lack the financial resources necessary to obtain access to many of the most effective means of persuasion. Moreover, homeless persons are likely to be denied access to the vote since the lack of a mailing address or other proof of residence within a State disqualifies an otherwise eligible citizen from registering to vote. *Id.*, at 5.

The detrimental effects of homelessness are manifold and include psychic trauma, circulatory difficulties, infections that refuse to heal, lice infestations, and hypothermia. *Id.*, at 14-15. In the extreme, exposure to the elements can lead to death; over the 1983 Christmas weekend in New York City, 14 homeless persons perished from the cold. See *N. Y. Times*, Dec. 27, 1983, p. A1., col. 1.

In a long line of cases, this Court has afforded First Amendment protection to expressive conduct that qualifies as symbolic speech. See, e. g., *Tinker v. Des Moines School Dist.*, 393 U.S. 503 (1969) (black armband worn by students in public school as protest against United States policy in Vietnam war); *Brown v. Louisiana*, 383 U.S. 131 [*3075] (1966) (sit-in by Negro students in "whites only" library to protest segregation); *Stromberg v. California*, 283 U.S. 359 (1931) (flying red flag as gesture of support for communism). In light of the surrounding context, respondents' proposed activity meets the qualifications. The Court has previously acknowledged the importance of context in determining [*305] whether an act can properly be denominated as "speech" for First Amendment purposes and has provided guidance concerning the way in which courts should "read" a context in making this determination. The leading case is *Spence v. Washington*, 418 U.S. 405 (1974), where this Court held that displaying a United States flag with a peace symbol attached to it was conduct protected by the First Amendment. The Court looked first to the intent of

the speaker -- whether there was an "intent to convey a particularized message" -- and second to the perception of the audience -- whether "the likelihood was great that the message would be understood by those who viewed it." *Id.*, at 410-411. Here respondents clearly intended to protest the reality of homelessness by sleeping outdoors in the winter in the near vicinity of the magisterial residence of the President of the United States. In addition to accentuating the political character of their protest by their choice of location and mode of communication, respondents also intended to underline the meaning of their protest by giving their demonstration satirical names. Respondents planned to name the demonstration on the Mall "Congressional Village," and the demonstration in Lafayette Park, "Reaganville II." App. 13.

Nor can there be any doubt that in the surrounding circumstances the likelihood was great that the political significance of sleeping in the parks would be understood by those who viewed it. Certainly the news media understood the significance of respondents' proposed activity; newspapers and magazines from around the Nation reported their previous sleep-in and their planned display.⁵ Ordinary citizens, too, would likely understand the political message intended by respondents. This likelihood stems from the remarkably apt fit between the activity [***235] in which respondents seek to engage [*306] and the social problem they seek to highlight. By using sleep as an integral part of their mode of protest, respondents "can express with their bodies the poignancy of their plight. They can physically demonstrate the neglect from which they suffer with an articulateness even Dickens could not match." *Community for Creative Non-Violence v. Watt*, 227 U. S. App. D. C. 19, 34, 703 F.2d 586, 601 (1983) (Edwards, J. concurring).

5 See articles appended to Declaration of Mary Ellen Hombs, Record, Vol. 1.

It is true that we all go to sleep as part of our daily regimen and that, for the most part, sleep represents a physical necessity and not a vehicle for expression. But these characteristics need not prevent an activity that is normally devoid of expressive purpose from being used as a novel mode of communication. Sitting or standing in a library is a commonplace activity necessary to facilitate ends usually having nothing to do with making a statement. Moreover, sitting or standing is not conduct that an observer would normally construe as expressive

468 U.S. 288, *306; 104 S. Ct. 3065, **3075;
82 L. Ed. 2d 221, ***235; 1984 U.S. LEXIS 136

conduct. However, for Negroes to stand or sit in a "whites only" library in Louisiana in 1965 was powerfully expressive; in that particular context, those acts became "monuments of protest" against segregation. *Brown v. Louisiana, supra*, at 139.

The Government contends that a foreseeable difficulty of administration counsels against recognizing sleep as a mode of expression protected by the First Amendment. The predicament the Government envisions can be termed "the imposter problem": the problem of distinguishing bona fide protesters from imposters whose requests for permission to sleep in Lafayette Park or the Mall on First Amendment [*3076] grounds would mask ulterior designs -- the simple desire, for example, to avoid the expense of hotel lodgings. The Government maintains that such distinctions cannot be made without inquiring into the sincerity of demonstrators and that such an inquiry would itself pose dangers to First Amendment values because it would necessarily be content-sensitive. I find this argument unpersuasive. First, a [*307] variety of circumstances *already* require government agencies to engage in the delicate task of inquiring into the sincerity of claimants asserting First Amendment rights. See, e. g., *Wisconsin v. Yoder*, 406 U.S. 205, 215-216 (1972) (exception of members of religious group from compulsory education statute justified by group's adherence to deep religious conviction rather than subjective secular values); *Welsh v. United States*, 398 U.S. 333, 343-344 (1970) (eligibility for exemption from military service as conscientious objector status justified by sincere religious beliefs). It is thus incorrect to imply that any scrutiny of the asserted purpose of persons seeking a permit to display sleeping as a form of symbolic speech would import something altogether new and disturbing into our First Amendment jurisprudence. Second, the administrative difficulty the Government envisions is now nothing more than a vague apprehension. If permitting sleep to be used as a form of protected First Amendment activity actually created the administrative problems the Government now envisions, there would emerge a clear factual basis upon which to establish the [***236] necessity for the limitation the Government advocates.

The Government's final argument against granting respondents' proposed activity any degree of First Amendment protection is that the contextual analysis upon which respondents rely is fatally flawed by overinclusiveness. The Government contends that the

Spence approach is overinclusive because it accords First Amendment status to a wide variety of acts that, although expressive, are obviously subject to prohibition. As the Government notes, "[actions] such as assassination of political figures and the bombing of government buildings can fairly be characterized as intended to convey a message that it readily perceived by the public." Brief for Petitioners 24, n. 18. The Government's argument would pose a difficult problem were the determination whether an act constitutes "speech" the end of First Amendment analysis. But such a determination is not the end. If [*308] an act is defined as speech, it must still be balanced against countervailing government interests. The balancing which the First Amendment requires would doom any argument seeking to protect antisocial acts such as assassination or destruction of government property from government interference because compelling interests would outweigh the expressive value of such conduct.

II

Although sleep in the context of this case is symbolic speech protected by the First Amendment, it is nonetheless subject to reasonable time, place, and manner restrictions. I agree with the standard enunciated by the majority: "[Restrictions] of this kind are valid provided that they are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information." *Ante*, at 293 (citations omitted).⁶ I conclude, however, that the regulations at issue in this case, as applied to respondents, fail to satisfy this standard.

⁶ I also agree with the majority that no substantial difference distinguishes the test applicable to time, place, and manner restrictions and the test articulated in *United States v. O'Brien*, 391 U.S. 367 (1968). See *Ante*, at 298-299, n. 8.

According to the majority, the significant Government interest advanced by denying respondents' request to engage in sleep-speech is the interest in "maintaining the parks in the heart of our Capital in an [*3077] attractive and intact condition, readily available to the millions of people who wish to see and enjoy them by their presence." *Ante*, at 296. That interest is indeed significant. However, neither the Government nor the

468 U.S. 288, *308; 104 S. Ct. 3065, **3077;
82 L. Ed. 2d 221, ***236; 1984 U.S. LEXIS 136

majority adequately explains how prohibiting respondents' planned activity will substantially further that interest.

The majority's attempted explanation begins with the curious statement that it seriously doubts that the First [*309] Amendment requires the Park Service to permit a demonstration in Lafayette Park and the Mall involving a 24-hour vigil and the erection of tents to accommodate 150 people. *Ante*, [***237] at 296. I cannot perceive why the Court should have "serious doubts" regarding this matter and it provides no explanation for its uncertainty. Furthermore, even if the majority's doubts were well founded, I cannot see how such doubts relate to the problem at hand. The issue posed by this case is not whether the Government is constitutionally compelled to permit the erection of tents and the staging of a continuous 24-hour vigil; rather, the issue is whether any substantial Government interest is served by banning sleep that is part of a political demonstration.

What the Court may be suggesting is that if the tents and the 24-hour vigil are permitted, but not constitutionally required to be permitted, then respondents have no constitutional right to engage in expressive conduct that supplements these activities. Put in arithmetical terms, the Court appears to contend that if X is permitted by grace rather than by constitutional compulsion, X + 1 can be denied without regard to the requirements the Government must normally satisfy in order to restrain protected activity. This notion, however, represents a misguided conception of the First Amendment. The First Amendment requires the Government to justify *every* instance of abridgment. That requirement stems from our oft-stated recognition that the First Amendment was designed to secure "the widest possible dissemination of information from diverse and antagonistic sources," *Associated Press v. United States*, 326 U.S. 1, 20 (1945), and "to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Roth v. United States*, 354 U.S. 476, 484 (1957). See also *Buckley v. Valeo*, 424 U.S. 1, 49 (1976); *New York Times Co. v. Sullivan*, 376 U.S. 254, 266 (1964); *Whitney v. California*, 274 U.S. 357, 375-378 (1927) (Brandeis, J., concurring). Moreover, the stringency of that requirement is [*310] not diminished simply because the activity the Government seeks to restrain is supplemental to other activity that the Government may have permitted out of grace but was not constitutionally

compelled to allow. If the Government cannot adequately justify abridgment of protected expression, there is no reason why citizens should be prevented from exercising the *first* of the rights safeguarded by our Bill of Rights.

The majority's second argument is comprised of the suggestion that, although sleeping contains an element of expression, "its major value to [respondents'] demonstration would have been facilitative." *Ante*, at 296. While this observation does provide a hint of the weight the Court attached to respondents' First Amendment claims,⁷ it is utterly irrelevant to [***238] whether [**3078] the Government's ban on sleeping advances a substantial Government interest.

⁷ The facilitative purpose of the sleep-in takes away nothing from its independent status as symbolic speech. Moreover, facilitative conduct that is closely related to expressive activity is itself protected by First Amendment considerations. I therefore find myself in agreement with Judge Ginsburg who noted that "the personal non-communicative aspect of sleeping in symbolic tents at a demonstration site bears a close, functional relationship to an activity that is commonly comprehended as 'free speech.'" *Community for Creative Non-Violence v. Watt*, 227 U. S. App. D. C. 19, 40, 703 F.2d 586, 607 (1983). "[Sleeping] in the tents rather than simply standing or sitting down in them, allows the demonstrator to sustain his or her protest without stopping short of the officially-granted round-the-clock permission." *Ibid*. For me, as for Judge Ginsburg, that linkage itself "suffices to require a genuine effort to balance the demonstrators' interests against other concerns for which the government bears responsibility." *Ibid*.

The majority's third argument is based upon two claims. The first is that the ban on sleeping relieves the Government of an administrative burden because, without the flat ban, the process of issuing and denying permits to other demonstrators asserting First Amendment rights to sleep in the parks "would present difficult problems for the Park Service." *Ante*, at 297. The second is that the ban on sleeping [*311] will increase the probability that "some around-the-clock demonstrations for days on end will not materialize, [that] others will be limited in size and duration, and that

468 U.S. 288, *311; 104 S. Ct. 3065, **3078;
82 L. Ed. 2d 221, ***238; 1984 U.S. LEXIS 136

the purpose of the regulation will thus be materially served," *ante*, at 297, that purpose being "to limit the wear and tear on park properties." *Ante*, at 299.

The flaw in these two contentions is that neither is supported by a factual showing that evinces a real, as opposed to a merely speculative, problem. The majority fails to offer any evidence indicating that the absence of an absolute ban on sleeping would present administrative problems to the Park Service that are substantially more difficult than those it ordinarily confronts. A mere apprehension of difficulties should not be enough to overcome the right to free expression. See *United States v. Grace*, 461 U.S. 171, 182 (1983); *Tinker v. Des Moines School Dist.*, 393 U.S., at 508. Moreover, if the Government's interest in avoiding administrative difficulties were truly "substantial," one would expect the agency most involved in administering the parks at least to allude to such an interest. Here, however, the perceived difficulty of administering requests from other demonstrators seeking to convey messages through sleeping was not among the reasons underlying the Park Service regulations.⁸ Nor was it mentioned by the Park Service in its rejection of respondents' particular request.⁹

⁸ See 47 Fed. Reg. 24301 (1982).

⁹ App. 16-17.

The Court's erroneous application of the standard for ascertaining a reasonable time, place, and manner restriction is also revealed by the majority's conclusion that a substantial governmental interest is served by the sleeping ban because it will discourage "around-the-clock demonstrations for days" and thus further the regulation's purpose "to limit wear and tear on park properties." *Ante*, at 299. The majority cites no evidence indicating that sleeping engaged in as symbolic speech will cause *substantial* wear and tear on park property. [*312] Furthermore, the Government's application of the sleeping ban in the circumstances of this case is strikingly underinclusive. The majority acknowledges that a proper time, place, and manner restriction must be "narrowly tailored." Here, however, the tailoring requirement is virtually [***239] forsaken inasmuch as the Government offers no justification for applying its absolute ban on sleeping yet is willing to allow respondents to engage in activities -- such as feigned sleeping -- that is no less burdensome.

In short, there are no substantial Government

interests advanced by the Government's regulations as applied to respondents. All that the Court's decision advances are the prerogatives of a bureaucracy that over the years has shown an implacable hostility toward citizens' exercise of First Amendment rights.¹⁰

¹⁰ At oral argument, the Government suggested that the ban on sleeping should not be invalidated as applied to respondents simply because the Government is willing to allow respondents to engage in other nonverbal acts of expression that may also trench upon the Government interests served by the ban. Tr. of Oral Arg. 15, 23. The Government maintains that such a result makes the Government a victim of its own generosity. However the Government's characterization of itself as an unstinting provider of opportunities for protected expression is thoroughly discredited by a long line of decisions *compelling* the National Park Service to allow the expressive conduct it now claims to permit as a matter of grace. See, e. g., *Women Strike for Peace v. Morton*, 153 U. S. App. D. C. 198, 472 F.2d 1273 (1972); *A Quaker Action Group v. Morton*, 170 U. S. App. D. C. 124, 516 F.2d 717 (1975); *United States v. Abney*, 175 U. S. App. D. C. 247, 534 F.2d 984 (1976).

[**3079] III

The disposition of this case impels me to make two additional observations. First, in this case, as in some others involving time, place, and manner restrictions,¹¹ the Court [*313] has dramatically lowered its scrutiny of governmental regulations once it has determined that such regulations are content-neutral. The result has been the creation of a two-tiered approach to First Amendment cases: while regulations that turn on the content of the expression are subjected to a strict form of judicial review,¹² regulations that are aimed at matters other than expression receive only a minimal level of scrutiny. The minimal scrutiny prong of this two-tiered approach has led to an unfortunate diminution of First Amendment protection. By narrowly limiting its concern to whether a given regulation creates a content-based distinction, the Court has seemingly overlooked the fact that content-neutral restrictions are also capable of unnecessarily restricting protected expressive activity.¹³ To be sure, the general prohibition against content-based regulations is an essential tool of First Amendment analysis. It helps to put into operation the

468 U.S. 288, *313; 104 S. Ct. 3065, **3079;
82 L. Ed. 2d 221, ***239; 1984 U.S. LEXIS 136

well-established principle [***240] that "government may not grant the use of a forum to people whose views it finds acceptable, but deny use to those wishing to express less favored or more controversial views." *Police Department of Chicago v. Mosley*, 408 U.S. 92, 95-96 (1972). The Court, however, has transformed the ban against content distinctions from a floor that offers all persons at least equal liberty under the First Amendment into a ceiling that restricts persons to the protection of First Amendment equality -- but nothing more.¹⁴ [**3080] The consistent [*314] imposition of silence upon all may fulfill the dictates of an evenhanded content-neutrality. But it offends our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." *New York Times Co. v. Sullivan*, 376 U.S., at 270.¹⁵

11 See, e. g., *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984); *Heffron v. International Society for Krishna Consciousness, Inc.*, 452 U.S. 640 (1981). But see *United States v. Grace*, 461 U.S. 171 (1983); *Tinker v. Des Moines School Dist.*, 393 U.S. 503 (1969); *Brown v. Louisiana*, 383 U.S. 131 (1966).

12 See, e. g., *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829 (1978). It should be noted, however, that there is a context in which regulations that are facially content-neutral are nonetheless subjected to strict scrutiny. This situation arises when a regulation vests standardless discretion in officials empowered to dispense permits for the use of public forums. See, e. g., *Lovell v. City of Griffin*, 303 U.S. 444 (1938); *Hague v. CIO*, 307 U.S. 496 (1939); *Shuttlesworth v. City of Birmingham*, 394 U.S. 147 (1969).

13 See Redish, *The Content Distinction in First Amendment Analysis*, 34 *Stan. L. Rev.* 113 (1981).

14 Furthermore, a content-neutral regulation does not necessarily fall with random or equal force upon different groups or different points of view. A content-neutral regulation that restricts an inexpensive mode of communication will fall most heavily upon relatively poor speakers and the points of view that such speakers typically espouse. See, e. g., *City Council of Los Angeles v. Taxpayers for Vincent*, *supra*, at 812-813, n. 30. This sort of latent inequality is very much in evidence in this case for respondents lack the

financial means necessary to buy access to more conventional modes of persuasion.

A disquieting feature about the disposition of this case is that it lends credence to the charge that judicial administration of the First Amendment, in conjunction with a social order marked by large disparities in wealth and other sources of power, tends systematically to discriminate against efforts by the relatively disadvantaged to convey their political ideas. In the past, this Court has taken such considerations into account in adjudicating the First Amendment rights of those among us who are financially deprived. See, e. g., *Martin v. Struthers*, 319 U.S. 141, 146 (1943) (striking down ban on door-to-door distribution of circulars in part because this mode of distribution is "essential to the poorly financed causes of little people"); *Marsh v. Alabama*, 326 U.S. 501 (1946) (State cannot impose criminal sanction on person for distributing literature on sidewalk of town owned by private corporation). Such solicitude is noticeably absent from the majority's opinion, continuing a trend that has not escaped the attention of commentators. See, e. g., Dorsen & Gora, *Free Speech, Property, and The Burger Court: Old Values, New Balances*, 1982 *S. Ct. Rev.* 195; Van Alstyne, *The Recrudescence of Property Rights as the Foremost Principle of Civil Liberties: The First Decade of the Burger Court*, 43 *Law & Contemp. Prob.* 66 (summer 1980).

15 For a critique of the limits of the equality principle in First Amendment analysis see Redish, *supra*, at 134-139.

Second, the disposition of this case reveals a mistaken assumption regarding the motives and behavior of Government officials who create and administer content-neutral regulations. The Court's salutary skepticism of governmental decisionmaking in First Amendment matters suddenly dissipates once it determines that a restriction is not [*315] content-based. The Court evidently assumes that the balance struck by officials is deserving of deference so long as it does not appear to be tainted by content discrimination. What the Court fails to recognize is that public officials have strong incentives to overregulate even in the absence of an intent to censor particular views. This incentive stems from the fact that of the two groups whose interests officials must accommodate -- on the one hand, the

468 U.S. 288, *315; 104 S. Ct. 3065, **3080;
82 L. Ed. 2d 221, ***240; 1984 U.S. LEXIS 136

interests of the general public and, on the other, the interests of those who seek to use a particular forum for First Amendment activity -- the political [***241] power of the former is likely to be far greater than that of the latter.¹⁶

¹⁶ See Goldberger, *Judicial Scrutiny in Public Forum Cases: Misplaced Trust in the Judgment of Public Officials*, 32 *Buffalo L. Rev.* 175, 208 (1983).

The political dynamics likely to lead officials to a disproportionate sensitivity to regulatory as opposed to First Amendment interests can be discerned in the background of this case. Although the Park Service appears to have applied the revised regulations consistently, there are facts in the record of this case that raise a substantial possibility that the impetus behind the revision may have derived less from concerns about administrative difficulties and wear and tear on the park facilities, than from other, more "political," concerns. The alleged need for more restrictive regulations stemmed from a court decision favoring the same First Amendment claimants that are parties to this case. See n. 1, *supra*. Moreover, in response both to the Park Service's announcement that it was considering changing its rules and the respondents' expressive activities, at least one powerful group urged the Service to tighten its regulations.¹⁷ The point of these observations is not to impugn the integrity of the National Park Service. Rather, my intention is to illustrate concretely that government agencies by their [*316] very nature are driven to overregulate public forums to the detriment of First Amendment rights, that facial viewpoint-neutrality

is no shield against unnecessary restrictions on unpopular ideas or modes of expression, and that in this case in particular there was evidence readily available that should have impelled the Court to subject the Government's restrictive policy to something more than minimal scrutiny.

¹⁷ See Declaration of Mary Ellen Hombs, Exhibit 1kk, Record, Vol. 1.

For the foregoing reasons, I respectfully dissent.

REFERENCES

Restriction of use of public parks as violating freedom of speech or press under First Amendment of Federal Constitution

59 *Am Jur 2d*, Parks, Squares, and Playgrounds 33

USCS, Constitution, 1st Amendment

US L Ed Digest, Constitutional Law 934, 960

L Ed Index to Annos, Parks

ALR Quick Index, Parks and Playgrounds

Federal Quick Index, National Parks; Parks

Annotation References:

Restriction of use of public parks as violating freedom of speech or press under First Amendment of Federal Constitution. 82 L Ed 2d 958.

> that, nor can the attorney in my building.
>
> Thank you for your help in this matter.
>
>
> Carter
> Ms. Carter DeWitt
> Vice President of Development
> Tax Foundation
> National Press Building
> 529 14th St., NW, Suite 420
> Washington, DC 20045
> (202) 464-5110 (Direct line)
> www.TaxFoundation.org
> The Tax Foundation is guided by the principles of sound tax policy --
> neutrality, simplicity, transparency, and stability
>
>
>
> _____
> From: Carter DeWitt
> Sent: Monday, November 28, 2011 5:29 PM
> To: 'Karen_Cucurullo@nps.gov'
> Cc: Bob_Vogel@nps.gov; Steve_Whitesell@nps.gov;
> Lisa_Mendelson-Telmini@nps.gov; Teresa_Chambers@nps.gov;
> Kathleen_Harasek@nps.gov; tonya_robinson@nps.gov
> Subject: RE: Occupy DC versus other park users - I count too!
>
>
> Thank you for your response. I found it inaccurate in claiming to follow
> the letter of the law - -
>
> I certainly appreciate the right to protest under constitutional law -
> however, this right does not supersede current laws requiring permits or
> acts already prohibited by federal regulation etc. Federal law prohibits
> camping overnight in the McPherson Square Park - period. This OCCUPY camp
> by federal regulations definition is not a protest - but a newly formed
> shanty town.
>
> Please send me the court ruling which you refer to below by the statement -
> "the courts have ruled that temporary structures that support First
> Amendment activities are allowed." I would like that as soon as possible as
> we are taking further action.
>
> According to The Code of Federal regulations, Title 36, Parks, Forests, and
> Public property - temporary structures may not be used outside designated
> camping areas (McPherson Square does not have a federally designated
> camping area) for living accommodation activities such as sleeping, or
> making preparations to sleep including the laying down of beddings for the
> purpose of sleep, or storing personal belongings or making fire, or ... the
> above listed activities constitute camping when it reasonably appears in
> light of all the circumstance, that the participants in conducting these
> activities are in fact using this as a living accommodation regardless of
> the intent of the participants or the nature of any other activities in
> which they may also be engaging.
>
> They can certainly protest, they can get a permit and march or picket - but
> they cannot camp in a federal park that is not specially designated for
> camping.
>
> Carter



Karen Cucurullo/NACC/NPS
12/04/2011 04:55 PM EST

To "Bob Vogel" <Bob_Vogel@nps.gov>, "Sean Kennealy"
<sean_kennealy@nps.gov>
cc
bcc
Subject Update

DC Inspector has deemed the structure unsafe, structure is condemned.



Karen Cucurullo/NACC/NPS
12/04/2011 09:19 PM EST

To "Bob Vogel" <Bob_Vogel@nps.gov>, "Sean Kennealy"
<sean_kennealy@nps.gov>

cc

bcc

Subject ~~Structure~~ Structure is down

By way of forklift, we have about twenty guys at site to remove it from the site.



Karen Cucurullo/NACC/NPS
12/04/2011 07:48 PM EST

To "Bob Vogel" <Bob_Vogel@nps.gov>
cc
bcc
Subject One more to get off

But he tied himself onto the structure.



Karen Cucurullo/NACC/NPS
12/04/2011 12:38 PM EST

To Kathleen Harasek/USPP/NPS, "Bob Vogel"
<Bob_Vogel@nps.gov>

cc

bcc

Subject Fw: Structure in McPherson Park - fyi

Baker said that it is one story about the size of a solar decathlon home, demonstrators are sitting in it, refusing to leave.

Sean Kennealy

----- Original Message -----

From: Sean Kennealy
Sent: 12/04/2011 12:01 PM EST
To: Karen Cucurullo; Steve Lorenzetti; Jorge Alvarez; Bob Vogel; Martha Ellis; Kathleen Harasek; Jennifer Talken-Spaulding; Carolyn Richard
Cc: Keith Rogers
Subject: Structure in McPherson Park - fyi

Hello everyone,

Keith Rogers contacted me regarding a structure being constructed in McPherson park this morning. It was described as a multi level structure with studs, joists and plywood.

Our weekend supervisor, Johnny Baker, was contacted to provide staff and a stakebody truck to assist the USPP in removing the structure since the organizers are refusing to do so.

Thanks, Sean

Sean Kennealy
Chief, Division of Facility Management
National Mall and Memorial Parks
Office: 202-245-4685
Fax: 202-426-0099



Karen Cucurullo/NACC/NPS
12/04/2011 01:46 PM EST

To "Bob Vogel" <Bob_Vogel@nps.gov>
cc
bcc
Subject Fw: McPherson Park

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 01:31 PM EST
To: USPP_Notifications@nps.gov
Subject: Fw: McPherson Park

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 01:22 PM EST
Subject: Fw: McPherson Park

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 12:37 PM EST
Subject: Fw: McPherson Park

Police tape has been placed around the structure. Two individuals crossed the tape and have been arrested for crossing a police line. One individual was arrested for interfering. They have been taken to AOF for processing. Currently, there are 6 individuals who climbed to the top of the structure. SWAT and CIB are en route.

DC Fire is on scene. They are calling an inspector to advise us on their ability to assist.

Osborne Reaves

----- Original Message -----

From: Osborne Reaves
Sent: 12/04/2011 11:50 AM EST
Subject: McPherson Park

Currently D-1 units are at McPherson Park investigating the establishment of a large wooden frame, similar to a house, just south of the statue. The protesters were advised that the structure needed to be broken down; they were giving a one hour time frame to disassemble it. Right now, the group is congregating, deciding what actions they will take.

Captain Rogers has notified NPS Maintenance. D C Fire is also en route to access the structure. Units from outer districts have been called to assist.

broken down; they were giving a one hour time frame to disassemble it. Right now, the group is congregating, deciding what actions they will take.

Captain Rogers has notified NPS Maintenance. D C Fire is also en route, to access the structure. Units from outer districts have been called to assist.



Carter DeWitt
<cdewitt@taxfoundation.org>
12/07/2011 05:52 PM

To "Bob_Vogel@nps.gov" <Bob_Vogel@nps.gov>
cc "Karen_Cucurullo@nps.gov" <Karen_Cucurullo@nps.gov>,
"Kathleen_Harasek@nps.gov"
<Kathleen_Harasek@nps.gov>,
bcc

Subject RE: Occupy DC versus other park users - I count too!

Mr. Vogel,

Thank you for your response. This isn't an us against them issue - this is about respecting one another and all of us being able to use the park. I cannot understand why you allow them to take over the whole park. If I want to sit on my normal bench as I did every Saturday and read before this debacle - may I be afforded the same right to space? Will you remove them for me for a few hours on Saturday?

You must be aware that 95% of the temporary structures are for camping (sleeping purposes) - and the Washington Post reported today that no permit for protesting purposes has been issued. So the 30 year old court cases you refer to are not the same. Those cases had permits. From the Post:

"On Monday, a U.S. District judge ruled that the National Park Service must give protesters some notice if it moves to evict them, except for in emergency situations. A protester had sought the ruling clarifying his rights if the National Park Service decides to evict protesters, who have been camping at McPherson Square without a permit since Oct. 1."

By your delay, another layer of trouble to return our park to its former beauty ahas been added to the mix. I hope that you will take the steps necessary to evict them. It is one thing to claim a peaceable vigil - but they cannot claim peace as they have caused physical damage to the park.

What is the expected cost of repair to McPherson Park when they leave?

In the past court cases you mentioned, the vigil area did not negate those parks from being used by others. Occupy DC is a shanty town born upon the backs of hard working tax paying citizens. Those who support the park with tax dollars cannot use the park. Where is the justice for us in this?

Please understand, although many of the inhabitants are non violent- just disrespectful of others, some are. I have been spit on twice - once when I wore my evening dress as I headed to an event and once in my coat which had fur and offended them. I have seen them stealing at area stores.

My understanding is that to show it is a vigil and symbolic camping - and not sleeping quarters - they are required to move the tents on a regular basis. This has not happened once. Make them move all tents and take back a portion of the park so residents can use it as well.

Carter
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-----Original Message-----

From: Bob_Vogel@nps.gov [mailto:Bob_Vogel@nps.gov]
Sent: Friday, December 02, 2011 2:52 PM
To: Carter DeWitt
Cc: Karen_Cucurullo@nps.gov; Kathleen_Harasek@nps.gov;
Lisa_Mendelson-Ielmini@nps.gov; Steve_Whitesell@nps.gov;
Teresa_Chambers@nps.gov; tonya_robinson@nps.gov
Subject: RE: Occupy DC versus other park users - I count too!

Dear Ms. DeWitt:

This responds to your e-mail to Deputy Superintendent Karen Cucurullo dated November 28, 2011, that asks about the National Park Service (NPS) regulation that authorizes temporary structures as well as a copy of the Court ruling referred to in her e-mail to you dated November 25, 2011.

We are pleased to provide you with the information you requested. As for the NPS regulation on temporary structures, the introductory sentence of 36 CFR 7.96(g)(5)(iv) specifically provides that temporary structures are allowed as part of a permitted demonstration "for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas or the provision of shelter for electrical and other sensitive equipment or displays."

As for the Court ruling, attached is a copy of *Clark v. Community for Creative Non-Violence*, 468 U.S. 288 (1984), where the Supreme Court upheld the NPS camping regulation, and noted that allowing the two symbolic tent cities "left the demonstration intact, with its symbolic city, signs, and the presence of those who were willing to take their turns in a day-and-night vigil." Please also note that the duration of a demonstration is not limited by the National Park Service's National Capital Region. This stems from the Court of Appeals decision in *Quaker Action v Morton*, 516 F2d 717, 734 (D.C. Cir. 1975), that struck down as invalid the NPS regulatory restriction on the duration of demonstrations. Since then, 24/7 demonstration/vigils are a rare but regular feature in some of the Federal parks in Washington DC, which generally are never closed.

Finally, the National Park Service and United States Park Police fully agree that people have the right to protest. We also share your concern that people using parkland should also comply with applicable laws and regulations. In that regard, we have taken proactive steps as well as distributed the Notice dated November 23, 2011 and found on our website at www.nps.gov/nama/parkmgmt/upload/FreedomPlazaMcPhersonNotification_Nov23_2011.pdf

, that reminds people of the NPS camping regulation and that temporary structures may not be used for camping. In the event that voluntary compliance does not occur, consistent with First Amendment jurisprudence, the National Park Service and United States Park Police plan to take a reasoned and measured approach to achieve compliance, while hoping to avoid the civil disorder that has occurred in other jurisdictions.

Superintendent Bob Vogel
National Mall and Memorial Parks

Bob_Vogel@nps.gov

Chief Teresa C. Chambers
United States Park Police
Teresa_Chambers@nps.gov

Robert A. Vogel
Superintendent
National Mall and Memorial Parks
(202) 245-4661

(See attached file: Clark v CCNV 468 US 288 (1988).pdf)

Carter DeWitt
<cdewitt@taxfound
ation.org>

12/02/2011 02:07
PM

"Karen_Cucurullo@nps.gov"
<Karen_Cucurullo@nps.gov>

To

cc

"Bob_Vogel@nps.gov"
<Bob_Vogel@nps.gov>,
"Steve_Whitesell@nps.gov"
<Steve_Whitesell@nps.gov>,
"Lisa_Mendelson-Ielmini@nps.gov"
<Lisa_Mendelson-Ielmini@nps.gov>,
"Teresa_Chambers@nps.gov"
<Teresa_Chambers@nps.gov>,
"Kathleen_Harasek@nps.gov"
<Kathleen_Harasek@nps.gov>,
"tonya_robinson@nps.gov"
<tonya_robinson@nps.gov>

Subject

RE: Occupy DC versus other park
users - I count too!

Good afternoon Karen,

Thank you for your response last Friday. Please send me the court ruling which you refer to below by the statement - "the courts have ruled that temporary structures that support First Amendment activities are allowed." I would like that case number as soon as possible. I can find no record of that, nor can the attorney in my building.

Thank you for your help in this matter.

Carter

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From: Carter DeWitt
Sent: Monday, November 28, 2011 5:29 PM
To: 'Karen_Cucurullo@nps.gov'
Cc: Bob_Vogel@nps.gov; Steve_Whitesell@nps.gov;
Lisa_Mendelson-Ielmini@nps.gov; Teresa_Chambers@nps.gov;
Kathleen_Harasek@nps.gov; tonya_robinson@nps.gov
Subject: RE: Occupy DC versus other park users - I count too!

Thank you for your response. I found it inaccurate in claiming to follow the
letter of the law - -

I certainly appreciate the right to protest under constitutional law -
however, this right does not supersede current laws requiring permits or acts
already prohibited by federal regulation etc. Federal law prohibits camping
overnight in the McPherson Square Park - period. This OCCUPY camp by federal
regulations definition is not a protest - but a newly formed shanty town.

Please send me the court ruling which you refer to below by the statement -
"the courts have ruled that temporary structures that support First Amendment
activities are allowed." I would like that as soon as possible as we are
taking further action.

According to The Code of Federal regulations, Title 36, Parks, Forests, and
Public property - temporary structures may not be used outside designated
camping areas (McPherson Square does not have a federally designated camping
area) for living accommodation activities such as sleeping, or making
preparations to sleep including the laying down of beddings for the purpose of
sleep, or storing personal belongings or making fire, or ... the above listed
activities constitute camping when it reasonably appears in light of all the
circumstance, that the participants in conducting these activities are in fact
using this as a living accommodation regardless of the intent of the
participants or the nature of any other activities in which they may also be
engaging.

They can certainly protest, they can get a permit and march or picket - but
they cannot camp in a federal park that is not specially designated for
camping.

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-----Original Message-----

From: Karen_Cucurullo@nps.gov [mailto:Karen_Cucurullo@nps.gov]
Sent: Friday, November 25, 2011 12:18 PM
To: Carter DeWitt
Cc: Bob_Vogel@nps.gov; Steve_Whitesell@nps.gov;
Lisa_Mendelson-Ielmini@nps.gov; Teresa_Chambers@nps.gov;
Kathleen_Harasek@nps.gov; tonya_robinson@nps.gov
Subject: Fw: Occupy DC versus other park users - I count too!

Ms Dewitt:

On behalf of the National Mall and Memorial Parks Superintendent Robert Vogel, United States Park Police Chief Teresa Chambers, Regional Director, National Capital Region, Steve Whitesell, and Deputy Regional Director, National Capital Region, Lisa Mendelson-Ielmini, I offer this response to your letter.

Thank you for your inquiry, it is our hope that the following information will provide helpful information on the role and responsibilities of the National Park Service (NPS) and its United States Park Police (USPP) and the actions we are taking to address your concerns.

The National Park Service has a long and proud tradition of providing opportunities for the exercise of First Amendment rights. The national parks of Washington, DC, are used almost daily as places for reflection, commemoration, recreational activities, demonstrations, and public events and by citizens such as you who use the parks for personal enjoyment. The National Park Service protects and interprets our important cultural and natural resources, and the United States Park Police ensure the safety and security of park resources as well as persons who use the common space.

While the sudden appearance of the "encampment" is disturbing to many, the courts have ruled that temporary structures that support First Amendment activities are allowed. As a result, enforcement action in this area is limited and challenging. The USPP will continue to focus their enforcement efforts on illegal behaviors and activities that are observed and reported.

Since the beginning of the activities in McPherson Square and Freedom Plaza, the National Park Service has provided additional trash receptacles and has emptied them at least three times each day. Rodent traps have been placed in the parks, and those who are maintaining a vigil within the park have been requested to clear their trash and debris at the conclusion of each day's events. Portable toilet facilities have been placed within the park at the NPS's request and at the organizer's expense. Please contact the National Mall and Memorial Parks if there are additional concerns that have not been addressed at 202-245-4661.

The USPP has been working with the Metropolitan Police Department (MPD) on monitoring the groups' activities within the city, and the USPP regularly patrols our parks to enforce laws and regulations and those that specifically affect the quality of life. We encourage the public to contact the USPP to report criminal activity or quality of life violations at 202-610-7500 so that individuals responsible for these violations can be identified and appropriate action taken.

We appreciate your taking the time to share your concerns. If there is any way we may be of further assistance in providing information and insight, please let us know. The NPS and the USPP remain committed to the citizens who live near, work near, or use the parks for their enjoyment. We routinely meet with the business community and would be willing to attend citizen group meetings if you think this would be valuable in maintaining our relationships.

Superintendent Bob Vogel
National Mall and Memorial Parks
Bob_Vogel@nps.gov

Chief Teresa C. Chambers
United States Park Police
Teresa_Chambers@nps.gov

Karen Cucurullo
Deputy Superintendent - Operations
National Mall and Memorial Parks
900 Ohio Drive, S.W.
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From: Carter DeWitt [cdewitt@taxfoundation.org]
Sent: 11/22/2011 12:43 PM CST
To: Teresa Chambers; Bob Vogel
Cc: "lisa_mendelson-ielmimi@nps.gov" <lisa_mendelson-ielmimi@nps.gov>; Steve Whitesell
Subject: Occupy DC versus other park users - I count too!

Just spent 50 minutes being transferred from one national park department to the other - no one taking responsibility for this mess you all have created.

I have been a resident of DC for three years. In that time I have paid my fair share of federal and DC taxes, donated to charities and supported several volunteer efforts. I live across from McPherson Square Park and almost every Saturday took my book into the park and read. Almost every night I would feed the ducks with bread I purchased at CVS. I fed the squirrels with the nuts Peapod delivered to my door. I am a single mom - my husband passed away six years ago - and I work very hard to pay for two children in college and keep a roof over my head. Do you have any idea how hard that is to do? I am not some spoiled trust fund baby.

Now the ducks are gone, the squirrels are gone and my park bench no longer available thanks to by Occupy DC. The grass is ruined, the trash is horrendous and the rat population has at least tripled. At night I get to listen to their parties, I see under age minors camping there without adult supervision. I get

to hear sex, see public urination and be subjected to early morning drums when I have my one day off - Saturday. Even worse is the knowledge that my tax dollars support this irresponsible behavior by the city and federal park service and that you provide police protection to them as they march and as they disturb my peace, my travel to and from work.

Sounds to me like you don't recognize who votes for you - and who butters your bread with their labor. It isn't Occupy DC - it isn't the new generation of class warfare you are propping up - it is me. I am disgusted. I am angry and want this to end. Yesterday I read that the Occupy DC residents at McPherson Square expect to stay into next year. I sincerely hope this is not the case. They need to go home and have someone else support them if they are not willing to work. I have no desire to pay for this via my tax dollars you take from me in so many ways. They do not have a permit and it is unlawful for them to be there. If I tried to camp in one of these parks you would make me leave -

There are thousands of us unhappy and complaining about them - why are you not hearing us?

Laurie Carter DeWitt

Washington, DC 20005

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