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The State Response to Occupy: Surveillance and Suppression

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What Comes After Occupy?:

The Regional Politics of Resistance

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THE STATE RESPONSE TO OCCUPY: SURVEILLANCE AND SUPPRESSION

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1. Introduction

The American state responded negatively to the Occupy movement. In addition to more than 7,000 arrests, the intelligence community and local police heavily surveilled the movement from its inception and helped direct the eventual crackdown on protest encampments. Spy documents recently obtained from the Federal Bureau of Investigation (FBI) and the U.S. Department of Homeland Security (DHS) reveal extensive political monitoring in more than 35 cities. Spying took place in all regions of the nation, with urban examples from the Northeast (New York City, Jersey City, Boston); the South (Atlanta, Tampa, Richmond); the Midwest (Denver, Detroit, Kansas City); as well as the far West (Oakland, Portland, Phoenix). These documents show not only intense government monitoring and coordination in response to the Occupy Movement, but reveal a glimpse into the interior of a vast, tentacle, national intelligence and domestic spying network that the U.S. government operates against its own people,” notes Mara Verheyden-Hilliard, director of the Partnership for Civil Justice Fund (PCJF). Getting these spy records—more than four thousand pages so far—has not been easy. In November 2011, about two months after the first Occupy protest, the FBI claimed there were “no records.” The bureau also issued a public statement denying surveillance of the Occupy movement: “Recent published blogs and news stories have reported the FBI has coordinated with local police departments on strategy and tactics to be employed in addressing Occupy Wall Street protestors. These reports are false. At no time has the FBI engaged with local police in this capacity.” Of course, such claims proved to be false. The FBI and DHS closely collaborated with local police at every stage of the movement’s development.

Such surveillance and coordination is not too surprising considering that a broad range of American social movements in the past were subject to state counterintelligence efforts. However, among studies of the Occupy movement, few have analyzed police surveillance in-depth based on a close reading of intelligence documents. It no longer is necessary to speculate about the state’s response to the movement. Rather than privileging First Amendment political activity, DHS and FBI operated from a narrow social control perspective, casting suspicion on protest, speech, and social action. The U.S. government spied widely, using both human informers and electronic surveillance. As Naomi Wolf wrote at the time of the encampments: “Since Occupy is heavily surveilled and infiltrated, it is likely that the DHS and police informers are aware, before Occupy itself is, what its emerging agenda is going to look like.” That may be an overstatement, but Wolf has a point: The spy files provide ample evidence of state monitoring and interference designed to contain and suppress the movement.

4 Ibid.

While most of the authors in *What Comes After Occupy?* have studied localized settings, a consideration of the state’s national response sheds new light on official strategies to police protest and dissent. The Occupy movement arose in diverse geographic locations with diverse sets of actors and allies. Yet, such organizing faced a government interested primarily in the national implications of local protest. Surveillance and suppression practices almost always were conducted with federal involvement and oversight.

In a major change, the extensive cyberspace surveillance of social media and networking sites marked the first time the intelligence community systematically monitored a social movement in this way. Occupy relied on online media to communicate and the government, in turn, watched it closely, devoting substantial resources to tracking its platforms. In some cases, it devoted full-time analysts to watch these platforms on a daily basis. To be sure, online media spying had become a government priority since the “Battle of Seattle” in 1999 at the World Trade Organization (WTO) meetings, but the Occupy movement witnessed the comprehensive application of online surveillance across multiple sites of political expression and organizing. This new form of police scrutiny rendered vast amounts of political expression and association visible and searchable for punitive purposes, constituting a dramatic expansion of undercover intelligence operations. As Daniel Trottier notes, the online sharing of information and opinion among activists is a “new terrain where social life occurs” and state surveillance efforts, including mass data mining, undermines the integrity of this new sphere of interaction.

As we look to the future, protecting the privacy of digital communications should become a top priority as Americans adjust to living in a “surveillance society.” This adjustment should incorporate resistance to surveillance. As one strategy, political intelligence collected by government needs to be liberated for public knowledge to help frame a new narrative of state misconduct. I hope this essay contributes to this effort. As we will see, official Occupy spying offers a case study of unregulated, anti-democratic behavior antithetical to political freedom.

Regrettably, surveillance has become an integral part of the “criminalization of dissent.” In this context, activists increasingly should try to “occupy surveillance” on the local level by employing behavioral techniques to undermine monitoring. As theorists of surveillance note, spying can become a dynamic process involving different moves and countermoves between watchers and the watched. Lastly, an anti-spying consciousness needs to become part of public discourse and assume a central place in transformative agendas. Unless Americans begin to organize against surveillance, government social control may advance dangerously toward authoritarianism.

### 2. Domestic Terrorism

President Barack Obama, who often spoke about leading from the bottom up, could have restrained government spying. At the same time that he expressed tacit support for the Occupy movement, he also directed the intelligence community and law enforcement to track and crack down on it. In early October 2011, Obama said: “I think it [Occupy] expresses the frustrations the American people feel.” Later in the month, he said: “The most important thing we can do right now is those of us in leadership letting people know that we understand their struggles and we are on their side.” But, secretly, the FBI and DHS viewed Occupy protesters as political troublemakers linked to violent protest. The intelligence community did not try to untangle the variety of political currents and perspectives of local demonstrators. For example, they provided very little analysis of the movement’s democratic practices, of how, specifically, decisions were made through a community consensus process. No attempt was made to understand the multiple voices, views, and disagreements within the movement; or the ways ideas sometimes changed over time. Nor did the FBI or DHS view Occupy as providing a dynamic “conversation” for the nation, as many others did. Their intelligence did

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not provide analysis of the demographic backgrounds of protestors, prior
civic and political affiliations, or geographical and regional differences.

The government seemed uninterested in understanding how protestors
and their allies reflected the society as a whole. Instead, the official “threat
analysis” rejected a complex and nuanced view of protest in favor of a
simplistic one that easily could be used to justify suppression. Dozens of
government documents indiscriminately associate the Occupy movement
with “domestic terrorism.”

Unlike much of the mainstream media, which was uncertain what the
movement represented, the intelligence community238carelessly identified it
as a subversive threat. On December 8, 2012, a DHS bulletin said:

The OWS movement has spread to over 100 cities in the U.S. with the
intent on fighting back against the role of Wall Street creating an economic
collapse. The OWS protesters have a diverse set of demands ranging from
equal distribution of income, bank reform, the need for expanded job
opportunities to a reduction of corporate influence on politics.

OWS also aims to fight back against the richest 1% of the population
they claim are writing the rules of an unfair global economy that is
foreclosing on our future. OWS is a non-binding consensus based
assembly with no official group of leaders. OWS has also spawned
multiple sub-affiliated groups calling upon union members, youth and
artists to actively participate. This collaboration with organizations and
unions has supported the increased number of protests across the country.

The Transportation Security Administration (TSA), a component of
DHS, referred to OWS as “extremists.” The official thinking here is loose
and undefined and, ultimately, dangerous to democracy. An advisory
issued by the TSA Office of Intelligence about a planned Occupy New
Orleans march scheduled for October 6, 2011, found no credible threat,
but the need for “awareness” and “vigilance,” as “the potential always
exists for extremists to exploit or redirect events such as this or use the
event to escalate or trigger their own agendas... Jihadists recently
discussed how they can benefit from the Occupy Wall Street protests that

have been ongoing in New York City, and suggested ‘that their
continuation will make the enemy lose focus on the wars abroad.’”

The DHS perpetuated the myth that Occupiers promoted violence. In a
February 27, 2012, national advisory, DHS identified the so-called
“Occupy Vest” – protective clothing sold on eBay for $299: “Taser proof,
rubber/beanbag bullet resistant, tear proof, and provides tackle cushion
protection for the upper body.” The grouping of Occupy under “terrorist
threats” was commonplace and police often shared their Occupy
intelligence at meetings of law enforcement officials. In Florida in early
November 2011, an FBI agent reported on a meeting of the Tampa Bay
Area Intelligence Unit, attended by about 45 local, state and federal law
enforcement personnel. The agenda included discussion of several past
and future Occupy protests in the region. In Memphis, a meeting of
several dozen law enforcement officials, who made up the Joint Terrorism
Task Force, reviewed a variety of domestic terrorist threats. Occupy was
discussed alongside homegrown Islamic radicals, Aryan Nations, and
Anonymous.

Most Occupy groups posed no threat to public safety. In the Midwest,
DHS reported in its Daily Intelligence Briefing in early November 2011,
“there have been no arrests of individuals who are associated with the
Occupy Movement by FPS [Federal Protective Service] law enforcement
personnel. Most demonstrations occurring in these states [Illinois, Indiana,
Michigan, Minnesota, Ohio, and Wisconsin] have been conducted
peacefully and off of federal property... At this time there is no known
credible threat to federal facilities by individuals linked to the Occupy
Movement.” In these documents, the First Amendment rights of
protestors rarely are discussed. One example of such a discussion occurred
in Anchorage, Alaska. An official of the Port of Alaska surveilled Occupy
websites and Facebook, and also went undercover to Occupy meetings in
advance of a protest scheduled for December 12, 2011. He contacted the
FBI, which informed him that infiltrating Occupy meetings was proper.

13 Quoted in Hodai, B. 2013. Dissent or Terror: How the Nation’s Counter
Terrorism Apparatus, in Partnership with Corporate America, Turned on Occupy
Wall Street. Center for Media and Democracy/DBA Press, 36.
14 Ibid., 37, 122.
15 U.S. Federal Bureau of Investigation. Tampa Squad 5/JTTP-DT to Tampa. 4
16 Ibid., Memphis Squad 13/F/FIG to Memphis. 9 Dec. 2011. “Intelligence Briefing
and Liaison, Memphis Division Joint Terrorism Taskforce.” OWS file.
Briefing, Region 5.” OWS file.

Office of Field Operations.” OWS file.
but the FBI declined to be informed about Facebook surveillance. The FBI agent wrote: “[Text redacted] was made aware and understood that due to their first amendment rights the FBI could not make an attempt to identify the initial Facebook posting organizing the Occupy the Port movement. [Text redacted] was informed if any specific threats were made, he should definitely notify the FBI because this would go beyond someone exercising their rights of freedom of speech.” This seems to be a rare instance in which the FBI did not assume the whole Occupy movement made specific threats worthy of surveillance. But one threat could be enough to activate local monitoring.

3. Tracking Protests

In the past, the FBI took the lead role in tracking protests in America. The establishment of the new DHS by Congress in 2004 empowered a second domestic agency to respond to collective action. In the Occupy case, it appears that the DHS had a greater coordinating role than the FBI.

This may be due to the encampments: Occupying public space was more of a “homeland security” matter than a “political intelligence” one.

While intelligence is geared toward informing policy makers, homeland security tries to manage and control on-going threats. Political intelligence certainly was used to help police the protest, but the contest over the “commons” raised a dimension closer to DHS’s official mandate.

DHS, unlike the FBI, does not direct their agents to oversee surveillance operations. But, regarding Occupy, they served in the chief agency role, coordinating the state response by collecting intelligence from a variety of other official entities.

The DHS office in Washington, DC, gathered information on Occupy from officials around the nation. The Department kept track if an Occupy group had a permit to camp in a park. It noted when permits for amplified sound were denied. A memo from New York City discussed how the sound permit application was “kicked back and forth by the City, GSA [General Services Administration], and NPS [National Parks Service]” before being rejected. DHS also routinely tracked the size of protests, the number of people arrested in civil disobedience, and violent clashes with law enforcement. On November 7, 2011, a Washington official emailed local offices: “The Director is extremely interested with the Movement and how it may affect Federal facilities.”

The tracking of protests is exposed in DHS emails and memos from many cities. In Atlanta, officials of the U.S. Immigration and Customs Enforcement (ICE) and DHS communicated about Occupy protest plans.

A November 17, 2011, email from an ICE official noted: “Just a head’s up that...a few bus loads of ‘Occupy Atlanta’ protestors will be taking their show on the road and heading down to Stewart for an ‘Occupy Stewart’ demonstration at some point tomorrow.” In Chicago, the police department emailed the DHS to get intelligence on the arrests of Occupy protestors in other cities. “The cities Chicago PD are interested in contacting are New York, Oakland, California, Washington, DC, Denver, Colorado, Boston, Massachusetts, Portland, Oregon, and Seattle, Washington.” The Chicago police department asked a series of questions to help design their own arrest strategy:

- Does your city allow the Occupy to set up camp or not?
- If they are allowed to campout where is this location?
- Is there any specific building or landmark that the group is camping out next to? What are the arrest charges?22

Meanwhile, in Washington, DC, the DHS inquired about the Occupy encampment’s effect on the surrounding neighborhood. “Has anyone heard anything about Occupy DC folks being kicked out of McPherson Square?” an official asked on October 22, 2011. A DHS colleague responded:

[Text redacted] nothing definite but the business owners and people that live up there have been giving the park service the blues about the sanitation and other conditions in the square. Plus they are starting to kick them out of other cities. I wouldn’t be surprised if it didn’t happen soon.”

In Portland, DHS officials advised city police and the FPS, which oversees federal property, after eleven protestors chained themselves to

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each other and to a large drum filled with concrete.\textsuperscript{25} A FPS commander told DHS: “They [Occupy] are not causing any problems so I told the guys to just monitor them and let them freeze”\textsuperscript{26}. The decision to make arrests was left to DHS, which “made sure everyone is on the same page. Won’t deploy until that happens”.\textsuperscript{27} When several thousand protestors shut down the Port of Oakland, the fifth busiest in the nation, on November 2, 2011, the FBI worried the protest might spread down the West Coast to the port of Long Beach, California. DHS, too, worried about ripple effects and alerted the U.S. Army about the possibility of an emergency. “Be advised that TSOC [Theater of Special Operations, U.S. Army] is aware of the Occupy Oakland protestors at the Port of Oakland. At this time, there are no reports of Impact [sic] to commerce. However, TSOC will send an ALERT if the situation changes.”\textsuperscript{28} DHS officials prepared for a second protest at West Coast ports planned for December 12, 2011, by alerting its regional Fusion Centers.\textsuperscript{29} (The U.S. Congress recently criticized Fusion Centers for engaging in civil liberty violations, as well as for producing “irrelevant, useless or inappropriate intelligence reporting”\textsuperscript{30}). Moreover, DHS mobilized several agencies—U.S. Customs and Border Protection (CBP), U.S. Coast Guard (USCG), and ICE—to prepare plans to “counter this potential threat” and “provide what actions they will be taking to prepare for the potential protests from the ‘Occupy Movement’”.\textsuperscript{31} The Coast Guard told DHS: “Although Intel continues to show no anticipated on-water protests, we are preparing for the possibility of such activity.”\textsuperscript{32} ICE told DHS that they could aid with enforcement: “Placing the San Francisco SRT [Special Response Team] on notice that they may be required to assist local law enforcement if needed, whether that is in the role of offering advice to a formal activation”.\textsuperscript{33}

4. Online Media Surveillance

Manuel Castells suggests digital social media is an “autonomous communication” form relatively free from state and corporate control and that it proved critical to the rapid spread of the Occupy movement. It aided practical day-to-day organizing in local contexts and also helped groups in different cities communicate about strategies. Social media provided a popular platform for expressions of solidarity and a space for conversations and dialogue, including personal stories of economic hardship and political disillusionment. Facebook emerged as the most prominent social networking site. More than 400 unique pages were formed within the first five weeks of the Occupations. Neal Caren and Sarah Gaby assembled staggering statistics: Occupy groups boasted more than 170,000 active Facebook users and registered more than 1.4 million “likes” supporting encampments. By October 22, 2011, more than a million (1,170,626) posts or comments were made on Occupy web pages across the nation.\textsuperscript{35} Other new online sources—such as The Occupied Wall Street Journal, The Occupied Oakland Tribune, The Boston Occupier, Tidal, and the Spanish-language “Indig-Nación”—analyzed the movement’s activities and goals and contested a popular media trope that Occupiers did not have a common set of grievances or a shared ideology. (“What do they stand for?”).\textsuperscript{36} Occupy media allowed viewers directly to watch encampments and protests via “live stream” broadcasting operating independently from traditional television. Overall, Occupy media provided an alternative space for a bottom-up representation.

\textsuperscript{25} Ibid., Ortman, C. to A. Shlossman. 6 Nov. 2011. “Re Occupy Portland.” OWS file.
\textsuperscript{26} Ibid., 16 Nov. 2011. “Re Portland.” OWS files.
\textsuperscript{27} Ibid., C. Ortman to S. Spaulding. 6 Nov. 2011. “Re: Occupy Portland.” OWS file.
\textsuperscript{28} Ibid., 2 Nov. 2011. “Protest at the Port of Oakland.” OWS files.
But was cyberspace a safe space? Extensive electronic surveillance can undermine the Internet’s autonomous communication if subjects believe, or know, they are being monitored. In this sense, surveillance can undermine (“chill”) freedom of expression. It also changes the relationship between people and government, contributing to popular alienation. State surveillance can be used to identify subjects to punish offline in economic or social terms, with harassment, blacklists, and violence. For example, repressive regimes are known to identify dissidents through Facebook, and it appears that the same process occurs in democratic nations, although the punishments may be different. Ironically, the U.S. State Department is committed to a policy of “Internet freedom” to strengthen civil society worldwide. Yet, American Internet users can experience negative results for exercising such freedom.

After 9/11, digital monitoring by U.S. intelligence agencies became a huge endeavor, with surveillance of websites, blogs, and message boards. The DHS program known as “Social Networking/Media Capability” promotes a “situational awareness” to identify popular opinion that “reflects adversely” on the government. Analytical computer software employs hundreds of keywords and search terms to detect controversial


The DHS bulletin lists seven Occupy online sites based in New York City as “resources” for further surveillance. All of these sites were considered “open source” (or public) and did not require a legal warrant for agents to view.

**Occupy Wall Street Website:** News from the NYC protesters.

**AdBusters Occupy Wall Street Website:** Live video and Twitter feeds and other resources.

**Occupy Together Website:** Resources and news for the larger Occupy movement.

**@OccupyWallSt NYC Twitter account:** OWS main Twitter account postings.

**#OccupyWallStreet Twitter tag search results:** One of two main Twitter tags used to discuss the NYC protests.

**#OWS Twitter tag search results:** Second of two main Twitter tags used to discuss the NYC protests.

**#OccupyWallStreet Tumblr account:** Used to disseminate images, news, videos, and other content.

FBI memos from around the nation further expose the online media surveillance. FBI agents from around the nation further expose the online media surveillance. We know the FBI read Occupy Oakland's website and social network postings. In the nation’s capital, the DHS surveilled the Occupy DC website. In Jackson, Mississippi, surveillance by the FBI and bank officials of Occupy sites uncovered plans for a protest on December 7, 2011—the “National Bad Bank Sit-in Day.” Two weeks before the action, the FBI noted: “The group has few followers on their Facebook page.” In Jacksonville, Florida, an FBI agent wrote in mid-October 2011 that the Occupy “movement was spreading through Florida and there were several Facebook pages dedicated to specific chapters based on geographical areas.” In the mid-west, DHS issued a “Daily Intelligence Briefing” on Occupy protests based on online monitoring from nine cities (Chicago, Cincinnati, Columbus, Detroit, Lansing, Ann Arbor, Kalamazoo, Minneapolis, and Madison).46


In Portland, a DHS official sought the names of Occupy organizers to discuss permits for use of Terry Shrum Park. “Can we find out who the organizers are (in this day of twitters and tweets)”? Indeed, Portland law enforcement was all over Occupy’s media usage. One DHS official reported some statistics: “The Twitter is very active for this group with almost 4000. Two Facebook pages are dedicated to this event and are also seeing heavy use.” Another official reported, “Their Facebook page has almost 1,000 ‘likes’ meaning people are following.”

In Phoenix, Arizona, police memos capture the close coordination between different law enforcement entities. For example, the police department continuously monitored Facebook to track conversations. A DHS official asked a city police official in mid-October: “Can you gather intel today from…folks monitoring social media, and any other intel streams and give an update on our potential for ongoing ‘Occupy’ protests this week.”

Phoenix police hired full-time analysts to research Occupy members through social media. The police department regularly supplied the analysts with logs containing the names of citizens who had been issued “warnings,” citations, or who had been arrested by PPD in relation to Occupy Phoenix activities (the majority of arrests being for violations of the city’s “urban camping” ordinance). Also contained in these logs are social security numbers, physical descriptions, driver’s license/state identification numbers and home addresses of citizens who had been given “warnings” in relation to Occupy Phoenix activity...

During 2011/2012 [the analyst’s work] involved the monitoring of social media sites and other online forums—such as Facebook pages and blogs—associated with individuals and organizations involved in Occupy Phoenix. Records indicate that [Brenda] Dowhan would take information collected from these “open source” resources and distribute it immediately to fellow law enforcement/counter terrorism personnel in the form of alerts.

In an internal communication between a police analyst and an FBI agent, the analyst described her work: “Tracking the activities of Occupy
Phoenix is one of my daily responsibilities. My primary role is to look at the social media, websites, and blogs. I just wanted to put it out there so that if you would like me to share with you or you have something to share, we can collaborate.\textsuperscript{53}

The Phoenix police department sought to buy data-mining software to enhance efficiency. Law enforcement had begun to recognize that vast amounts of information on dissent could be collected. One official wrote:

The two Regional Intelligence Analysts ‘surf the net’ & other open sources daily looking for information that may be of help in securing our region, state, & nation. This information is almost unlimited in scope & requires a great deal of time & effort to analyze. The data mining software will free up our analysts from sorting through the vast amount of available information & greatly enhance their efficiency.\textsuperscript{54}

There were high expectations for the new software, which would “troll the Internet, mine text, aggregate data, map relationships between Internet users, and flag patterns of behavior (as well as changes in the attitudes of social media users toward specific issues)—all, apparently, within whatever guidelines are set for it by its user”.\textsuperscript{55} Occupy Phoenix activists apparently were aware of the surveillance. The police analyst observed: “Every site I’ve been on, they know that we are watching them.”\textsuperscript{56}

5. The Police Crackdown

The intelligence community played a central role in encampment crackdowns. As a top Washington DHS official noted on November 14, 2011: “As ‘Occupy’ type protests continue to occur throughout the nation, several law enforcement organizations have undertaken steps to discontinue Occupy encampments within their jurisdictions or are in negotiations with demonstrators to close them down”.\textsuperscript{57} Moreover, DHS worked to conceal their role on advice from the White House, which entailed misleading the media. According to an internal DHS communication:

Why did the U.S. state respond so harshly to Occupy? The movement never directly targeted the state, rarely questioning the legitimacy of the Obama administration. Many Occupiers had voted for Obama and been inspired by his empowerment messaging of “Yes We Can.” One survey found that as many as 40 percent of Occupiers were registered Democrats. However, the movement directly contested corporate power. Wall Street and large financial institutions were framed as the root of injustice, hardship, and inequality in society. The American state long has protected the institutions of capitalism, and, thus, viewed anti-capitalist agitation as a threat to be contained. For example, the study of FBI conduct during the 20th century shows that while the Bureau suggested its main fight was against Communists in America, it also went after most other types of anti-capitalist activity with equal fervor. Regarding the Occupy movement, in numerous cases intelligence and police officials shared information with large financial institutions, especially before protests. In sum, DHS and FBI expressed solidarity with the rich and powerful by sharing intelligence with it.

Just how widespread state surveillance remains against the remnants of the Occupy movement is unclear. After the Occupy encampments dispersed, many protest networks persisted and demonstrators resurfaced on different occasions. And, consequently, the government continued to try to criminalize this protest. In two major cases in 2012, the FBI charged Occupy activists with conspiracy to organize acts of terrorism. One of these cases occurred in Cleveland the day before national May Day protests. FBI informants secretly had infiltrated the Occupy community months earlier and managed to get close to the five defendants—white men in their 20s or 30s identified as “self-proclaimed anarchists.” An informant tape-recorded conversations with these men and provided them incriminating explosives to damage a bridge in Brecksville, Ohio. Several weeks later, the FBI arrested three protesters prior to street protests against the NATO Summit meetings in Chicago. Two FBI informers had befriended the political activists, also identified as anarchists, in prior Occupy protests and steered them into illegal activity. A National Lawyers Guild attorney called the arrests an “effort to frighten people and to diminish the size of demonstrations.”

In addition, in early 2012 the FBI announced it was seeking to develop better social networking surveillance systems. The new capability would “rapidly assemble critical open-source information and intelligence...to quickly vet, identify, and geo-locate breaking events, incidents and emerging threats.” The FBI’s experience spying on the Occupy movement seems to have underscored how important social media has become, and the need for greater monitoring efficiency.

None of the several thousand declassified spy documents I have inspected are dated after 2012. Does this indicate the spying has ended?

The FBI and DHS are empowered under the Freedom of Information Act (FOIA) to withhold records based on a series of national security “exemptions.” So records from 2013 and 2014 might be deliberately concealed. FBI and DHS also can exclude records from consideration for declassification if an investigation is on-going. As a result, it is impossible to know the extent of current surveillance by consulting spy documents alone. In all likelihood, government continues to surveil social media and street protest when it challenges economic inequality and capitalism. A watchful eye is positioned to track dissent; and activists will have to


maneuver amid surveillance as they build movements for social change in the future.

6. Occupying Surveillance

As I have shown, declassified government documents are an essential primary source to reconstruct the state's response to the Occupy movement. These documents establish that intelligence and police officials conducted extensive surveillance across the nation, working both overtly and covertly to track the movement both in the street and in cyberspace.

Surveillance of street protest is predictable considering the long history of political spying in the United States. But the systematic online media surveillance was unprecedented as government devoted broad resources toward monitoring the social movement's Web-based platforms.

In order to justify such spying, the FBI and DHS loosely associated Occupy protest with terrorist activity.

Most Occupy participants probably remain unaware of the high level of official spying directed against them. Additional information about surveillance still must be obtained to build a full knowledge of these official efforts. Toward this end, protestors and their allies need to further advance FOIA activism by making new record requests to DHS, FBI, and city police to uncover spying in every city, town, and suburb with protest formations. Establishing a thick historical record is vital in order to analyze the movement's strengths and limitations. Moreover, the state's response needs to be incorporated into archives. Library archives in the 21st century can help inform how we think about the movement and aid future strategic organizing. Police and intelligence records can add specificity and historical consciousness about what the movement represented to official power and the threat it posed to remake society.

There are ways to limit the effectiveness of government spying. Protestors should seek to "occupy surveillance." A variety of behavioral techniques can undermine the collection of information by government. Subjects of surveillance often find space to maneuver, as Gary Marx notes, since "most surveillance systems have inherent contradictions, ambiguities, gaps, blind spots and limitations, whether structural or cultural, and, if they do not, they are likely to be connected to systems that do".64 The relationship between powerful watchers and the watched is not static, as many human situations provide opportunities for creative rule-breaking and evasion. Marx calls a surveillance occasion a "game" with many different "moves."

A first move is "discovery": determining if state surveillance is present, which may not be difficult to ascertain if police agents make their presence visible. Once surveillance is detected, subjects may seek "avoidance": spaces where surveillance is absent and also maintain a low profile to avoid unwanted suspicion.65 The encryption of electronic communications helps to evade surveillance, as does the use of alternative communication forms that cannot as easily be compromised. Surveillance subjects also may manipulate the surveillance process by acting in ways that do not reflect accurately the reality of a situation.

Spreading disinformation, or using code words, can create instability about the meaning of surveilled communications.

Direct efforts can be made to prevent access to communications under surveillance. Surveillance systems may be made inoperable by taking down websites, immobilizing video monitors, disabling phone lines, or removing electronic tracking devices; wearing masks or veils during political demonstrations to conceal facial identity; altering serial numbers on objects; and presenting false documents. A subject may gain the collusion of poorly motivated surveillance workers to undermine control systems. These operatives may shirk some of their responsibilities or decline to carry out orders if the police had applied coercion to compel collaboration.66

It is the goal of authorities to force acceptance of surveillance by eradicating resistance. But many subjects will resist surveillance either covertly or overtly. Counter-surveillance efforts include taking pictures of police operatives and tape-recording their conversations; collecting demographic and other data on them; and giving police operatives "legal warnings" to cease spying conduct. Surveillance subjects may get support from social movements, including the progressive legal community. In some cases, they may initiate lawsuits against city police or federal law enforcement to contest civil rights violations.

Popular democratic governance of surveillance systems can be advanced if Americans build a social movement against spying. Officials may be forced to alter policies, such as the intelligence community's post-9/11 adherence to a "preventative paradigm" to prevent alleged acts of terrorism. Street protest should not be viewed as dangerous, requiring monitoring. New limits on social media monitoring would help protect the

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65 Ibid., 374.
66 Ibid., 375-380.
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free exchange of ideas in society. At present, very little regulation of government surveillance exists and the American public too often passively accepts surveillance as necessary to achieve security. Overall, the new reality of the surveillance society is sobering, and the tenacity of the American state to protect its practices should not be underestimated.

Yet, critical attitudes toward surveillance recently have developed in response to the revelations made by whistleblower Edward Snowden about global spying by the National Security Agency (NSA). In the future, popular mobilization is needed to control, and limit, the expansive gaze of the state.

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