THE DOMESTIC WAR ON TERROR:

SURVEILLANCE, MEDIA AND POLICE MILITARIZATION AT PROTESTS

by

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President George W. Bush and his administration reacted to the attacks on September 11, 2001 by declaring a "war on terrorism" and enacting policies that expanded executive power, restricted civil liberties, violated civil rights, and increased surveillance powers. These processes can be described as a state of exception (Agamben, 2005; Ericson, 2007; Scheppele, 2004).   During a state of exception, it is believed, or at least proclaimed, that the exceptional nature of the times defies the ability of the normal legal order to cope with the crisis, requiring exceptional and extra-legal measures.

Despite the centrality and indispensability of communication to a state of exception, the role of communication has received little in-depth scholarly analysis. Communication is the process through which the state of exception gains hegemonic and ideological power and the symbolic means through which it is challenged. This dissertation explores the relationship between media and communications and a state of exception by investigating the police militarization at protests, one trend that was accelerated, funded, and justified by appeals to a national emergency and the so-called global war on terrorism.

The case study of the Republican National Convention protests in St. Paul, Minnesota in 2008, a case par excellence of police militarization, shows how police and intelligence agencies used new surveillance laws and new communications technologies to create a narrative of anarchist threat and terrorism. It also describes how police militarization involved pre-emptive raids of media offices, intimidation of media workers, the arrest of journalists, and confiscation of communications and media

equipment. A textual analysis of newspaper coverage of the 2008 RNC protests analyzes how media narratives coincided, questioned, and countered militarized policing and the police narrative, arguing that the mainstream news media, by covering the protests in the way that they did, worked to legitimize and, ultimately, normalize militarized modes of protest policing. This dissertation concludes by discussing the centrality of communication to the legal and political theory of the exception and how appeals to an emergency have functioned to normalize anti-democratic laws, policies, and practices during the war on terror.

CONTENTS

ABRREVIATIONS

ACLU   American Civil Liberties Union

ALEC   American Legislative Exchange Council

Church Committee   United States Select Committee to Study Government
              Operations with Respect to Intelligence Activities

CIA   Central Intelligence Agency

CIFA   Counterinsurgency Field Agency

CMD   Center for Media and Democracy

COINTELPRO   Counter Intelligence Program

DHS   Department of Homeland Security

DOJ   Department of Justice

FBI   Federal Bureau of Information

FISA   Foreign Intelligence Surveillance Act

FOIA   Freedom of Information Act

FTAA   Free Trade Area of the Americas Summit

GTI   Global Terrorist Index

MN-NG   Minnesota National Guard

NSA   National Security Agency

NorthCom   United States Northern Command

OLC   Office of Legal Counsel

OWS	Occupy Wall Street
PATRIOT Act	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2
PNAC	Project for a New American Century
RNC	Republican National Convention
RNCWC	Republican National Convention Welcoming Committee
SPPD	Saint Paul Police Department
WMD	Weapons of Mass Destruction
WOT	Global War on Terrorism or War on Terrorism
WTO	World Trade Organization

Chapter 1

With Us or Against Us: The American context after 9/11

On September 11, 2001, members of extremist group al-Qaeda, led by Osama bin Laden, hijacked four passenger planes and targeted the World Trade Center in New York and targets in Washington D.C. The September 11 attacks (9/11 attacks) were a defining moment in the political, cultural, and legal milieu of the United States (U.S.) and the world. It was the deadliest single attack in U.S. history resulting in the death of close to 3,000 people, which included citizens from 78 countries.   Almost immediately, the attacks were defined within elite U.S. circles as an act of terrorism. The Bush administration declared the U.S. was fighting "global war on terrorism" (WOT), a phrase uncritically adopted by the mainstream media. On September 20, 2001, Bush addressed the country: "Our war on terror begins with Al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been stopped and defeated" (Bush, 2001a).   The designation of a "global war on terrorism by the U.S., United Kingdom (UK), and its allies had wide, sweeping domestic and international policy implications, which continue to the present day.

Public trust in government and social institutions spiked and public approval ratings for the President Bush hit all-time highs after the 9/11 attacks. Virtually every house, car, and business in the country displayed an American flag. Public discourse was animated by the sadness of a national tragedy and the fear of the unknown. The Bush administration propagated rhetoric of war, fear and revenge, claiming that terrorism represented a new type of threat that required new methods of war. Against this backdrop, the Bush Administration pursued radical reinterpretations of international law, steamrolled legislation that eroded fundamental civil protections, greatly expanded executive power, and unilaterally waged a preemptive war. These sweeping anti-democratic changes, justified as meeting the emergency

terrorism created, can be described as a state of exception or, in the U.S. context, a state of emergency (Agamben, 2005; Ericson, 2007; Scheppele, 2006). A state of exception, examined at length in the next chapter, describes the suspension of the rule of law in order to meet the demands of an emergency, which can include economic crises, civil and international wars, natural disasters and social problems. This can involve the suspension of entire constitutions or legal orders or the abridgement of selective international and domestic laws, rights, and freedoms.

U.S. 9/11 Emergency Policy

The Bush administration used emergency appeals to justify the invasion of Afghanistan, which is predicted to last lasted fifteen years, becoming the U.S.'s longest running foreign war, five years longer than the controversial Vietnam War (Taylor, 2014).[1] Justified as an extension of the WOT and the expansion of democracy worldwide, the Bush administration preventatively and pre-emptively invaded Iraq in 2003. In addition to overt warfare, counter-terrorism initiatives included covert wars in Pakistan, Yemen, and Somolia ("Get the Data," 2015), the establishment of highly classified, secret prisons, commonly known as "black sites," across the globe (FAQs, 2015; Priest, 2005; Tate, 2014), and targeted killings by unmanned drones (Masters, 2013). Defense budgets and military spending skyrocketed. Ten years after the 9/11 attacks, total U.S. defense spending adjusted for inflation reached heights not recorded since the World War II, totaling $100 billion over average national defense spending during the Cold War (Korb, Conley, and Rothman, 2011). Additionally, U.S. military spending increased from one-third of world military spending at the end of Bill Clinton's term to one-half by the end of Bush's term in 2008 (Thompson, 2012). The Bush administration opened the Guantanamo Bay Detention Center at the

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[1] This figure does not include U.S. occupations. For example, the U.S. occupation of Haiti was longer than the Afghan war, lasting officially from 1915 until 1934.

U.S. Naval base in Guantanamo Bay, Cuba (GITMO) in 2002 in order to detain the growing number of

terrorist suspects. According to Scott Packard (2013), a former Marine who worked on the base:

> One of the principal advantages to placing the detainees in Guantanamo Bay or a similar location was the legal status that non-U.S. soil provided. If the detainees weren't in the U.S., then they wouldn't have the same rights under American laws, the argument went. Some of these included the right to legal representation, rights of prisoners, and rights to the American legal system. One government official referred to the base as the 'legal equivalent of outer space' (n.p.)

GITMO's existence in "legal out space" translated into prisoners being held on open-ended sentences, in

solitary confinement, without hope of trial or tribunal (Conover, 2015). Shocking photos of prisoners

being tortured in the Abu Ghraib prison west of Baghdad, published by the media in 2004, exposed

prisoner abuse by the Central Intelligence Agency (CIA) and the U.S. military. A 2012 Senate

investigation into CIA torture practices, partially declassified in 2014, listed sleep deprivation, Russian

Roulette, waterboarding, rectal feeding, and solitary confinement among the torture methods ("Senate

Select Committee," 2012). In the forward to the Senate report, Senate Select Committee on Intelligence

Chairman Dianne Feinstein states, "Pressure, fear, and expectation of further terrorist plots do not justify,

temper, or excuse improper actions taken by individuals in the name of national security...It is precisely

at these times of national crisis that our government must be guided by the lessons of our history and

subject to internal and external review" (cited in "Senate Select Committee," 2012, p. 6).

On the domestic front, the Bush administration passed the Uniting and Strengthening America by

Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, known more

concisely as the PATRIOT Act, six weeks after the 9/11 attacks with little public debate and strong

support from both Democrats and Republicans. The PATRIOT Act greatly expanded the government's

domestic surveillance powers and its ability to spy on its citizens, meanwhile reducing oversight and

public accountability ("Surveillance," n.d.).   Some of the most controversial elements of the PATRIOT Act

include the expansion of and authorization for roving wiretaps, information sharing among intelligence

agencies and government, access to records, foreign intelligence wiretap and searches, "sneak and peek"

warrants, which allow authorities to search a home or business without initially notifying the target

(Abramson and Godoy, 2005).   The American Civil Liberties Union (ACLU) identified some of the most

troubling sections of the PATRIOT Act for civil rights:

> Search your home and not even tell you. Collect information about what books you read, what you
> study, your purchases, your medical history, and your personal finances. Label you a 'terrorist' if
> you belong to an activist group. Monitor your emails and watch what Internet sites you visit"
> (ACLU, n.d.).

The American Library Association (ALA) is another outspoken critic of PATRIOT Act. The ALA opposes

the authorization for the government to requests library records and has organized opposition to the bill

and its reauthorizations ("The USA PATRIOT Act," 2015). Many states adopted a state-level version of the

PATRIOT Act. The 2008 Republican National Convention (RNC) in St. Paul, the case study examined in

later chapters, involved the first ever application of the Minnesota version of the act when prosecutors

charged eight protest organizers with "furtherance of terrorism."

The creation of the Department of Homeland Security (DHS) in 2003 was the largest restructuring

of the federal government since the creation of the Department of Defense in 1947, combining 22 existing

government departments with the stated goal of increasing coordination and communication needed for

counterterrorism (Hellman & Kramer, 2013). From the end of 2001 until 2013, the U.S. spent $791

billion on homeland security, almost $300 billion more than was spent on the entire New Deal when

adjusted for inflation (Hellman & Kramer, 2013). One area of policy impacted by the expansion of

homeland security was immigration. The DHS, in coordination with Customs Enforcement (ICE),

expanded the immigration detention program after the 9/11 attacks. In 2001 the number of individuals

who passed through ICE detention per year was 204,459; in 2011 the number per year was a record-

breaking 429, 247 ("The Math of Immigration," 2013). From 2009-2011, more than half of the people

detained had no criminal records and, of those that did, 20% were minor traffic offenses ("The Math of

Immigration," 2013). This immigration detention system created a lucrative market for the private

prison industry, which identified immigration detention as a "growth industry" and invested hefty sums

of money in lobbying efforts (Kirkham, 2011; "The Influence of the Private," 2012). For example, from

1999 to 2009, official federal lobbying records show private prison industries spent over $20 billion

lobbying the House of Representatives, the Senate, and the DHS to expand border militarization and

immigrant criminalization ("The Influence of the Private," 2012).

Description of the Project

As these examples demonstrate, policymakers and private sector interests used the emergency of

terrorism to justify expensive and wide reaching domestic and international policy changes. My interest

in investigating these changes came from observations and political commitments on a personal level. As

a college student, I was outraged by and opposed to many of the state of exception policy initiatives, most

strongly, the pre-emptive and preventative invasion of Iraq for which the Bush administration and the

media provided false and problematic claims. I protested against the invasion of Iraq and, following the

invasion, I continued protesting against the war and occupation. While participating in protests, both as

a protester and a reporter, I noticed that the policing of protests was becoming more and more

repressive and militarized. The number of arrests, including mass arrests, the sheer number of police,

the presence of police in riot gear, the visual presence of armored vehicles and weaponry, and the use of

free speech zones were all on the rise. As a protester, I felt that the police presence was more sinister and

less tolerant of dissent by 2008 than it was in 2002, despite the fact that public support for the president

and the war in Iraq was much higher in 2002. This project grew out of desire to make sense of these

changes—to contextualize the failure of the U.S. media, anti-terrorism law and policy, the repression of

dissent, and police militarization within neoliberal society. As much is possible, I strived to achieve

critical distance, but the project did arise out of specific political commitments, without which this project would have never taken off.

This dissertation investigates two main questions: First, what is role of communication and media in legitimizing, normalizing and challenging a state of exception? This question recognizes that while a state of exception is primarily a legal designation, communications and media are vital for understanding how the legal and political justifications that underpin emergency powers, laws, and actions are shared with the public, legitimized, and, potentially, challenged. Related questions include: What can communication and media studies contribute to literature on the state of exception? What can the theoretical lens of state exception analyze and explain about media and communication after the 9/11 attacks? Second, how did the police militarization, a practice accelerated, funded, and justified by appeals to the WOT emergency, repress the political expression of dissent at mass demonstrations in the United States? In answering this question, this dissertation conducts a case study of the 2008 Republican National Convention in St. Paul, Minnesota. The case study reveals the ways in which communications and media are implicated in the repression of dissent and the ways in which they are be targets of repression. Police militarization is directly tied to the state of exception and, therefore, provides an opportunity to analyze in a specific case the relationship between communication, media and emergency power. The case study and related textual analysis investigate the degree to which police and media narratives were similar. Related questions include: How did emergency appeals function anti-democratically to restrict political expression and protest? How do the media legitimize, normalize, or challenge police militarization at protests and the repression of dissent?

While the 9/11 attacks occurred almost a decade and a half ago, the policing of dissent continues to be shaped by U.S. counter-terrorism policy. The case study explored in this dissertation, the 2008 Republican National Convention, is a recent history that bridges the escalation of police militarization

with subsequent practices that continue to develop. A 2013 investigation into the repression of dissent

by the DBA Press and the Center for Media and Democracy (CMD) shows that the trends identified in this

dissertation continue. The DBA Press/CMD report exposes how U.S. counter-terrorism agencies, funded

and formed in response to the 9/11 attacks, target citizens engaged in political movements and social

dissent, such as the Occupy Wall Street (OWS) movement (Hodia, 2013). The report argues:

> What has resulted [from anti-terrorism policy and surveillance] is the wholesale criminalization of tens of thousands, if not hundreds of thousands, of American citizens who have dared to voice opposition to what is increasingly view as the undue influence of private corporate/financial interests in the functions of government (Hodia, 2013, p. 1).

The issue of police militarization temporally entered the public psyche when a viral video showed

University of California Police Officer John Pike, in full riot gear, shooting a steady stream of orange

pepper spray into the faces of University of California Davis college students during an Occupy protest in

Davis. The viral video reached millions globally and sparked an Internet meme that became known as the

"pepper spray cop" or "the casually pepper spraying everything cop." Another example counter-

terrorism agencies involved in repressing dissent was brought to light in the Black Lives Matter (BLM)

movement. A journalist at *The Intercept* revealed in 2015 that a Federal Bureau of Information (FBI)

Terrorism Task Force (Task Force) had tracked the time and location of a Black Lives Matter protest at

the Mall of Americas in Minneapolis (Fang, 2015b).   David Langfellow, a St. Paul police officer and

member of the Task Force, shared information on the BLM protest with other Task Force members. It is

worth noting Langfellow was the same officer who lead the pre-emptive raid on activists before the 2008

Republican National Convention (RNC) in St. Paul (Fang, 2015b).

This chapter, Chapter 1, "With Us or Against Us: The American context after 9/11," provides broad

political, cultural and social context, with a focus on political expression, dissent, public opinion, and

media behavior to frame the theoretical and empirical chapters that follow. Chapter 2, "Emergency,

Communication & the 'Global War on Terrorism'" provides an overview the theory of a state of exception and uses existing communication research to demonstrate the utility of such an approach for understanding a state of exception and vice versa. Chapter 3, "The Militarization of Protest Policing," investigates the history and processes of police militarization, specifically focusing on the policing of protests. The chapter traces changes in policing styles at mass demonstrations, with a focus on media and communication technologies, arguing that processes of militarization, justified under counter-terrorism, result in the repression of political expression and dissent. The next chapter, Chapter 4, "The Militarization of Protest Policing at the 2008 Republican National Convention: Impact on Media and Use of New Communication Technologies," is a case study of the 2008 RNC that analyzes the repression of the protests and the police narrative about the protests with special attention the role of media and communications. The availability of internal police, intelligence agency, and private sector surveillance documents through lawsuits, independent investigations, and Freedom of Information Act requests provided a unique and rare opportunity to those organizations shared and talked about the protests. Chapter 5, "The Anarchists are Coming! A Textual Analysis of Newspaper Coverage of the 2008 RNC Protests," investigates how media coverage of militarized protest policing normalizes, legitimizes, and challenges the processes of police militarization. The textual analysis is used to compare the media narrative to the police narrative, determining to what degree the narratives converged. The last chapter, "Resistance in the Age of Neoliberalism: The Normalization of Militarized Protest Policing," concludes by analyzing the significance of a state of emergency under neoliberalism for free expression, dissent, and media practice, answering: What is lost when the militarization of protest becomes the new normal? Where is there resistance? What are the challenges?

Clash of Civilizations

This chapter turns to the cultural, political, and legal context that followed the 9/11 attacks and the state of exception. The clash of civilizations frame came to dominate explanations, causes, and motivations behind the attacks in mainstream U.S. political and media discourse. This framing reinforced military intervention as the appropriate response and marginalized historical and geopolitical explanations. Under the clash of civilizations framing, the U.S. represents civilization, democracy, culture, progressive society, and the future, while the attackers and their respective cultures represent backwardness, evilness, and destruction. The clash of civilizations thesis was laid out in the highly influential article by Samuel P. Huntington published in 1993. In it, Huntington claims that post-Soviet global conflict will arise out of culture, as opposed to ideological or economic issues. In his 1993 article "The Clash of Civilizations?," Huntington (1993) writes:

> Civilization identity will be increasingly important in the future, and the world will be shaped in large measure by the interactions among seven or eight major civilizations. These include Western, Confucian, Japanese, Islamic, Hindu, Slavic-Orthodox, Latin American, and possibly African civilization. The most important conflicts of the future will occur along the cultural fault lines separating these civilizations from one another (p. 24).

Huntington's argument that cultural divides will be the key driving force behind global conflicts lent itself well to those advocating for military intervention in the majority Muslim countries of Afghanistan and the Middle East. Not long after Huntington published his paper in *Foreign Affairs*, scholars in the fields of history, political science, anthropology, and sociology began critiquing his fundamental claims and assumption, including his Darwinian fear of the "other," his holistic and essential definition of culture, his historically inaccurate claims about state power, and his lack of knowledge about the Middle East (Abrahamian, 2003). In an October 4, 2001 article in *The Nation*, Edward Said, the prominent intellectual and Columbia University professor, criticized the use of the clash of civilization thesis to frame the September 11th attacks. Said argued that framing of September 11th attacks as a battle of good vs. evil,

fear vs. freedom, and civilized vs. uncivilized cultures did little to address global interdependency and cultural plurality (Said, 2001). What the clash of civilization thesis did was produce a "clash of ignorance" (Said, 2001, n.p.). Said (2001) concludes, "'The Clash of Civilizations' thesis is a gimmick like 'The War of the Worlds,' better for reinforcing defensive self-pride than for critical understanding of the bewildering interdependence of our time" (n.p.).

Immediately after the attacks, Bush described the attacks as an act of war pursued by an evil enemy driven by a hatred of freedom (Entman, 2003). In Bush's speech on September 20, 2001 to Congress, he states, "On September 11th, enemies of freedom committed acts of war against our country." He continues, "Americans are asking, why do they hate us? They hate what they see right here in this chamber—a democratically elected government. Their leaders are self-appointed. They hate our freedoms—our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other" (Bush, 2001a). What is under attack is the very fabric of civilization and humanity itself. A month and a half later in Atlanta on November 8, 2001, Bush (2001c) declared, "We waged a war to save civilization itself. We did not seek it, but we will fight it and we will prevail." It was also common for the Bush administration to appeal to good versus evil. In the same November 8th speech, Bush said of Osama bin Laden in November of 2001: "This is an evil man that we're dealing with, and I wouldn't put it past him to develop evil weapons to try and harm civilization as we know it." Comments by international leaders repeat this sentiment—linking the attacks to freedom and civilization. Russian President Vladimir Putin called the attacks a "blatant attack on humanity" (Putin, cited in Tucker, 2014, p. 334). German Chancellor Gerhard Schroder described the attacks as "not only attacks on the people of the United States, our friends in America, but also against the entire civilized world, against our own freedom, our own values" (Schroder, cited in Tucker, 2014, p. 334).

The same explanations for the attacks echoed throughout U.S. media.   Television networks

suspended entertainment programming and advertising for days in order to cover the attacks, which

were described in HBO's *In Memoriam* as the "most documented event in history" (Kellner, 2004). During

this time, top news networks featured government officials and national security intellectuals who

framed the attacks within the tropes of "good versus evil," "the clash of civilizations," and "fear and

freedom" (Kellner, 2003b; Kellner, 2004). Ervand Abrahamian (2002) found that mainstream media,

including elite publications like the *New York Times*, the *Wall Street Journal*, and the *Atlantic Monthly*,

consistently framed the attacks within the context of Islam, jihad, and a clash of civilizations. Douglas

Kellner (2003), in his analysis of these tropes in media coverage of the attacks, argues:

> The images and discourses of the television networks framed the terrorist attacks to whip up war
> hysteria, while failing to provide a coherent account of what happened, why it happened, and what
> would count as responsible responses…the 'clash of civilizations' model, established a binary
> opposition between Islamic terrorism and civilization, and largely circulated war fever and
> retaliatory feelings and discourses that called for and supported a form of military intervention (p.
> 89).

Prominent members of the American academy also followed suit. John Lewis Gaddis, Cold War historian

and Yale professor, argued that terrorism was rooted in a lack of freedom, which justified regime change

in the Middle East (Abrahamian, 2003). Bernard Lewis, Professor Emeritus at Princeton University, an

outspoken advocate of the invasion of Iraq, as evidenced in his September 27, 2002 pro-war op-ed in the

Wall Street Journal "Time for Toppling," exerted influence over war hawks like Vice President Dick

Cheney and reinforced their commitment to war (Dower, 2010). Bush foreign policy advisor Brent

Scowcroft quoted Lewis as saying, "I believe one of the things you've got to do to Arabs is hit them

between the eyes with a big stick. They respect power" (Scowcroft cited in Dower, 2010, p. 135).   Lewis

is credited with coining the term 'clash of civilizations.'

The Bush administration's belief that "you are with us or against us" was tied to the clash of

civilizations explanation. It left no room for grey area—the world was black and white: You either

support the Bush administration and U.S. policy or you support terrorism. In Bush's national address on September 11, 2001, he proclaimed that the U.S. was involved in a "war against terrorism" in which no distinction would be made "between the terrorists who committed these acts and those who harbor them" (Bush, 2001c). Later, in November of 2001, he delivered the famous line—"you are either with us or against us"—declaring that any country that remained neutral or inactive in the WOT would be equated to an enemy of the U.S. Senator John McCain, who would go on to be the 2008 Republican Party presidential nominee, spoke to Congress just days after the attacks and warned, "I say to our enemies, we are coming. God may show you mercy. We will not" (McCain cited in Dewar, 2001). This aggressive and reactionary sentiment was widely shared among political officials and the public. A week after the attacks, a record number of Americans agreed that the U.S. should "get even" with any country that tries to take advantage of it (Pew Research 2007). In late 2001, 77% of Americans polled said they would support the assassination of known terrorists and 52% said they would support the assassination of leaders from countries that harbored known terrorists (Pew Research Center, 2008). As Said (2001) and Kellner (2003, 2004) contend, the Bush administration and media's dominant framing did little to interrogate the complex histories underlying the terrorist attacks and instead fed into impassioned caricatures of the West vs. Islam tied and urgent cries for military intervention. The clash of civilizations framing problematically asserted the primacy and superiority of American values, evaded reflection on critiques of Western power, and failed to explore geopolitical complexities, such as Cold War history, in explaining the 9/11 attacks.

<div align="center">**Terrorism and Novelty**</div>

The Bush administration and defenders of its policy used the new threat of terrorism—what Bush called a "new paradigm"—to justify the need for extraordinary and exceptional legal and political measures. In a White House memo from February 7, 2002, Bush (2005) wrote:

The war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of States. Our Nation recognizes that this new paradigm- ushered in not by us, but by terrorists- requires a new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva (p. 134-135).

A White House's "National Security Strategy of the United States of America," published in September 2002, outlined the U.S. new military policy and drew directly from the neoconservative think tank, Project for a New American Century (PNAC). The report asserted, "The struggle from terrorism is different from any other war in our history. It will be fought on many fronts against a particularly elusive enemy over an extended period of time." (p. 5). Tony Blair (2004) made a similar claim in a March 5, 2004 speech, in which he used the new and uncertain nature of the terrorist threat to defend Britain's terrorism measures and involvement in the Iraq War. Blair (2004) states:

Everything about our world is changing: its economy, its technology, its culture, its way of living…The threat we face is not conventional. It is a challenge of a different nature from anything the world has faced before. It is to the world's security, what globalization is to the world's economy.

Defining the terrorist threat and the 9/11 attacks as ushering in a new paradigm with no historical precedent defined the post-9/11 world as exceptional. It defined the WOT, the threat of terrorism, and the U.S. military and policy response as exceptional and incapable of being captured or restrained by laws designed to structure previous conflicts.

The Bush administration was not alone in defining the 9/11 attacks and terrorism as a new type of threat. Defending Bush's policy of preemptive invasion, professors Richard Shultz and Andreas Vogt (2003) define post-9/11 terrorism as characteristic of "fourth generation warfare." Under this new paradigm of warfare "fourth generation warriors" are unconventional and decentralized, utilize network-based communications, and blur the lines between military and civilians (Shultz & Vogt, 2003). They are not constrained by law or international conventions and pursue unlimited violence against powerful nations in order to demoralize governments and populations (Shultz & Vogt, 2003). Law professor

Stephen Holmes (2008), a critic of Bush administration policies, similarly describes the 9/11 form of terrorism. For Holmes, post-9/11 terrorism is characterized by non-state based actors operating in a highly decentralized network with access to the technological means of destruction and violence unavailable to previous enemies of the U.S. state. Holmes (2008) describes the problems that this form of terrorism presents for assessing risks and the success of government policies:

> It is very difficult for Congress, the public and press…to evaluate the executive's claims about the changing gravity of the threat or about our success or failure in the conflict. If truth be told, it is very difficult for the executive to evaluate its own claims accurately in this respect. This imperviousness to evaluation, both external and in-house, has always characterized threat assessment of the wartime executive to some extent, but it presents a greater problem in the war on terror than in any previous armed struggle of comparable gravity (p. 214).

These descriptions highlight that while differences exist about what distinguishes contemporary terrorism from previous forms, the idea that there is something inextricably new about terrorism shared by critics and supporters of U.S. WOT policy alike.

Defining Terrorism

Like all politically and historically contested terms, there is no singular, widely accepted definition of terrorism and the act of defining remains controversial (Lowe, 2006). The problem with defining terrorism is evidenced in the impasse the United Nations (UN) has had in getting all member states to agree on a definition of terrorism. To this day, the UN still does not have an approved definition of terrorism. One main controversy deals with the morality of terrorism—whether it is an immoral act aimed at indiscriminate killing or whether it is a moral response by marginalized and less powerful actors for self-determination against and in response to acts of violence from more powerful and institutionalized state-based actors (Lowe, 2006; Acharya, 2009). Therefore, it is common for state actors and their supporters who feel threated to use the terms "terrorism" and "terrorist" to describe their adversary (Archarya, 2009). Government and counter-terrorism scholar Boaz Ganor (2002) explains this phenomenon: "One man's terrorist is another man's freedom fighter" (p. 287). Another

dispute in defining terrorism deals with the distinction between terrorism and guerrilla warfare. Ganor (2002) argues that while the aims of the two types of warfare may be the same, the target population is different: Terrorism targets civilians, whereas guerrilla warfare targets military.

The debate over what constitutes terrorism and the diversity of definitions has material implications. International policy Professor Upendra Acharya (2009) charges that the failure of the international community, specifically the U.N., to come up with an accepted definition contributed to the lawlessness of both the United States and non-state actors leading up to and following 9/11. While defining terrorism is difficult and contested, for the purposes of this dissertation a working definition will suffice. In their textbook *Global Terrorism*, James and Brenda Lutz (2004) define terrorism as "involving political objectives, violence or threat of violence, a target audience, an organization, the involvement of non-state actors, and an effort to increase the power of the terrorist group" (p. 21). A similar definition of terrorism comes from the Global Terrorist Index (GTI), a project of the Institute for Economics & Peace. The GTI is a comprehensive study of global terrorism, including its trajectory, shape, and implications, such as lives lost, injuries, property damage, and psychological effects. According to the GTI, terrorism is "the threatened or actual use of illegal force and violence by a non-state actor to attain a political, economic, religious or social goal through fear, coercion or intimidation" (Institute for Economics & Peace, 2014, p. 6). These definitions of terrorism provide a basic framework for understanding what is commonly understood as terrorism while avoiding the assignment of morality to one side or the other. However, by including "non-state actors," such definitions exclude the types of state-based terrorism that groups labeled as "terrorist" typically accuse their targets of perpetuating.

Terrorism in historical context

Terrorism is a not a threat unique to the current epoch as the global history of terrorism stretches back millennia (Lutz & Lutz, 2004); nor is terrorism unique to the U.S. context. During differing historic

and political conditions, groups in Yugoslavia, Rwanda, Palestine, Israel, Japan, Northern Ireland, Algeria, India, Indonesia, and the former Soviet Union, among many others, have been the targets of terrorism (Lutz & Lutz, 2004). Addtionally, while the attacks on the U.S. on September 11, 2001 were the single most deadly attack in history, violence related to terrorism has resulted in cumulative death rates in other countries just as high as the 9/11 attacks. In fact, one such example happened on the same day as the 9/11 attacks, only 28 years earlier, on September 11, 1973. Known as the "other September 11th," despite the fact it predated the U.S. 9/11, on September 11, 1973, the democratically elected President of Chile Salvador Allende was overthrown in coup that began fifteen years of a military dictatorship under Augusto Pinochet (Friedman, 2014). The U.S. Central Intelligence Agency (CIA) later admitted that it had known about the coup before it happened. A CIA statement published in 2000 confessed, "because [the] CIA did not discourage the takeover and had sought to instigate a coup in 1970—[the CIA] probably appeared to condone it [the coup of 1973]" (CIA, 2000). During the reign of Pinochet over 40,000 people were held as political prisoners and subject to torture ("Chile recognizes," 2011).   The official count of people killed or disappeared stands at 3,065 ("Chile recognizes," 2011).

While the question of the novelty of the terrorist threat is relevant to this discussion, the main issue is the way in which the argument of novelty was used to legitimize U.S. WOT policy. The claim that terrorism represents a new threat because it is not tied to a nation-state, relies on nondiscriminatory violence directed at large populations, and is the tool of less powerful actors organized in loose international networks with access to the means of mass destruction, has been useful for states wishing to abandon rule of law, suspend civil liberties, and expand executive power in their pursuit of terror suspects. The basis of the argument is that contemporary changes represent a radical break with previous traditions, laws, and practices (Kurtulus, 2011; Morgan, 2004). But such a rationale also lends

justification to over-broad definitions of enemies of the state, thereby legitimizing a wide net of repression.

Preemption and Unilateralism

One major facet of the U.S. policy response to the 9/11 attacks and the WOT was the invasion of Afghanistan in 2001 and the pre-emptive and preventative invasion of Iraq in 2003. Ten years after the 9/11 attacks, U.S. Congress had approved $1.3 trillion dollars for military spending in Iraq and Afghanistan and to strengthen security on U.S. military bases (Greenemeier, 2011). That figure is projected to reach between $4 and $6 trillion when accounting for the medical care and compensation benefits paid to veterans and their families over the next forty years (Blimes, 2013). The Bush administration justified the invasions by mobilizing fears of terrorism and the non-American other and claiming the wars would spread the American values of freedom, democracy, and capitalism. Bush administration lawyers used the alleged novelty of the terrorist threat to argue that pre-existing national and international laws did not and could not apply. One of the most infamous examples is the Office of Legal Counsel (OLC) memos that sought to justify the non-applicability of Geneva Convention protections against torture in the detainment of Al Qaeda suspects. These developments are part of what became known as "the Bush Doctrine."

The roots of the Bush Doctrine emerged at the end of the Cold War during the presidency of George Herbert Walker Bush and through the work of neoconservatives such as Paul Wolfowitz, Dick Cheney and PNAC (Harvey, 2003). The Project for a New American Century (PNAC) is a neoconservative think tank that promoted a U.S. military strategy they believed would extend and secure U.S. world domination (Kagan, Schmitt, and Donnelley, 2000). Neoconservatives are distinguished from their conservative predecessors, according to Wendy Brown (2006), by "the open affirmation of moralized state power in the domestic and international sphere" (p. 697). Brown (2006) continues, "It

[neoconservatism] identifies the state, including law, with the task of setting the moral-religious compass for society, and indeed for the world. This endorsement of state power, and attribution of moral authority to the state, is at odds with liberalism in every sense of the word" (p. 697). Drawing on this infusion of morality, neoconservatives universalize the values of American freedom, democracy, private property, and individualism and aim to instill the values throughout every country in the world (Harvey, 2003).

In addition to casting America as the moral compass of the world, neoconservatives advocate for global U.S. military dominance freed of restrictive multilateral agreements and predicated on a theory of pre-emptive military action (Calabrese, 2005; Harvey, 2003; Kagan et al., 2000). Neoconservatives believe that these changes in military strategy are necessary for securing global military dominance. David Harvey (2003) summarizes the aims of PNAC as follows: "The US reserves the right to go it alone if necessary with overwhelming military firepower. It overtly claims the right of the pre-emptive strike to head off nuclear, biological, or chemical attacks, to protect access to strategic raw materials (such as oil), and protect against terrorist attacks or threats (such as economic strangulation" (p. 80). The PNAC states, in oft-cited passage from "Rebuilding America's Defenses," a policy document outlining its strategy, the process of transformation to total global American military dominance would "likely to be a long one, absent some catastrophic and catalyzing event—like a new Pearl Harbor" (Kagan et al., 2000, p. 51). The 9/11 attacks provided exactly the type of catastrophic and catalyzing event the PNAC and neoconservatives argued would create the necessary conditions for their radical restructuring of military strategy and geopolitics. The 9/11 attacks did become "another Pearl Harbor" in that it was an event used to legitimize fundamental shifts in methods of governance that privileged rule by coercion, repression of dissent, economies of war, deepening private-public agendas integration and influence, and mass surveillance.

When the Bush Administration initiated their unilateral, pre-emptive invasion of Iraq in March 2003 over 72% of the public supported the Bush Administrations decision to go to war (Pew Research Center, 2008). And during the first month of the war, the Pew Research Center found that 88% of the public thought that the Iraq War was going very to fairly well; only 7% believed that the war not too well or not well at all (Pew Research Center, 2008). The majority of the Americans supported the invasion decision despite the lack of support from the U.N., the cost the war posed to the U.S. economy, the likelihood an invasion would increase the risk of another terrorist attack, the multiple large-scale antiwar demonstrations in major U.S. and international cities, the failure of the U.N. to find evidence of weapons of mass destruction (WMD) in Iraq, and the potential for substantial U.S. and Iraqi casualties (Gershkoff and Kushner, 2005). A 2003 study conducted by the Program on International Policy (PIPA) at the University of Maryland and the Knowledge Network found that a significant number of Americans had misconceptions about the war (Kull, Ramsay & Lewis, 2003). Additionally, the greater number of misconceptions people had, the higher their support for the war (Kull et al., 2003). The most common misconceptions included the existence of evidence linking al-Qaeda and Iraq (believed by 48%), that WMD had been found in Iraq (22%), and that world public opinion supported a U.S. invasion. Overall, 60% of those polled believed one of the misconceptions. When the researchers investigated news use, they found that 80% of people who listed *Fox News* as their primary news source believed at least one misconception, the most for any single source. Additionally, the more attention to *Fox News* people paid, the more likely they were to believe multiple misconceptions. People whose primary source of news was print news, National Public Radio (NPR) or the Public Broadcast System (PBS) were the least likely to believe misconceptions. What the study suggests is that misconceptions about the situation in Iraq, leading up to and following the invasion, were exasperated by public attention to television news

programming and most likely contributed to public support for the invasion. But what is the source of

these misconceptions?

The Center for Public Integrity, a non-profit investigative journalism group based in D.C., found

that in the two years following the 9/11 attacks, Bush and seven top officials, including Vice President

Dick Cheney, National Security Advisor Condoleezza Rice, and Defense Secretary Donald Rumsfeld, made

at least 935 false statements about the security threat posed by Iraq (Lewis and Reading-Smith, 2008).

Analyzing speeches, briefings, interviews, and testimony, the research team found that Bush and his top

advisors "stated unequivocally" on 532 separate occasions that Iraq posed or was trying to produce or

procure WMD and that Iraq and Al Qaeda were linked (Lewis and Reading-Smith, 2008). In February, the

month before the U.S. invasion of Iraq, the number of false statements made by the Bush Administration

concerning the situation in Iraq reached an all time high (Lewis and Reading-Smith, 2008). An analysis of

presidential speeches and public opinion polls leading up to and following the March 2003 invasion

found that Bush's rhetorical linking of Iraq, Al Qaeda, and the September 11th attacks through a common

"war on terror" frame was responsible for the spike in public support for the war (Gershoff and Kushner,

2005).

As the authors of the Center for Public Integrity study state, "It is now beyond dispute that Iraq did

not possess any weapons of mass destruction or have meaningful ties to Al Qaeda. This was the

conclusion of numerous bipartisan government investigations including those by the Senate Select

Committee on Intelligence (2004 and 2006), the 9/11 Commission, and the multinational Iraq Survey

Group" (Lewis and Reading Smith, 2008, n.p.). From the beginning of the invasion of Iraq through the end

of the year, most polls show public support for the invasion of the Iraq gradually declining. However,

with the capture of Saddam Hussein in December 2003, public support for the invasion spiked, but failed

to reach initial levels (Pew Research Center, 2008). Opinion concerning how well the war was going also

spiked following the capture, but dropped to the lowest levels since the invasion following the exposure of U.S. military torture practices at Abu Ghraib prison in Iraq.

This leads to another key facet of U.S. foreign policy after the 9/11 attacks—the establishment of the U.S. Guantanamo Bay detention center in Cuba and various "black sites," or secret CIA prisons across the world including places such as Thailand, Afghanistan, Eastern Europe, and perhaps other places. In these prisons, the U.S. military and its contractors detained and, in many documented cases, tortured terrorist suspects ("Illegal detentions," 2015; Yemeni describes, 2008). The Bush administration argued that the "unlawful combatant" designation assigned to Al-Qaeda suspects fell outside Geneva protections. Thus, Bush can argue that his policy is "consistent with the principles of Geneva." Responding to the 2014 Senate Intelligence Committee's report on the CIA's interrogation and detention program, former Vice President Dick Cheney stated, "Remember, the terrorists were not covered by the Geneva Convention" (Cheney cited in Jacobson, 2014). Cheney repeats the rationale of the Bush administration lawyers used to justify waterboarding, near drowning, non-stop interrogation, and forced rectal feedings (Harris, 2014). The justifications provided for preemptive war and torture tap into the PNAC and Bush Doctrine's strategy of unilateral "go at it alone" military strategy. As the previously described, moral appeals claiming that America was defending the values of freedom and democracy against an uncivilized, freedom-hating, evil enemy buttressed the unilateral, preemptive military strategy.

The Post-attack Rally

The Bush Doctrine and the U.S.'s post-9/11 policy initiatives received little criticism in elite U.S. political circles in the initial weeks following the attacks, which made it possible for the Bush administration to pass legislation with bi-partisan support. Another factor that contributed to the ease with which the Bush administration pursued the state of exception was overwhelming support and approval of the public. This section explores the "rally around the flag" phenomenon, which seeks to

describe how an international crisis can trigger a surge in patriotism and public support for the president and his administration. In John Mueller's 1973 book *War, Presidents, and Public Opinion*, he defines the presidential rally effect as "being associated with an event which (1) is international (2) involves the United States and the president directly; and…(3) specific, dramatic, and sharply focused" (Mueller, cited in Hetherington and Nelson, 2003, p. 37). Many of the events researchers have identified as triggering a rally effect, such as major military advancements in ongoing wars and international summits, have also been shown to have the reverse effect, contributing to a decrease in public approval for presidential job performance (Hetherington and Nelson, 2003). For example, while meeting the rally around the flag criteria, the Reagan Administration's backing of the Contras in Nicaragua, part of the Administration's support for anti-communist "freedom fighters" worldwide, failed to result in rallies of public opinion (Hetherington and Nelson, 2003).   Despite this variance, the reactions of the American public to the attacks on September 11, 2001 serve as an example par excellence of the rally effect.

To analyze a rally effect, it is first necessary to examine the president's public opinion ratings preceding the rally event. In the first few weeks of a president's first term, known as the "honeymoon period," the public has little new evaluative information to judge presidential job performance (Hetherington and Nelson, 2003). One reason for the lack of information is that the media provides little coverage of the early success or failure of presidential programs, focusing instead on issues of personality and the First Family (Hetherington and Nelson, 2003). Another reason public approval is high is that those who voted for the president initially approve of the president's performance, while those who voted against the president either reserve judgment or disapprove (Hetherington and Nelson, 2003).

During the first week of his term, Bush received an approval rating of 48%, which was roughly equal to the percent of the popular vote he received (Brody, 2002). Historically, this is a trend typical of other U.S. presidents (Brody, 2002). However, political scientist and public opinion expert Richard Brody

(2002) observes, Bush's early approval ratings were unexpectedly high considering the contested

legitimacy of his victory, his failure to win the popular vote, and his subsequent election as a result of the

Supreme Court case. If you ignore those who remained undecided about Bush and included only those

who either approved or disapproved, Bush received 70% to 75% performance approval during his first

seven weeks in office. This rating comprised Bush's "honeymoon period."

Bush's approval rating sustained its first hit when he submitted his budget to Congress in March

(Brody, 2002). Alongside massive federal expenditures in defense, the Bush administration instituted a

series of tax cuts beginning in 2001. The tax cuts drove up federal budget deficits, increased economic

inequality, and produced exponential accumulation among the wealthy (Goldfarb, 2013). According to a

Congressional Research Service report, "Analysis of…data suggests the reduction in the top tax rates have

had little association with saving, investment, or productivity growth. However, the top tax rate

reductions appear to be associated with the increasing concentration of income at the top of the income

distribution" (Hungerford, 2012, n.p.). During the first wave of Bush tax cuts Bush, people with annual

incomes over one million dollars receive a tax cut of $18,000. From 2006 to 2007, personal bankruptcy

soared to 60% and Bush bankruptcy reforms, passed the previous year, made it more difficult for

individuals to declare bankruptcy while benefiting lending firms (Stiglitz, 2007). Another major policy

initiative that helped corporate interests, the Medicare Act of 2003, made it against the law for the

government to negotiate for lower prices on prescriptions between pharmaceutical companies and the

private companies that provide the Medicare drug benefits, resulting in benefits that varied by state

(Pear, 2007). Bush's approval continued to decline through 2001 as economic concerns mounted.

The week before the attacks, most polls recorded Bush's overall approval rating as between 50%

and 55% ("President Bush," n.d.). A massive outpouring of public support for President Bush

immediately following the attacks resulted in record career and historical job performance highs

(Hetherington and Nelson, 2003).   This marked the largest and longest rally in polling opinion history

for a president quickly losing favor among the American public (Hetherington and Nelson, 2003). For

example, the spike in Bush's rating following the attacks was the largest rally in the history of the Gallup

Poll, with ratings rising thirty-nine percentage points in two weeks (Jones, Newport & Saad, 2009). Two

weeks after the attacks, Bush received his highest rating, 86% approval, in the Pew Research Center for

the People and the Press's poll (2008). In a Gallup poll, Bush's approval peaked at 90% approval on

September 21, 2001 ("Presidental Approval," n.d.a.). According to Gallup, Bush's peak approval rating

was the highest ever recorded for a U.S. president since Gallup began administering the poll during

Franklin D. Roosevelt's term ("Presidental Approval," n.d.b.).

The Pearl Harbor attacks, the only previous foreign attack on U.S. soil, quickly became a point of

historical reference for the September 11th attacks in popular culture and the media. Despite the

obvious similarities between the incidents—both were surprise attacks on U.S. soil that resulted in the

loss of thousands of lives and united the majority of the country behind a common, foreign enemy—

Bush's rally was three times that of Franklin D. Roosevelt (FDR), the president at the time of the Pearl

Harbor attacks (Baum, 2002). Scholars scrambled to identify the underlying causes of the sharp spike in

support. One researcher found that the Bush's rating was much lower than FDR's leading up to the rally

event (Baum, 2002). Since Bush's pre-attack approval rating was the third lowest of post-WWII

presidents at the same point in their term, so there was plenty of room for the public to rally in support of

the president. Another study attributed the rally to the historical specificity of the attacks, such as the

degree of mass terror the attacks sought to incite, the televised nature of the attacks, and impact of the

attack on all Americans (Schubert, Stewart and Curren, 2002). The same group of researchers conducted

an experiment that began hours after the attacks. They concluded that Bush's speech to the nation on

9/11 before a television audience of 23 million, explained the unprecedented rally (Schubert et al., 2002).

However, they note, Bush's speech "was neither by rhetorical nor oratory merits nor by media comment, a great speech" (Schubert et al., 2002, p. 580). In general, most Americans were supportive of the president and approved of the actions he was taking as the appropriate steps.

Leading up to September 11th, a Gallup poll found that public satisfaction with "the way things are going in the United States" had fallen from near-record highs (Jones et al., 2009). At the end of Bill Clinton's term, public satisfaction was at a near-record high but had fallen in early 2001 as a result of mounting economic concerns (Jones et al., 2009). However, the 9/11 attacks triggered a dramatic rise in public satisfaction with the state of affairs in the U.S., which shot to 70% in December 2001 (Jones et al., 2009). Mirroring the high public approval ratings for the president and the general state of affairs in the U.S., the Gallup public approval rating for Congress peaked at a historic 84% in October 2001 (Jones et al., 2009). As for trust in government, Gallup polls revealed that in late 2001, 60% of people polled trusted government in Washington to always or most always do what is right, an all-time high for the Gallup measure ("Trust in Government," n.d.). During that same time, 39% of people polled believed that the government could only be trusted some of the time or not at all, an all-time low ("Trust in Government," n.d.).

Studying Bush's post-9/11 rally effect, Cindy Kam and Jennifer Ramos (2008) argue that social identity is useful in understanding the surge and decline in the president and government's approval ratings. Social identity describes how people identify themselves and others as being included or excluded from particular social categories, such as occupation, class, race, gender, and political affiliation (Stets and Burke, 2000). In times of international crisis, such as the September 11th attacks, partisan identity becomes less important, and people are more likely to think of themselves as a part of a unified, national "we." As national identity includes patriotism and identification with national symbols, like the flag and the president, the increase in Bush's approval rating can be linked to his status as a national

symbol. Another factor impacting the rally around the flag effect is the degree to which elite opinion includes criticism or dissent (Brody and Shapiro, 1989). Since there was little elite criticism or opposition to the Bush administration and its policy initiatives following the attacks, this could partially explain the historic rally effect.

Accompanying spikes in public approval of the government, the Pew Research Center reported all-time highs for public perception of the media, journalism values, and news organizations ("Terror coverage boosts," 2001). During the days and weeks after the attacks, television news was the main source of information for most Americans (Greenberg, Hofschire & Lachlan, 2002; Stempel and Hargrove, 2002). Mainstream news media matched public sentiment with an outpouring of patriotism and allegiance to American government and institutions ("Return to Normalcy," 2002). Douglas Kellner (2003b) argues, "The images and discourses of the television networks framed the terrorist attacks to whip up war hysteria, while failing to provide a coherent account of what happened, why it happened, and what would count as responsible responses…the 'clash of civilizations' model, established a binary dualism between Islamic terrorism and civilization, and largely circulated war fever and retaliatory feelings and discourses that called for and supported a form of military intervention" (p. 98). What this suggests is that while public trust in the media was at an all time high, the press were reinforcing ahistorical, racist interpretations of the attacks that advocated for military intervention and war. These surveys indicate that most Americans reacted to the attacks and the subsequent events with an increased faith and support for U.S. government officials and institutions. This surge of support for the Bush Administration and government institutions, however, was short-lived. By the time Bush left office in 2008, only 22% of the public approved of his job performance over his 8-year term, the lowest rating ever received in the 70-year history of the Gallup poll ("Bush's Final Approval," 2009).

The War at Home

The U.S. policy response to the 9/11 attacks included the invasion of two sovereign nations and the establishment of secret detention center and prisons where torture was routinely used, as described above. These policies, part of the Bush Doctrine, received little criticism in elite political circles, the mainstream media, and from the public. The WOT also included radical changes to U.S. domestic law and policy. While the next chapter explores the legal changes in greater detail, this section outlines the increase in discrimination against people perceived to be of Middle Eastern descent, the repression and suppression of dissent, and a renewed commitment to capitalist consumption as a method of demonstrating patriotism in the U.S.

Consuming Patriotism

Former U.S. Secretary of Labor Robert Reich coined the term "market patriotism" to describe post-9/11 perspective that citizens should "demonstrate our resolve to the rest of the world by investing and consuming as much as we did before, preferably more" (Reich, 2001). Expanding on the concept of market patriotism, Sociologist Dave Whyte (2007) states, "Market patriotism is fundamentally premised on the idea that the 'general' or 'national' interest is best secured when governments act (or should act) on behalf of capital" (p. 120). Market patriotism melds the general, national threat of a terrorist attack to the unfettered accumulation of capital, obfuscating critiques of unequal and unjust wealth distribution (Whyte, 2007).

In the case of the September 11 attacks, messages from both the Bush Administration and Bin Laden suggested the 9/11 attacks aimed to directly target the American economy and neoliberal capitalism (Whyte, 2007). The president and other elites encouraged market patriotism by urging Americans to shop, invest (or at least not sell), and spend. On the first day Wall Street opened after the attacks, Vice-President Cheney asserted, "I would hope the American people would, in effect, stick their

thumb in the eye of the terrorists and say they've got great confidence in the country, great confidence in our economy, and not let what's happened here in any way throw off their normal level of economic activity" (Cheney, cited in Purdum, 2001). Two weeks after the attacks President Bush declared, "One of the great goals of this nation's war is…to tell the traveling public, get on onboard, do your business around the country, fly and enjoy America's great destination spots. Go down to Disney World in Florida, take your families and enjoy life the way we want it to be enjoyed" (Bush, cited in "Paul Pressler," 2001). British Prime Minister Tony Blair declared, "People in this country (U.K.) ask what they should do at a time like this. The answer is that they should go about their daily lives: to work, to travel, to shop" (Blair, cited in Vardy and Wattie, 2001). New York Mayor Rudolf Giuliani called New Yorkers "the best shoppers in the world" and asked them to return to NYC restaurants, shows, and shops (Giuliani, cited in Vardy and Wattie, 2001). Local Florida officials declared the weekend of September 28th "Freedom Weekend," encouraging South Florida residents to patronize shops, restaurants, resorts, and hotels in order to boost Florida's shrinking tourist economy (Cazares, 2001). This perspective maintained neoliberalism and capitalism as a site of continued struggle in the WOT (Whyte, 2007).

Advertisers and retailers were quick to get on the market patriotism bandwagon as products and advertising taglines incorporated images and appeals to American patriotism. Eight days after the attacks, General Motors (GM) unveiled its new "Keep America Rolling" campaign, which offered free financing for up to five years (Meredith, 2001). Craig Eppling, a GM spokesman, was quoted as saying, "The president said we've got to keep the economy going, so we are trying to spur sales. We want people to get away from the TV and back to buying" (Eppling, cited in Gerhart, 2001). Escada, a luxury fashion line, premiered a "Stars and Stripes" collection featuring "a mix of wit and charm, accented with rhinestones and sequins- what the American woman uses to make her dreams of freedom come true" (Escada, cited in Gerhart, 2001). After September 11, 2001, sales of American flags and American flag

related merchandise, such as car magnets, garden flags, and lapel pins, experienced a sharp rise. Annin and Co., one of the nation's largest and oldest flag manufacturers, produced over 50,000 American flags in the week following the attacks, ten times its normal weekly production ("9/11: 45 questions," 2002).

The linking of consumption, patriotism and citizenship is not a new phenomenon. Similar efforts existed during the Progressive Era, World War I, the Great Depression, the New Deal, and World War II. During World War I, advertising campaigns recast traditional Protestant and agrarian values of service, thrift, and utility as consumer values, transferring the source of the values from individuals to goods (Brasted, 2004). In Lizabeth Cohen's (2003) book *Consumer's Republic*, she explains how mass consumption and citizenship were linked after WWII in a way that transformed American political, cultural and social life. According to Cohen (2003), the new post-war ideal was manifest in the "purchaser as citizen" for whom "personal material wants actually served the national interest, since economic recovery after a decade and a half of depression and war depended on a dynamic mass consumption economy" (p. 8). The historical novelty lay in the combination of two types of citizens—the citizen consumer, who reorganized personal consumption for the general good, and the purchaser consumer, who pursued personal gains for private pleasure. However, the universal promises of social equality, economic stability, and freedom of the post-WWII consumption drive failed to materialize and instead resulted in the development of new methods of segregation and discrimination.

While the messages encouraging people to shop after the 9/11 attacks drew on this history, they had a unique spin. What distinguishes the linking of consumption and patriotism during the WOT from previous practice is, according to Whyte (2007), its abandonment of liberalism's promises of universal prosperity, universal representation, and universal freedom. Market patriotism claims it is the patriotic duty of the American public to support the capitalist system in order to fight terrorism and prevent future attacks. Under this ideology, public consumption promises to financially help corporations that

claim they were weakened by the terrorist attacks, and, therefore, demonstrate American's faith in capitalism as a counterweight to terrorism. Gone are the associated claims that market patriotism will create wealth and prosperity for everyone or that it will work towards social equality. Freedom, then, is understood primarily as the freedom of markets and capital accumulation.

Discrimination against Muslims

There was an increase in discrimination, racial profiling, and violence against individuals perceived to be Muslim or of Middle Eastern descent. The most intense period of violence against Arab Americans occured in the nine weeks after the 9/11 attacks when there were over 600 hate crimes reported (Caught in the Crossfire, n.d.; Ibish, 2003). The U.S. Equal Employment Opportunity Commission recorded a 250% increase in religious-based workplace discrimination against individuals perceived to be Muslim (What You Know Should Know, n.d). In study by Wahiba M. Abu-Ras and Zulema E. Suarez (2009) investigating the impact on New York Muslims, the majority of the Muslim participants reported feeling safe from discrimination before 9/11. However, after the attacks many of the participants reported verbal assaults, workplace discrimination, unprovoked government interrogation, and physical attacks.

Domestic counterterrorism policies also disproportionately impacted Muslims. Immigration sweeps targeting "persons of interest" frequently apprehended Muslims, many of whom were detained, abused, and deported, even though many of them were cleared of any links to terrorism (Bernstein, 2006; "New ACLU Report," 2004). For example, Tareq Abu Fayad came to the U.S. in 2007 on a valid immigrant visa in hopes of being reunited with his family (Ahmed and Akbar, 2011). Upon arriving in San Francisco, he was denied entry into the U.S. because customs found Al-Jazeera news articles and a film about a 9/11 conspiracy on his computer (Ahmed and Akbar, 2011). While he had committed no crime, he was deported because the government believed the media they found on his computer was evidence he would

most likely engage in terrorism activity in the future (Ahmed and Akbar, 2011). This is clear example of preemptive deportation.

Dissent in the academy

One space in which dissent came under attack after the 9/11 attacks was in academia. In contrast to mainstream political and media discourse, the discussion of alternative definitions of and explanations for the 9/11 attacks was taking place in some universities. However, precisely because some academics allowed exploration of alternatives, academic freedom came under attack. According to Edward Carvalho and David Downing (2010) editors of the book *Academic Freedom in the Post-9/11 Era*, "Essentially, 9/11 provided a rationale for the intensification of American exceptionalism, whereby government and academic administrations could justify anti-democratic intrusions into scholarly research and teaching practices." As with many of the changes post-9/11, the attack on academic freedom, which is historically variable and a product of continual struggle, was an extension and intensification of trends that were already under way.

One high profile case involved Ward Churchill, a former University of Colorado Boulder professor whose research investigated the historic relationships between Native Americans, dissent, and the U.S. government. In a 2001 essay titled "Some People Push Back: On the Justice of Roosting Chickens," Churchill claimed that one of the causes of the attacks was the violent and oppressive history of U.S. foreign policy. Churchill wrote the article in 2001, but it wasn't until 2005 that it was thrust into the media spotlight. What became the central focus of the debated was a statement in which Churchill called the victims of the 9/11 attacks "Little Eichmanns," a term drawn from Nazi Germany used to describe the complicity of bureaucrats in violent regimes (Churchill, 2001). Sensational media coverage of the "Little Eichmann" comment failed to engage with Churchill's sociopolitical argument explaining the 9/11 attacks (King and DeYoung, 2008). At the height of the controversy, the University of Colorado ordered an

investigation into Churchill for research misconduct, of which he was found guilty, fired and stripped of tenure in 2007. [2]

The suppression of dissent also occurred in other spheres. For example, the Dixie Chicks, a three-member female modern country band, who won the Grammy in 2003 for Best Country album, was censured for expressing dissident political views. A few months after winning the Grammy, singer Natalie Maines spoke out against the war in Iraq and criticized Bush during a concert in London (Mitchell, 2013). Country stations across the United States pulled the Dixie Chicks from playlists, stations fired DJs for playing their songs, the band lost Lipton as a sponsor, the Red Cross revoked a million dollar deal, and the band received hundreds of death threats (Trigger, 2013). In another case, a man was arrested at a mall in Albany, New York for refusing to remove a T-shirt with the slogan "Peace On Earth, Give Peace a Chance" ("Man arrested," 2003). According to the man's account, he and his son had made the shirts that day at a store in the mall ("Man arrested," 2003). This example demonstrates how private ownership creates spaces exempt from the democratic freedom of speech.

The right to protest

The censure of political expression and dissent at protests, which is the subject of later chapters, was another dimension of domestic WOT policies. After the 9/11 attacks, New York City banned all protest marches citing a lack of resources (Chang, 2002). The use of speech zones, areas designated for protest often out of site of the event, which were widely used on U.S. campuses in the 1960s and 1970s, was expanded and became a normal feature of controlling dissent during political conventions and transnational summits. Surveillance of groups for political activity also increased—with reports of police

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[2] While he was found guilty of research misconduct, the politicized nature of his firing lies in the fact the Univeristy's investigation was a direct outcome of his "Little Eichman" comment.

spying on political activities in Colorado and campus police aiding the Federal Bureau of Information (FBI) in spying on professors and students in Massachusetts (ACLU, 2003).

The rights of dissent and protest are rooted democratic theory. The ability of citizens to express dissatisfaction with their government or society is thought to be a right worth protecting and is tied to the ideals of the public sphere. According to American Civil Liberties Union (ACLU) advocate Christopher Dunn (2005), "The right to protest plays an important role in free and democratic societies, providing individuals and groups with an important opportunity to influence government action through means other than the electoral process" (p. 328).   The right to protest requires, according to legal scholar Cass Sunstein (2003), not only freedom from censorship, but also the creation and maintenance of space in which people can engage in dissent without intimidation. Democracy requires a space where people can come together as equals and engage in debate over definitions and practices of citizenship, publics, politics, matters of common concern, and public space.

However, while the U.S. theoretically supports dissent and protest, history has shown that when powerful elites identify dissent as a legitimate threat to the status quo, the legal and social practices of repression and control emerge to regulate it. Examples include the Alien and Sedition Act of 1798, the Espionage Act of 1917, the Smith Act of 1940, the House Un-American Activities Committee, the FBI's counterintelligence COINTELPRO, and the 2002 USA PATRIOT Act. Occurring within states of exception, such as World War I and the Cold War, these laws targeted and criminalized specific portions of the population based on race, religion, nationality, ethnicity, and associations. Of course, public attitudes toward civil liberties change over time as demonstrated by empirical research. For example, researchers found that most Americans during the 1950s and 1960s were unwilling to extend procedural rights (citizenship, free speech, etc.) to communists, atheists, and socialists (Stouffer, 1955). While public tolerance of left-wing groups was found to increase during the 1960s and 1970s, tolerance of right-wing

groups such as the Klu Klux Klan decreased (Sullivan and Hendriks, 2009). Following the attacks on 9/11, public perceptions of threat increased, which correlated with decreased support for civil liberties and support for legislation, like the PATRIOT Act, which sought to limit civil liberties in pursuit of terrorism. A Pew Research study, conducted days after the attacks, found that fifty-five percent (55%) of respondents agreed that it would be necessary to limit civil liberties in order to curb terrorism, up from twenty-nine percent (29%) in 1997 ("American Psyche," 2001). Additionally, public polls reveal that many Americans were unwilling to extend procedural rights to Muslim Americans (Sullivan and Hendriks, 2009). These statistics show how the public tends to support rights in the abstract, but can be unwilling to extend the rights they value for themselves to groups they perceive as a risk.

While high levels of public trust in government coincided with support for restricted civil liberties after 9/11, as time wore on public trust in government plummeted to levels far below pre-9/11 levels ("Public Trust," 2010). Along with a decreasing trust in government, an increasing percent of the public polled believed that the government was wrong in violating civil liberties in pursuing the war on terror. For example in June 2002, a Gallup poll showed that sixty (60%) of people polled thought the Bush administration had been about right in restricting people's civil liberties in order to fight terrorism and twenty-five (25%) believed the administration had not gone far enough ("Public Trust," 2010). However, by 2006, the same poll shows that a smaller percent of people polled thought that the administration was right (34%) or had not gone far enough (19%) in restricting civil liberties, while forty-one percent (41%) believed the administration had gone too far, up from eleven percent (11%) in 2002. Another poll from CNN/USA Today/Gallup reported a marked decrease the percentage of people that believed the government should take all steps necessary to prevent the next attack even if it would violate their basic civil liberties from 2002 to 2005 ("Terrorism," 2005). By 2008, a CBS News/New York Times poll

reported that half of respondents were concerned that the government would enact new anti-terrorism laws that would excessively restrict the average person's civil liberties ("Terrorism," 2005).

In 1998, Donnatella Della Porta and Herbert Reiter (1998) wrote that over the previous decade, public opinion in western democracies had become more tolerant of protest activities and more critical of coercive police actions. They argued that police had responded to public opinion by toning down repressive measures in an effort to maintain legitimacy. However, as the protests against neoliberal capitalism in Seattle (1999), Philadelphia (2000), Gothenburg, Sweden (2001), Genoa, Italy (2000), Cancún, Mexico (2003), Boston (2004), Gleneagles, UK (2005), and London (2009) indicate, instead of receding, police repression of protest has escalated. For example, Carlo Giuliani, a 23-year old, was shot in the head by police forces in Genoa, Italy while protesting outside the 2001 Group of Eight (G8) Summit. During the 2003 Free Trade Area of the Americas (FTAA) summit in Miami, 10,000 protesters were greeted by a militarized police force of 2,500 from 40 different jurisdictions in full riot gear armed with batons, rubber and plastic bullets, tear gas, pepper spray, concussion grenades, electric tasers, electric shields and tanks (Klein, 2003; Scahill, 2003; Solidarity, n.d.). Control tactics in Miami, which has become the norm for protest policing, included embedded journalists, preemptive arrests, agent provocateurs, media scare tactics, the revoking of march permits, the creation of new laws, the erection of "free speech zones," the shutting down of public transportation, and the evacuation of downtown areas.

In summary, the dominant culture climate in the U.S. following the 9/11 attacks was characterized by patriotic fervor, high levels of public support for the Bush administration and government institutions, low tolerance for dissent, repression of protests, and discrimination and violence against Muslims. As time wore on, public opinion about the president and the need to restrict civil liberties began to change. However, while the public became more tolerant of dissent, the repression of protest continued. One reason why the repression of protests continued even when the legitimacy of the WOT as a justification

for repression diminished was that the protests continued to pose a threat to neoliberalism, which is the focus of the next section.

Neoconservatism and neoliberalism

This section explores the political rationalities of neoliberalism and neoconservativism, which shaped U.S. WOT policy domestically and abroad during the Bush administration. According to David Harvey (2005), neoliberalism's primary objective "is the establishment of and respect for order, both internally and upon the world stage. This implies strong leadership at the top and unwavering loyalty at the base, coupled with the construction of a hierarchy of power that is both clear and secure" (p. 190). The neoconservatives got their start near the end of the Cold War just before the Soviet Union fell, espousing the need to create an America-dominated world through the use of military domination (Dorrien, 2013). Bush's cabinet was well stocked with key neoconservatives, including Vice President Dick Cheney, Defense Secretary Donald Rumsfeld, and Deputy Secretary of Defense Paul Wolfowitz, Elliot Abrams, I. Lewis "Scooter" Libby, and Richard Perle among others, who pushed for an invasion of Iraq (Dorrien, 2013). Neoconservatism was manifest in the Bush Doctrine's foreign policy stance, the moral description of the WOT good vs. evil, and the fierce patriotism on the domestic front. Gary Dorrien (2013) describes Bush's decision to overthrow Iraq as "rooted historically and ideologically in the neo-imperial ambitions of the neocons" (n.p.).

Neoliberalism began to take root during the rightward shift of American party politics in the 1960s and was inspired by the philosophy of Fredrick Hayek (Brinkley, 2011). His most controversial and influential book, *The Road to Serfdom*, published in 1944, propelled arguments concerning the contradictions between democracy and statism into political and public discourse (Brinkley, 2011). Hayek argued that state regulation was tantamount to totalitarianism, restricting the free flow of capital and individual liberty. Hayek and his neoliberal philosophy represented a shift away from regulation

towards a religious belief in the ability of the market to insure individual liberty. This philosophy was influential because it drew on the deep-seated traditions of republicanism, populism, and Jeffersonian anti-statism that liberalism had done little to eliminate (Brinkley, 2011).

The institutionalization of neoliberalism, beginning in the 1970s, entailed, according to Harvey (2003), the "belief that free markets in both commodities and capital contain all that is necessary to deliver freedom and well-being to all and sundry" (p. 201). Evidence of the predominance of faith in the virtues of the free market is the wave of deregulations since the 1970s. In addition to reaffirming the free market, the language of deregulation redefined consumer rights' claims. According to Lizabeth Cohen (2004), "Regulation, once a prime consumerist strategy for coercing private corporations into upholding the public interest, became viewed as stifling growth and penalizing consumers through its tendency to create expensive bureaucracy and suppress healthy competition. Consumers would see lower prices and more product choice, it was argued, if firms had greater flexibility in a freer marketplace" (p. 390). Under this interpretation of consumers' rights, democracy would play out in the marketplace, enshrined in the ability of citizens to choose between a variety of products— consumers could exert and enact their citizenship at the register.

While it had deeper historical roots, neoliberalism began attaining hegemony during the 1970s and was characterized by and related to the abandonment of the gold standard, deregulation of global trade and finance restrictions, New York's emergence, through deregulation, as the center of the global economy, an assault on labor and union power, the emergence of a vast, unorganized proletariat throughout the Global South and Asia, technological advancements in manufacturing, flexible manufacturing and just-in-time production models, the expansion of global capitalism, and violent structural adjustments linked to U.S. dominated World Bank and International Monetary Fund, that required the protection and promotion of property rights over social welfare (Harvey, 2003; Hursh and

Martina, 2003). An example of Bush's neoliberal policies is the No Child Left Behind Act (NCLB), which, along with the charter schools and voucher programs, instituted federal standardized testing and introduced a market system into the public school system. (Hursh and Martina, 2003). The market system in public education is exemplified in how if a school is considered "failing" by NCBA standards, students can enroll in a successful school in their district, creating competition between schools and a consumer choice model.

Neoliberal policies have effectively increased the disparity between the rich and poor and increased the political power of corporations at the expense of average citizen.   According to Janice Peck (2008), "the interconnected economic, political, and ideological practices of neoliberalism have produced a transformation of the role of government; a marked upward redistribution of class alliances to support, maintain and legitimize a social environment of deepening inequality" (p. 7). A 2012 report by the Congressional Research Service reported that the Bush tax cuts contributed significantly to growing economic inequality, making income distribution in the U.S. the most unequal of all industrialized nations (Levine, 2012). The report argued that the American belief that everyone has an equal chance for upward mobility as long as they work hard, which supports a distain for economic redistribution policies, is exaggerated, concealing the relative immobility for most people (Levine, 2012). The Bush administration and post-9/11 drew on rationalities in ways that increased privatization, militarization, and inequality. The significance of neoconservatism and neoliberalism for understanding post-9/11 policy, the state of exception, police militarization, and communications is developed more fully in the coming chapters.

Conclusion

This chapter has outlined the general political and cultural climate in the U.S. following the 9/11 attacks, providing political and cultural context for the period under examination. It also examined the

politics of and problems with defining terrorism. In summary, the period following the 9/11 attacks in the U.S. was a time of high public support for the president, his policies, and social institutions. Popular leaders and the mainstream media framed the attacks as a clash of civilizations and identified the motivation for the attacks as a hatred of freedom, which bolstered calls for military intervention. New laws increased government surveillance powers and reduced protections for political expression and privacy. Americans were encouraged to demonstrate their patriotism by shopping, traveling and general consumption. Violence and discrimination against Muslims and people perceived to be of Middle Eastern decent spiked. Preemption and unilateral action defined U.S. foreign policy and shaped the U.S.-led invasions of Afghanistan and Iraq. Captured by the spirit of fear and patriotism, the U.S. press failed to evaluate critically the claims the Bush administration provided to justify the invasions of Afghanistan and Iraq.   And tolerance for dissent decreased alongside the increasing repression of protesters at the hands of a militarized police force.

Chapter 2

Exception, Communication & the 'Global War on Terrorism'

The loosening, and in some cases, abandonment of the rule of law, civil liberties, and human rights during the so-called war on terrorism (WOT) was central to the expansion of executive powers in the United States (U.S.). In limiting rights and freedoms as executive power expanded, the processes of exception involved discrimination and repression. They were not just an unfortunate outcome of national security and executive power decisions—they were central to the process. Political leaders, legal theorists, and political philosophers describe these processes as part of a "state of exception," which is often discussed under "emergency powers" or "national security" in the U.S. context (Agamben, 2005; Ericson, 2007; Scheppele, 2004). During a state of exception, it is believed, or at least proclaimed, that the exceptional nature of the times defies the ability of the normal legal order to cope with the crisis, requiring exceptional and extra-legal measures. Historically, the suspension of rule of law, civil rights, and human rights protections have intensified alongside processes of criminalization, repression, and oppression, targeting already marginalized populations based on perceived religion, race, ethnicity, citizenship or immigration status, country of origin, socio-economic status, and political affiliation. Additionally, the more powerful a group, the greater ability to decide when, to whom, and under what conditions the rules and exceptions apply—indeed much scholarship has been dedicated to analyzing who, in particular historical contexts, has had the power to decide if a state of exception or normalcy exists.

Despite the centrality and indispensability of communication to a state of exception, the role of communication has received little in-depth scholarly analysis. Communication is the process through which the state of exception gains hegemonic and ideological power and the symbolic means through which it is challenged. Under the WOT banner, changes in surveillance law, such as the PATRIOT ACT, the

Foreign Intelligence Surveillance Act (FISA), and violations of the law, such as warrantless wiretapping, paved the way for the development of communication technologies for surveillance. Communication is involved in restrictions on press freedoms, such as routine denial of Freedom of Information Act requests or the arrest of media workers at protests, and media self-censorship. In turn, media and cultural industries play a critical role in legitimizing and normalizing the legal framework of the war on terror. Therefore, this chapter explores the theory of a state of exception in order to contextualize and understand the complex role of communication, which will serve as the theoretical groundwork for subsequent chapters.

This chapter argues that the use of the terms "exception" or "emergency" by those in power functions to define the crisis or threat in a way that legitimizes the use of anti-democratic governing. It also argues that communication and media play a central role in defining events as exceptional, legitimizing emergency actions as necessary, and normalizing emergency policies. This dissertation is not concerned specifically with arguments of whether or not state of exception policies after September 11, 2001 represent novel exceptions (Agamben, 2005; Scheppele, 2006), a return or expansion of previous practices (Lyons, 2002), or the normal functioning of government with a renewed legitimation (Neocleous, 2006), though those are incredibly important questions and debates that have animated and will continue to animate legal and political histories. Instead, this dissertation focuses on how the WOT became defined as exceptional and how this definitions, in turn functioned to regulate exercise of political freedoms, like freedom of the press, speech, and expression. This question taps into how states of exception are perceived as legitimate, defined here broadly as whether or not a political authority is accepted by participants (Fabienne, 2014), and how they are normalized, in the sense set the bounds of what is acceptable and unacceptable and common-sense or "just the way things are."

This chapter analyzes the theory of state of exception with special attention to the work of Carl Schmitt, to which most contemporary scholarship on the exception responds. Schmitt uses the word German word *Ausnahmenzustand* to describe the exception, which translates from German martial law to "state of emergency" (Thomas, 2014). After presenting theories of the state of exception, this chapter examines the history of emergency powers in the United States and responds to critiques of the exception. The chapter concludes by using empirical research in the field of communications to demonstrate how communication is crucial in elaborating how states of exception produced and perceived as legitimate.

States of Exception

A state of exception describes a political condition and the related political processes enacted and justified in response to a declared emergency. Proponents of a state of emergency argue that the threat of the emergency requires action that exceeds the capacity of normal law and governance. According to legal scholar Kim Lane Scheppele (2004), "The state of exception uses justifications that only work *in extremis*, when the state is facing a challenge so severe that it must violate its own principles to save itself" (p. 1004). Historically, emergencies have been declared in response to economic crises, civil disorder, war, natural disasters, and other perceived security and safety threats, and, in the case of September 11th, terrorism.

History of the exception

States of exception have historically included the expansion of executive power, the suspension of civil liberties, an increased pervasiveness of surveillance technologies and suspicion of others, the profiling and criminalization of particular groups based on categories of race, class, ethnicity, and religion, increased investment in military force and saturation of militarization throughout culture, and the cultivation of a culture of fear. States of exception have underwritten the dismantling institutions of

and protections for civil liberties, human rights, liberal governance, rule of law, and democratic politics, creating states that exacerbate inequalities. Emergency powers, once granted for a specific purpose or context, are easily expanded to govern a wide range of political, economic, social, and cultural activities not directly related to the initially stated necessity. For example, emergency law and policy intended to prevent terrorism are used to govern a wide range of perceived "deviant" behaviors, including protest and dissent. Legitimized as temporary measures necessary to save the existing political order, once in place, exceptional policies threaten to become part of normal governing.

The history of a state of emergency or exception, as it has alternatively been called, extends back to the origins of complex political societies. Aristotle's *Politics*, which outlines how an elected dictator can maintain domestic order white fighting off outside threats, is one of the earliest theories of rule by exception (Scheppele, 2004). In the U.S., the exercise of emergency power is traced to the Founding Fathers, who drew on the work of classical political theorists and English philosopher John Locke, who believed that there existed "emergencies" which exceeded the capacity of law or legislative power, giving broad discretion to the executive to advance the "public good" (Relyea, 2001). The first federal national emergency declaration was George Washington's 1794 declaration summoning military action to suppress the Whiskey Rebellion (Agamben, 2005). During the Civil War, President Abraham Lincoln's use of executive power in suspending civil liberties and allegedly suspending the Constitution, led political theorist Carl Schmitt to describe him as the perfect example of a commissarial dictatorship, where the executive suspends the political order in order to save it (Thomas, 2014).

The modern exception

Despite these early, yet significant examples that established the basis for emergency power in the U.S., many scholars identify World War I and the presidency of Woodrow Wilson as beginning of the

modern exercise of emergency power and of the shift toward increasing power concentration in the

executive branch (Agamben, 2005; Relyea, 2005; Scheppele, 2006).   Agamben (2005) states:

> It is...necessary to specify that instead of ignoring Congress, as Lincoln had done, Wilson preferred each time to have the powers in question delegated to him by Congress. In this regard, his practice of government is closer to the one that would prevail in Europe in the same years, or to the current one, which is instead of declaring the state of exception prefers to have exceptional laws issued (p. 21).

By seeking the consent of Congress, Wilson's method of suspending the law and expanding presidential

power provided a veneer of legality necessary for political legitimacy. What distinguishes post-WWI

models of emergency powers in the U.S. and Europe from previous processes is the nature of its

production: Laws are reinterpreted, suspended, and changed through legal means rather than an outright

suspension of the legal order.

Since 1933, when President Franklin D. Roosevelt declared a state of emergency tied to the

economic crisis, the United States government has operated under some formal federal emergency

declaration (Korte, 2014). Subsequent emergencies included the Korean War and the Iranian hostage

crisis.   George W. Bush and his administration declared thirteen emergencies, all of which, with the

exception of one, were still in effect in 2014 (Korte, 2014). In total, fifty-two emergencies were declared

from 1972-2014, thirty are still active with the oldest dating to President Jimmy Carter's 1979 state of

emergency to deal with the Iranian hostage crisis (Korte, 2014).

The only substantial reversal of the trend towards the increased use of emergency powers and

expansion of executive power occurred in the 1970s with the United States Select Committee to Study

Government Operations with Respect to Intelligence Activities, known as the "Church Committee"

(Relyea, 2001). Activists, dissidents, and civil rights advocates exposed evidence, which they provided to

the press, documenting the FBI's Counterintelligence Program, known as COINTELPRO, which had

targeted civil rights and political groups, such as Martin Luther King, Jr., the Black Panther Party, the

American Indian Movement, the Socialist Workers Party, Students for a Democratic Society, and the

Weatherman, among others (Churchill and Vander Wall, 2002). Not only was the FBI investigating these

groups, but they were also making efforts to delegitimize and disempower them (Churchill and Vander

Wall, 2002). Growing awareness of these activities, along with the Watergate scandal, contributed to

public and political pressure for an investigation into the legality of government surveillance and

intelligence-gathering activities, which culminated in the creation of the Church Committee. Some of the

abuses the Church Committee exposed included the FBI's attempt to get Martin Luther King Jr. to commit

suicide, the CIA's use of the Mafia to try and assassinate Fidel Castro, and the National Security Agency's

(NSA) investigation of anti-Vietnam War protesters and civil rights activists (Schwarz, 2014). Church

Committee investigations led to the creation of two committees in each house of Congress and the

Foreign Intelligence Surveillance Act (FISA) court to act as check on government secrecy, surveillance

and intelligence gathering (Schwarz, 2014). Passed in 1972, the National Emergencies Act requires

emergencies to cite a legal basis for the emergency, outline the powers that would be invoked and renew

the emergency every year (Korte, 2014).

Ten months after the 9/11 attacks, the FISA court issued the "Raw Take" order, which remains

classified, but was described in documents leaked by Edward Snowden as weakening restrictions

governing the collection and sharing of information on private citizens (Savage and Poitras, 2014).

According to interviews conducted by *New York Times* journalists, "Intelligence officers consider [the

ruling] a milestone in the secret history of American spying and privacy law" (Savage and Poitras, 2014,

n.p.). The warrantless wiretapping that Bush authorized in 2001 violated FISA law and demonstrated the

exact kind of government behavior FISA was meant to prevent. Bush signed the FISA Amendments Act of

2008, which sought to retroactively legalize the surveillance he has previously authorized (Greenwald,

2013). Interestingly, the Church Committee was blamed by public figures—including the *Wall Street*

Journal's editorial page, former Secretary of State James Baker on *ABC News,* and author Tom Clancy on the *O'Reilly Factor*— for causing the massive intelligence failure leading up to the 9/11 attacks (Mooney, 2001).

Novelty and the 9/11 emergency

During the 9/11 emergency, the Bush administration and other key public figures repeatedly stressed the exceptional and unprecedented nature of the threat posed by terrorism, arguing that the threat constituted a state of emergency. According to Law Professor Harold Bruff (2009), "The term 'emergency' was everywhere heard, often to introduce discussion of what responses the Constitution might allow" (p. 126). The initial legal definition of the attacks as constituting a national emergency occurred in Bush's (2001b) September 14, 2001 Declaration of National Emergency by Reason of Certain Terrorist Attacks (Proclamation No. 7463), where he declared that the national emergency had existed since September 11, 2001 "by reason of the terrorist attacks at the World Trade Center…Pentagon, and the continuing and immediate threat of further attacks on the United States." On September 23, 2001 Bush issued his second national emergency declaration, implementing the International Emergency Economic Powers Act (IEEPA), which sought to prohibit and regulate international financial and property exchanges with foreign countries or nations linked to terrorist groups (Relyea, 2001).

Contemporary interest the state of exception emerged as a result of the translation of works by influential German political theorist Carl Schmitt and as a way of making sense of U.S. policy following the September 11, 2001 attacks. Georgio Agamben's retheorization of Schmitt's work has contributed significantly to the spike in research and interest on the theory of the state of exception. One reason for its popularity is its utility in analyzing some of the most important and controversial aspects of U.S. policy during the WOT (Thomas, 2014). Describing the usefulness of Schmitt's theory of a state of exception in analyzing U.S. policy post-9/11, legal scholar Brook Thomas (2014) states, "Neoconservatives can turn to

him for powerful intellectual justification of Bush administration policies. Leftists can use him to expose how liberal, pluralistic democracy's pretensions to rule by law are built on the foundation of the sovereign's exceptional use of force" (p. 239). Still others use the state of emergency to demonstrate how, contrary to the claim of liberal governments, rule by exception is the normal way liberal democracies rule oppressed and marginalized people (Morton, 2013; Neocleous, 2006).

This dissertation combines these approaches: First, it argues that the Bush Administration turned to emergency powers and the threat of terrorism in order to legitimize the acceleration of changes that were underway before the 9/11 attacks—changes that restricted dissent, expanded executive power, and transferred power from government to the private sector for the provision of social services. Second, for marginalized and oppressed populations, rule by exception is the norm. For these groups, the claims of liberal democracy to rule of law and universalism contradict the injustices and inequalities in their lived experiences. The ideological work of liberalism, which conceals the injustices and inequalities it produces, is most powerful for those in privileged positions. Third, while a state of exception is capable of exposing the true foundation of state power in liberal democracies and exposing the reality of marginalized and oppressed people, it is also capable of delegitimizing the foundation of claims for equality and inclusion by marginalized groups, as will be discussed below. This dissertation relies primarily Schmitt's theory of the exception; however it is through the popularity of Agamben and his work that I was led to Schmitt. I focused on the work of Schmitt because his theory of the exception was developed as a critique of liberalism, which also explains the rise of interest in his work. Engaging with Schmitt allows interrogation of the tensions between a state of exception, liberalism, neoliberalism, and democracy. Schmitt's critique of liberalism was more relevant to my thesis than some of the more esoteric and metaphysical strands in Agamben's thought.

Carl Schmitt and The Exception

Carl Schmitt, a German political theorist and philosopher, widely known as the "crown jurist of the Third Reich" for his anti-liberal and anti-democratic writings that provided legal structure and justification for the Nazi Party, contributed significantly to the theory of the exception (Frye, 1966). Schmitt's exception describes a form of rule characterized by unlimited executive power, amorphous law, and arbitrary power legitimized as an attempt to save the democratic order (Agamben, 2005). Schmitt emphasized the juristic primacy of the exception and believed that the institution of a state of exception would render all pre-existing norms irrelevant as there could be no legal framework that could anticipate, regulate or function during an emergency (Schuereman, 1994). According to Schmitt (1985), "What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order. In such a situation it is clear that the state remains, whereas law recedes" (p. 13). Schmitt believed that the exception or emergency clause, allowing an executive to temporarily suspend legal norms and democratic governing processes, would give a sovereign the unrestricted powers necessary to save the existing political order from its enemies (Schmitt, 1985).

George Schwab (1989) first introduced Schmitt's work to the English-speaking world, arguing that Schmitt's theory of emergency powers addressed a void in liberal thinking. According to Schwab (1989), political liberalism did not have an adequate theory of the exercise of power during emergencies and, therefore, needed a theory of the exception and an emergency powers clause, such as the one included in the Weimer Constitution under Article 48 (Schwab, 1989). The Weimer Constitution's emergency provision stated that in "exceptional times the president must not be hindered in his exercise of power. To restrict freedom of action would hamper the president in his attempts to eliminate crisis" (Weimer Constitution, cited by Schwab, 1989, p. 41). Schmitt interpreted the contribution of his theory of the exception in similar terms, arguing that his theory corrected liberalism's privileging of discussion, debate,

and the "marketplace of ideas" and its refusal to identifying political adversaries as enemies. For Schmitt, parliamentary debate and rule of law were to slow to meet the demands of an emergency, which he believed required swift, decisionism on the part of a sovereign power.

Whether or not a state of normalcy or emergency exists, Schmitt claimed, is dependent on the decision of a sovereign. Sovereignty, for Schmitt, was tied to a geographically delineated nation that was ethnically homogenous, thus reflecting one racist dimension of his thought (Thomas, 2014).   Schmitt states (1985), "There is no norm that is applicable to chaos. For a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists" (p. 13). The role of the sovereign then becomes to *ability to decide* when a state of normalcy or exception exists. In the opening sentence of Schmitt (1985) essay "Definition of Sovereignty," published in *Political Theology*, he declares, "Sovereign is he who decides on the exception" (p. 5). The reverse is also true: A state of normalcy exists when the sovereign says it does. During times of normalcy, norms and rules may guide life, but during times of chaos, norms, by definition, cannot apply, and a society operates under the exception. His belief in action and decision as the best mode of governing is the product of a deep objection to the partisan politics and rhetorical methods of mass democracy (Thomas, 2014). As a result of this distain, legal scholar Brooks Thomas (2014) states, "Schmitt turns to a single individual, the president—elected by all of the people—as the defender of the constitution, granting him the sovereign power to declare the state of exception" (p. 239). Schmitt's theory then eschews norms and rhetorical deliberation in exchange for the need to act—the defining feature of his decisionism.

Schmitt's sovereign decisionism values the ability to make a decision over processes of debate and discussion, which involve the investigation of norms and values and involve more inclusive forms of participation. This is another point Schmitt's critics criticize. William Scheuerman (1994) states:

> Schmitt tells us straight out that it is much more important to make a decision than it is to make a particularly reflective or correct one...The insurmountable break between morality and politics

culminates in a vision of a political universe dominated by the experience of the 'normless exception,' meaning, most dramatically, a moment of crisis where the existence of life of a political entity is seriously threatened, but referring more broadly in Schmitt's view to a diverse variety of political phenomena incapable of being captured or subsumed under a set of universally applicable normatives or norm-based legal rules (p. 21.).

Because there is no way to know when or how an emergency will arise or when political organization will need to mobilize against a foe, Schmitt claims, it is useless and detrimental to try and apply norms and rules of law to emergency powers or the decision itself. Therefore, the emergency creates a vacuum where not only the decision on the exception, but also the whole of emergency powers, is divorced from any legitimacy other than the exception itself (Scheuerman, 2006).

The rediscovery of Schmitt's work in academic circles occurred decades following the widespread critique of liberalism from actors on both the Right and Left; therefore, this dissertation does not seek to credit Schmitt with a uniquely novel development on that front, rather, that with the translation of Schmitt's work, his critique of liberalism had a particular relevance for the political moment. David Dyzenhaus (1998) in his introduction to *Law as Politics* states that it is Schmitt's critique of liberalism that is of value, not necessarily the political solutions Schmitt offers. The problem with Schmitt's theory as a solution is that inflicts the same type of violence of which he accuses liberalism, but leaves no grounds for claims of justice. His solution to the crisis in Germany's democratic Weimer Republic is infamous. The suspension of legal processes and expansion of the executive function of the state under Article 48's emergency provision was a key contributor to Germany's transition from the fledgling Weimer Democracy to Hitler's fascist Third Reich (Agamben, 2005; Thomas, 2014). As Agamben states, "The end of the Weimer Republic clearly demonstrates that…a 'protected democracy' is not a democracy at all, and the paradigm of constitutional dictatorship functions instead as a transitional phase that leads inevitably to the establishment of a totalitarian regime" (Agamben, 2005, p. 15). To many scholars, Schmitt's role in the fall of the Weimar Republic through his interpretation of Article 48, his well-

documented anti-Semitism, and his involvement in the Nazi Party demonstrates the inseparable,

inevitable outcome of his political theory (Emden, 2009).   The degree to which Schmitt's racism and

political commitments, whether opportunistic or ideological, are divisible from his political theory is a

question best left to specialists in his thought. What is relevant for this dissertation is the critique of

Schmitt's theory of the exception, which forms the basis for understanding the role of communication

during an exception and what is at stake in the post-9/11 era.

Neumann and Kircheimer

Franze L. Neumann and Otto Kircheimer, one-time members of the Frankfurt School and students

of Carl Schmitt, were critics of liberalism who found Schmitt's theory unacceptable, arguing that the

problems with liberalism did not require rejecting the entire political canon. Living under the dark cloud

of German fascism, they witnessed first-hand the problems that came with a rejection of the rule of law

and believed retaining some of the values of liberalism was necessary for a progressive political theory.

In his book *Behemoth*, Neumann (2009) argued that without the ideals of liberalism, there are no grounds

on which to fight against its problems, such as marginalization or discrimination. Despite this

endorsement of the liberal ideals, Neumann and Kircheimer were critical of liberalism, recognizing how

the liberal ideal of equality functioned to obscure institutionalized processes of marginalization,

discrimination, and repression (Scheuerman, 2008). Neumann also was critical of the deformalized law

Schmitt advocated because Neumann had witnessed how it favored organized, powerful economic

interests, enabling those groups to dominate the legal process. In other words, in societies characterized

by unequal social relationships, loosely defined laws that are left open to interpretation usually function

to benefit the powerful and exacerbate inequality.

While Schmitt's theory of the exception was popularized due to its critique of liberalism, the

problems with his theory, including, but not limited to, the complete abandonment of liberal norms, the

privileging of the executive decision and his questionable relationship of his theory to German fascism present substantial concerns for the pursuit of justice. Neumann's critique of the state of exception pinpoints one of the most potentially violent and unjust realities of actual existing states of exception: The tendency is for those in power, those with the power to decide, to privilege the powerful and perpetuate the criminalization, oppression, and violent repression of marginalized groups, meanwhile attempting to dismantle the legal and political grounding on which claims of injustice and abuse of power might stand. Neumann states (2009):

> To abandon universalism because of its failures is like rejecting civil rights because they help legitimize and veil class exploitation, or democracy because it conceals boss control…Faced with a corrupt administration of justice, the reasonable person does not demand a return to the war of each against all, but fights for an honest system. Likewise, when we have shown that international law has been misused for imperialistic aims, our task has begun, not ended (p. 158-159).

His point is that corruption, injustice, and inequality were not signs that the values of equality and justice needed to be traded for a more "realistic" political theory that rejected the problematization of those social ills *in toto*. Quite the opposite, under such real-world struggles, the values of justice and equality became even more important in providing the material and ideological grounds on which marginalized and repressed groups could demand change. Discarding the ideals of justice, equality and inclusion because liberalism in practice had proven productive of the very ideals towards which it strived was like, to use a common idiom, throwing the baby out with the bathwater.

Under a state of exception, the participation of, including discussion and debate among, those ruled is not expected nor valued. Equality is not practical or desirable as the emergency demands dividing populations into friends and enemies. Power is concentrated at the top, in the form of an executive political leader, who is tasked with making decisions, including whether or not the norm applies, whether the exception exists, and who should be counted as friend or enemy (there is no in-between). While changes are justified as temporary measures necessitated by the emergency, once in

place, they must be actively challenged and undone in order to be truly temporary, a process that normalization makes increasingly difficult. Put simply, once emergency changes are enacted, they must be un-enacted. Additionally, emergency powers have historically functioned to favor those already in positions of power, further increasingly their power while dis-empowering and criminalizing marginalized groups.

Counter-law

The creation of laws against laws, what Richard Ericson (2007) calls "counter-law," captures the modern exercise of emergency powers in the U.S. Counter-law is the process through which legal and legislative avenues of oversight are hijacked and a majority of the governance, previously the providence of juridical laws, becomes delegated to new institutions and positions with an ambiguous relationship to existing laws and accountability procedures (Welch, 2009). As Judith Bulter (2004) states, it becomes possible to speak of "a law that is not a law, a court that is not a court, a process that is not a process" (p. 64). Through the process of counter-law, new uses of existing laws are created to erode or eliminate traditional legal principles, standards, and procedures that interfere with preempting imagined sources of harm. According to Ericson (2007), "Counter-law I takes the form of laws against laws as when new laws are enacted and new uses of existing law are invented to erode or eliminate traditional principles, standards, and procedures of criminal law" (p. 24). Ericson's theory of counter-law, which is the focus of this section, is useful because it draws specific attention to the processes and justifications of the exception and the role of surveillance, which is of special importance in understanding the role of communication and technology in methods of control.

Ericson (2007) breaks down his concept of counter-law into counter-law I, or laws against law, and counter-law II, which explains how surveillance technologies are expanded as methods of pre-empting threats. As the official expression of the state of expression, counter-law I suspends legal norms

not only because scientific measures are incapable of measuring risk, but also because law itself contains

too much uncertainty (Ericson, 2007). Counter-law emerges as a state response to manage and reduce

the uncertainty of normal legal procedures and practices, which Ericson (2007) describes as a form of

risk management. For example, during the War on Terror the levels of uncertainty accepted in criminal

trials through procedures such as due process and evidence became perceived by the state as an

unacceptable risk to national security. But, as Criminal Justice Professor Michael Welch (2009) states,

"Although advocates of counter-law claim that to have achieved an advantage in managing society as it

faces risks embedded in late modernity, such strategies undermine democratic institutions and provide a

dangerous foundation for human rights abuses" (p. 18). Examples of such abuses include the indefinite

detention of suspects, the use of "enhanced interrogation techniques," otherwise known as torture, and

the dismissal of Geneva Convention protections. Therefore, in times of high uncertainty, such as

following a "catastrophic failure in a risk management system," criminal law is transformed and the

norms and procedures weakened so that the processes of criminalization become easier and more

certain. In societies characterized by power asymmetries, counter-law serves to exacerbate those

inequalities (Welch, 2009).

Torture and detention. The legal maneuvering to redefine the legality of torture during the

administration of G.W. Bush provides an example of counter-law. The Bush administration claimed the

threat posed by the terrorists was novel and unpredictable in order to argue that old laws and methods

of war were obsolete and required new ways of thinking about torture, warfare, and national security.

This logic was used to argue that Geneva Convention protections for prisoners of war did not apply to the

conflict with al Qaeda because they did not sign the Geneva Convention (Bush, 2002). On February 7,

2002, President George W. Bush signed a memo ironically titled, "Humane Treatment of Taliban and al

Qaeda Detainees," that declared the U.S. would not follow the Geneva Convention's ban on torture when

dealing with members of al Qaeda or the Taliban. This is a classic example of "doublespeak," a term

drawn from the work of George Orwell to describe the political use of language to make violent and

repressive policies appear as their opposite or to create ambiguity through unspecific language use

(Herman, 1992). In Orwell's (1950) novel *1984*, the three slogans of the ruling party, who are engaged in

perpetual war and surveillance, are: "WAR IS PEACE. FREEDOM IS SLAVERY. IGNORANCE IS STRENGTH"

(p. 4).

One legal scholar described the unclear and oscillating use of the Bush Administration's terminology

for how to deal with alleged terrorist suspects, which fluctuated on the axes of crime/war and

domestic/international law, as resulting in a "concept whose plasticity renders it unhelpful as a tool for

the legal regulation and whose indeterminacy vests vast discretion in the Executive" (Danner, 2007, p. 1-

2). The study concludes, "the Executive Branch has the authority to make an essentially unreviewable

decisions about whether or not an individual can be detained indefinitely" (Danner, 2007, p. 14). As

these examples demonstrate, many of the laws passed and executive orders issued by the Bush

Administration during the war on terror constitute counter-law as they are policies that rework and undo

previously existing laws, and they do so in such a way that creates ambivalent human rights and civil

liberties protections.

Brooks Thomas points out how the indefinite detention without trial of detainees at Guantanamo

represents the refusal of sovereignty. Countering what he conceives as a common error in understanding

indefinite detention as an exception, Thomas (2014) states, "the Bush administration's legal argument

was based on the fact that, because Guantanamo is leased and not technically sovereign U.S. territory, full

constitutional guarantees are not required" (p. 269). What Thomas highlights is the way both claims for

and against sovereignty work to legitimize injustices and abuses of power. He states, "In today's America,

injustice is more likely to be perpetuated by limiting—even relinquishing—sovereignty than by asserting

it in Schmittian fashion" (Thomas, 2014, p. 269). Thomas argues that sovereign claims and denials can also protect human rights. He provides the American Civil War Reconstruction, the Klu Klux Klan, and protection of Chinese immigrants as examples of sovereignty functioning to protect human rights and civil liberties.   Thomas's analysis is useful for showing the multiplicitous uses of sovereignty: How it functions in repression through its application and denial, and even it how its application can work to protect human rights. His perspective accurately divides and redirects the one-directional flow of sovereignty during an exception and opens up more avenues for understanding the relationships and injustices created by the uneven production of sovereignty and exception. In fact, exceptions are frequently granted as a way to excuse wealthy and powerful groups from rules and regulations that apply to the rest of the population.

Worst-case scenarios. The argument that terrorism represents a hitherto unknown, unpredictable threat with potentially catastrophic outcomes works to justify pre-emptive action as a form of national security. (Aradau and van Munster, 2008). For example, Political scholar Marieke de Goede (2008) claims efforts to pre-empt future attacks rely on the acceleration of the role of the imagination, a process she calls "premediation." Premediation deals with imagining future possibilities as a method of governing the present. Distinguishing premediation from prediction, De Goede (2008) states, "Whereas the logic of risk and forecasting center on *prediction* of the future, premeditation is more self-consciously 'creative' in imagining a variety of futures- some thought likely, others far-fetched, some though imminent, others long-haul- in order to *enable action in the present*" (p. 160). Within the politics of the exception, then, we see the emergence of risk imagination in legitimizing political and social action. Risk imagination takes place in a variety of venues including political debates, organization policies, religious speeches, media coverage, movie plots, and entertainment programming. In addition to imagining worst-case catastrophic futures to legitimize legal and political changes in the present, the

producers of the state of exception dispense with the requirement of evidence in guiding action or legitimizing policies. Mark Danner and De Chasman (2011) summarize the post-9/11 ideology of the emergency as the following: "Assume the worst. Act preemptively, aggressively. Don't hesitate. When in doubt, act. If there is a risk, the possible consequences are so grave that you must not let worries over evidence slow you down." Danner (2004) uses the CIA and military's use of torture techniques during interrogations in Guantanamo and Abu Ghraib as an example. He argues that the use of torture can be explained, in part, because interrogators operate under the belief that detainees are continuing to conceal information despite any evidence to support such claims. Evidence is not a requirement in assessing guilt.

In summary, the attacks that occurred on September 11, 2001 in the U.S. immediately became defined as an emergency within elite political circles and soon became a seemingly ubiquitous way of understanding what happened and what needed to happen to prevent such events from happening again. The use of emergency appeals, in turn, functioned to legitimize changes to existing laws in ways that amended, confused, and un-did existing human rights protections.

The new paradigm of global terrorism

After the 9/11 attacks, a key argument used to justify the need for extraordinary and exceptional measures was that terrorism represented a new type of threat, organized in a new type of way on a global scale—Bush called it a "new paradigm." First, it is necessary to contextualize use of the term "terrorism." Terrorism is defined by James and Brenda Lutz (2004) as involving political objectives, violence or threat of violence, a target audience, an organization, the involvement of non-state actors, and an effort to increase the power of the terrorist group" (p. 21). Terrorism is a not a threat unique to the current epoch as the global history of terrorism stretches back millennia (Lutz & Lutz, 2004). Nor is terrorism unique to the U.S. context. Throughout history, groups in Yugoslavia, Rwanda, Palestine, Israel, Japan, Northern

Ireland, Algeria, India, Indonesia, and the former Soviet Union, among many others, have been the targets of terrorism (Lutz & Lutz, 2004). And while the attacks in the U.S. on September 11, 2001 were the single most deadly attack in history, the cumulative death rates resulting from acts of violence in other countries have been just as high.

While terrorism has a long history, many scholars point to Al Qaeda as representing a new type of threat tied to globalization. In a defense of Bush's policy of preemption, professors Richard Shultz and Andreas Vogt (2003) define the post-1990 form of terrorism as characteristic of "fourth generation warfare." Within this new paradigm of warfare, "fourth generation warriors," or terrorists, will be unconventional and decentralized, will utilize network-based communications, will blur the lines between military and civilians, will not be constrained by law and conventions, and will be marked by unlimited violence against powerful nations in order to demoralize governments and populations (Shultz & Vogt, 2003). Law professor Stephen Holmes (2008), a critic of Bush administration policies, similarly describes the post-9/11 form of terrorism as characterized by non-state based actors in a highly decentralized network with access to the technological means of destruction and violence unavailable to previous enemies of the U.S. state. The characteristics of Al Qaeda create some problems for assessing the threat level. Holmes (2008) states:

> It is very difficult for Congress, the public and press…to evaluate the executive's claims about the changing gravity of the threat or about our success or failure in the conflict. If truth be told, it is very difficult for the executive to evaluate its own claims accurately in this respect. This imperviousness to evaluation, both external and in-house, has always characterized threat assessment of the wartime executive to some extent, but it presents a greater problem in the war on terror than in any previous armed struggle of comparable gravity (p. 214).

What these descriptions of post-9/11 terrorism reveal is that both critics and supporters of Bush locate characteristics of Al Qaeda and similar organizations as representing some type of new form of terrorism.

Bush and British Prime Minister Blair frequently used the alleged novelty of the terrorist threat to argue that new laws and forms of war were required. In a White House memo from February 7, 2002

that sought to establish Al-Qaeda suspects as outside parameters of the Geneva Convention, as discussed

in the previous section, Bush (2005) wrote:

> The war against terrorism ushers in a new paradigm, one in which groups with broad,
> international reach commit horrific acts against innocent civilians, sometimes with the direct
> support of States. Our Nation recognizes that this new paradigm- ushered in not by us, but by
> terrorists- requires a new thinking in the law of war, but thinking that should nevertheless be
> consistent with the principles of Geneva (p. 134-135).

The administration essentially argued that terrorism represented a special type of threat outside

previous international law. Tony Blair (2004) made a similar claim in a March 5, 2004 speech, in which

he used the new and uncertain nature of the terrorist threat to defend Britain's terrorism measures and

involvement in the Iraq War. Blair (2004) states:

> Everything about our world is changing: its economy, its technology, its culture, its way of
> living...The threat we face is not conventional. It is a challenge of a different nature from anything
> the world has faced before. It is to the world's security, what globalization is to the world's
> economy.

While the question of whether the terrorist threat is actually novel is relevant to this discussion, what is

at issue here is the way in which the argument was used to legitimize U.S. policy, not necessarily the

reality of such a claim. The claim that terrorism represents a new threat because it is not tied to a nation-

state, relies on nondiscriminatory violence directed at large populations, and is the tool of less powerful

actors organized in loose international networks with access to the means of mass destruction has been

useful for states wishing to abandon rule of law, suspend civil liberties, and expand executive power in

their pursuit of terror suspects. The basis of the argument is that contemporary changes represent a

radical break with previous traditions, laws, and practices. The question of novelty will prove significant

in analyzing how the media portrayed the threat and legitimized U.S. policy.

Exception, neoliberalism and neoconservatism

Neoliberalism and neoconservatism, introduced in Chapter 1, are useful in understanding many of

the key threats at state of exception. While there are many tensions between neoliberalism and

neoconservatism—including the value neoconservatives place on traditional family and patriotism versus the neoliberal belief in market-driven culture and the neoconservative belief in militarization and defense spending versus the neoliberal desire for smaller federal government— the political rationalities overlap in significant ways (Brown, 2005). Harvey (2005) states, "US neoconservatives favor corporate power, private enterprise, and the restoration of class power. Neo-conservatism is therefore entirely consistent with the neoliberal agenda of elite governance, mistrust of democracy, and the maintenance of market freedoms" (p. 82). Neoliberalism, as discussed in the first chapter, is the set of ideologies, institutions, activities, and relationships that privilege market values above all else and, in theory, advocate for a reduction in state intervention. Political science professor Gregory Albo (2002) describes it as such: "Neoliberalism is not a monolithic ideology or political program. There is unevenness in the universalism of the neoliberal project in North America, as elsewhere. The basic idea is that the state should be limited in its role in modern society apart from securing property rights and contracts" (p. 46). Therefore, it is incorrect to portray neoliberalism as an all out attack on the state; neoliberalism depends and benefits from such state policies as trade agreements, corporate tax structure, including tax breaks, and lax regulation.

Neoliberalism operates through and benefits from the shaping of state power and policies. Even though the expansion of executive power and militarization seem to be at odds with the neoliberal belief of limited government, the processes actually support neoliberal goals by protecting private property, creating global economic opportunities for powerful industries, repressing criticism of neoliberalism, and policing the inequalities and problems neoliberal policies create. Morgan (2014) highlights the relationship between the state, militarization, policing, and neoliberalism arguing, "The rollback of the welfare state and the militarization of police should be read then as part of a wider effort by successive American administrations to insulate themselves from the influence of their own populations" (p. 274).

Fundamental to Morgan's critique, which draws on the work of Nicholas Poulantzas, is the way in which neoliberalism, despite its ideological opposition to state interference in the market, depends on and has been produced by the state's role in minimizing conflict and eliminating threats to capitalistic accumulation. The use of a militarized police to repress and criminalize poor communities, people of color, and protests is interwoven with the processes of neoliberalism. Police militarization emerges, in part, out of the neoliberal need to protect property and wealth accumulation in the face of growing inequality and unrest, conditions produced by neoliberal policies. In this analysis, neoliberalism relies on and promotes repression of dissent and police militarization.

In addition to maintenance of structural inequality, the overlapping of neoconservatism and neoliberal ideologies has de-democratizing effects. According to Brown, "Equality is not a value to be found anywhere in the neocon or neoliberal universe" (p. 703). She continues:

> Apart from egalitarianism, civil liberties, fair elections, and the rule of law also lose their standing at the conjuncture of neoliberalism and neoconservatism, becoming instruments or symbols rather than treasures, indeed becoming wholly desacralized even as they are rhetorically wielded as beacons of democracy. Neoliberalism doesn't require them, and the neoconservative priority of moral values and state power trumps them.

Brown's critique of neoliberalism and neoconservatism highlight precisely what is of concern to many in the post-9/11 state of exception: The attack on civil liberties, equality, rule of law, and democratic participation. The conflicting and interrelated agendas and ideologies of neoliberalism and neoconservatism not only shaped the post-9/11 exception, but also produced the conditions—structural, social, cultural, and economic—that created fertile ground in which the politics of the exception took root.

Questioning the exceptionality of the exception

A major critique the state of exception is that it is not an exception to the norm, but the norm itself. Barbara Sutton and Julie Novkov (2008) argue the post-9/11 exception and its promise of perpetual war

represent the normal organization, goals, policies and ideologies of the U.S. military, government, and public. Evidence of their argument is the fact that U.S. has operated under a declared state of emergency since 1933 (Sutton & Novkov, 2008). Their critique has its roots in Walter Benjamin's *Theses on the Philosophy of History*. In it Benjamin (1968) states, "The tradition of the oppressed teaches us that the 'state of emergency' in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight. Then we shall clearly realize that it is our task to bring about a real state of emergency" (p. 257). In a similar vein, Mark Neocleous (2006) persuasively argues that contemporary leftist scholars writing on emergency powers fail to account for the historical reality of emergency powers and operate on the mistaken assumption that emergency powers are the exception, when, in fact, they are the norm. Not only are emergency powers the norm of the modern capitalist state, but, as Neocleous claims, emergency powers are fundamental to liberal practice of rule of law. Neocleous (2006) contends, "Emergency…is what *emerges* from the rule of law when violence needs to be exercised and the limits of the rule of law overcome" (p. 207). Or alternatively, "Emergency powers, as state violence, are a part of the everyday exercise of powers, working alongside and from within rather than against the rule of law, as part of a unified political strategy in the fabrication of social order" (Neoclaus, 2006, 208). Neocleous's claim that emergency powers emerge from *within* the rule of law and function *alongside* it serve to challenge critiques of emergency powers and the exception that would advocate a return to the rule of law as corrective to the violent abuses of emergency powers.

What scholars like Neocleous (2006), Sutton and Novkov (2008), and Thomas (2014) share is a critique of the ideological function of the term "state of exception" on the grounds its allegedly exceptional nature conceals how it is routinely used in the production of violence and inequality. It obscures the historical reality of ongoing violence, war, militarization, surveillance, discrimination, and repression. It casts governance by emergency as an exception to the norms of liberal democracy when, in

fact, it is the true basis of state power, violence. It conceals the uneven application the rule of law and the related production of repression and inequality. Meanwhile, a state of exception claims to uphold the values of liberal democracy, including representation, rule of law, property rights, and free speech. Benjamin (1968) and the highly-influential post-colonial theorist Edward Said (2001) claim that fighting oppression requires the production of histories and cultural products from the perspective of the oppressed to disrupt Western historical narratives and a concept of history as well-ordered and progressing toward greater civilization. The view of history Said and Benjamin are critiquing is the same view that underlies the clash of civilizations thesis explored in the first chapter. It is precisely histories from below that give lie to the claim that the exception is exceptional and opposed to liberal democratic rule.

English literature scholar Stephen Morton, in his book *States of Emergency: Colonialism, Literature and Law*, offers many examples of such histories and cultural products, one particularly illustrative example comes from the Algerian war for independence (1954-1962). France's colonial relationship with Algeria began around 1830 when the territory was touted as "France overseas," which belied the lack of rights, protections, and freedoms extended to Algerian inhabitants (Windrow, 1997).   A hundred years of what was essentially colonial rule, Algeria's non-European, predominately Muslim population was living in abject poverty (Windrow, 1997). In October 1954, the newly renamed National Liberation Front (Front de Libération National, FLN) began the battle for Algerian independence, which resulted an estimated half million causalities for Algeria, including both military and civilian deaths as well as deaths of those fighting to defend the French colony, and great loses for France and its allies (Windrow, 1997).

On April 1, 1955, the French government declared emergency law in Algeria, which was officially considered part of France, not a colony or protectorate. The emergency involved limits on fundamental rights of Algerians including curfews, censorship of the press, nighttime searches of private residences,

bans on meetings, and the placement of anyone deemed a threat to public order on house arrest without juridical oversight (Beigbeder and van Boven, 1999). In March 1957, the 'special powers' law replaced the emergency declaration, giving the French government the green light to do everything in its power to reestablish order (Beigbeder and van Boven, 1999). The 'special powers law' underwrote the authorization of detention camps, which held more than 20,000 people by March 1958 (Beigbeder and van Boven, 1999). Morton's (2013) analysis of Franz Fanon's *Black Skin, White Masks* and *The Wretched of the Earth* explains how Fanon defined France's use of torture during the Algerian liberation war as central to the civilizing mission of French colonialism—not an exception to the norm.

What these critiques argue is that the declaration of emergencies is a consistent feature of liberal democracies throughout history and the process through which state violence is legitimized. Cast in this light, the use of the term exception to describe states of emergency functions to conceal the regularity with which emergency powers are deployed in liberal democracies. Use of the term exception also incorrectly supports the idea that the exception is somehow outside or opposed to liberal democratic rule and that there is an exception-less norm to which to return as a corrective to emergency rule. Despite these drawbacks to the term "state of exception," the concept serves the dual purpose of critiquing the injustices carried out under emergency appeals and challenging its ideological claims to exceptionalism. Additionally, from the standpoint of legal theory, a state of emergency carries with it material changes in the functioning and concentration of power. During times of a declared national or even global emergency, the oppression of marginalized and oppressed groups is the first to escalate and intensify. Take for example one of the most violent and notorious examples of a state of emergency outside the fall of the Weimer Republic, when Prime Minister Indira Ghandi invoked article 351, the emergency clause, of the Indian Constitution establishing a state of emergency India from 1975-1977. The Indian emergency included media censorship, the suspension of civil rights, a forced mass sterilization campaign targeting

the poor and underprivileged (Biswas, 2014), and widespread political arrests, including the arrest of

tens of thousands of Sikhs, a religious minority that had been fighting for independence (Kopf & Hansen,

1999). There is no question that the declared emergency legitimized even greater oppression and

violence against marginalized groups than it did during the norm of liberal rule of law. It is for these

reasons that the term "state of exception" continues to hold legal, political, and social power and

analytical value.

Communication and states of exception

Communication is a vital, yet under-researched area within studies on the state of exception.

However, there is some critical work on communications and the state of exception. Jack Z. Bratich

(2011) looks at the intersection of sovereignty under a state of exception and the use of social media,

specifically Twitter. He shows how the President of Ecuador used Twitter to declare a state of exception

in 2011 and contends that states are increasingly using social media and networks as a way to

preemptively control dissent (Bratich, 2011). In another study, Dale Chapman analyzes Alfonso Cuarón's

2006 film *Children of Men* as depicting a state of exception by focusing on how the musical score of the

film contributes to and explains the film's representation of a state of exception. Peter Jakobsson and

Fredrik Stiernstedt (2010) use the analytic lens of the state of exception to explore how the processes of

Web 2.0 are organizing new economies that accumulate capital for powerful economic actors (Facebook,

YouTube, Google) through the dispossession of rights for those creating content and cultural products

(the users). This dissertation hopes to further contribute to the utility of the state of exception for

communication and media studies.

It is the central claim of this dissertation that understanding the role of communication allows for

analysis of the ways in which states of exception are legitimized and normalized within society.

Analyzing the multiple roles and powers of communication during a state of exception can answer: What

role do the media play in defining events as an emergency? How does government secrecy and privacy, justified with appeals to national security, impact public knowledge? Who has the power to define and shape emergencies? How are dissent and protest (understood as a vital part of democratic and political communication) restricted or repressed? How do powerful groups use rhetorical strategies to legitimize emergency powers? How does a declared emergencies impact press freedoms? What are the relationships between the government and media and communication industries during emergencies? How do private-public partnerships shape surveillance? How do journalistic routines, professional media norms, and the political economy of media privilege elite interpretations of events?

Communication can also address questions related to challenging states of exception, including: How do groups use communication technologies to organize against exceptional policies and to publicize abuses? How do independent media organizations counter dominant discourses and offer counter narratives? What rhetorical strategies do social movements utilize to challenge state of exception policies? While many of these questions are answered outside of the state of exception paradigm, the research on these communication issues is of central interest to scholars who wish to better understand the specific processes through which a state of exception is produced and the extent to which a state of exception is anti-democratic. In hopes of addressing some of these questions, this section covers the main components of communication and the emergency: Surveillance, which includes communication as a process through which the exception is produced and communication as the target of exceptional processes; the ways in which the media legitimize and normalize states of exception; and finally, the ways in which state of exception policies impact media and communication rights.

Communication and surveillance

Counter-law II, as developed by Ericson (2007), describes how new surveillance infrastructures are developed and new uses of existing surveillance networks are expanded in ways that erode or

eliminate traditional standards, principles, and procedures of criminal law. Surveillance can be generally

defined as the process of gathering information on individuals and groups through observation of

physical movements and activities using human and technological means (Bloss, 2007). While

surveillance is not limited to the use of communication technologies, the importance of the Internet and

networked communications makes analysis of the use of communication technologies a central question

for communication, surveillance studies, and the state of exception. For example, expanded surveillance

laws justified under the war on terror included changes in police surveillance powers, government and

private wiretapping authority, financial transaction privacy, and disclosure of education and library

records (Bloss, 2007). In the interests of understanding the role of communication in the state of

exception, this section analyzes uses of communication technologies and changes to surveillance laws

justified by terrorism under a state of exception.

The controversy over the Bush Administration's covert, domestic warrantless wiretapping

program provides an illustrative example of the role played by communications technologies and private

media companies in expanding executive power through emergency appeals. In 2005, the *New York*

Times published a story after a fourteen-month struggle between the paper and the White House

revealing that the National Security Agency (NSA) had been wiretapping American citizens (Sherman,

2005). Under the program, the NSA collected metadata from phone calls and emails sent on American

soil without obtaining a warrant from a Foreign Intelligence Surveillance Act (FISA) court (Nakashima,

2014). Internally (Nakashima, 2014) and publically (Johnston and Lewis, 2005), government leaders

appealed to the threat of terrorism and demands of the emergency to justify what many argued was an

illegal wiretapping program (Baldwin, 2006; Nakashima, 2014; Savage and Risen, 2010). In a letter to

Congress from the Department of Justice (DOJ) that sought to define the wiretapping within the bounds

of legality, Assistant Attorney General William E. Moschella (2005) states, "The purpose of these

intercepts is to establish an early warning system to detect and prevent another catastrophic terrorist attack on the United States" (n.p.). The letter also argued that communication surveillance was a critical component in war claiming, "Communication intelligence targeted at the enemy is a fundamental incident of the use of military force" (Moschella, 2005). Echoing justifications presented in Moschella's letter, President Bush and senior advisors, including Attorney General Gonzales, argued that the broadly worded Authorization for the Use of Military Force, which passed Congress on September 14, 2001, provided the legal framework for the warrantless wiretapping program (Baldwin, 2006; Johnston and Lewis, 2005).

Revelations about the NSA warrantless wiretapping program promoted many to condemn it as illegal and a violation of privacy and civil liberties in excess of national security requirements (Singel, 2008). Also controversial was the role of telecommunications corporations, like AT&T, Verizon and Bell South, in providing the government with access and records (Cauley, 2006); however, a 2008 Congressional bill gave the telecoms retroactive immunity for their role in the program. In 2010, a federal judge ruled that the NSA's warrantless wiretapping surveillance program was illegal because it violated the 1978 FISA requirements (Salvage and Risen, 2010). The ruling was overturned on a technicality in 2012 (Vicens, Gilson & Park, 2013). The involvement of the telecom companies was not the last time communications corporations would give client data and records to the federal government under the guise of fighting terrorism. Under a secret NSA program code named PRISM, Microsoft, Yahoo, Google, and Facebook, among others, gave the NSA user data, search histories, emails, file transfers data and instant messages (Vicens, Gilson & Park, 2013). Despite the important question of legality, which continues to be hotly contested, these examples demonstrate the importance and centrality of communication to the post-9/11 state of exception. These surveillance activities were exclusively justified under emergency appeals to terrorism. New powers expanded executive power by sidestepping

FISA requirements and paved the way for communications and ICT companies to overturn to personal data, information, and communications without fear of legal censure.

Media as legitimizing force: The "War on" metaphor

In addition to surveillance, communication and media play a role in a state of excpetion in the way they legitimize and normalize exceptional practices. Take for example the media's reproduction of the "war on" metaphor to describe the U.S.'s post-9/11 policy. The "war on" metaphor, which has become a dominant way of defining social problems, invokes exceptional powers, criminalizes target populations, and justifies increased surveillance (Agamben, 2005; Altheide, 2009; and Ericson, 2007). Discussing the U.S., Agamben (2005) explains, "Because the sovereign power of the president is essentially grounded in the emergency linked to a state of war, over the course of the twentieth century the metaphor of war becomes an integral part of the presidential political vocabulary whenever decisions considered to be of vital importance are being imposed" (p. 21). Thus, we find a plethora of war metaphors describing social and political problems in terms of crisis and emergency; take for example "the war on crime," "the war on poverty," "the war on drugs," and the "war on terrorism" (Ericson, 2007). The metaphor of war as a way to explain social problems like crime, drugs and poverty, contributed to the criminalization of populations based on race, gender and class, the framing of social problems as a threat that needs to be controlled, the promotion of an "us versus them" conflict mentality, and militarized solutions.

Describing the U.S. approach to the war on terror as an extension of the war on crime, Berkeley Law Professor Jonathon Simon (2008) states:

> The [Bush] Administration's approach to that war [the war on terror] has been in large part a continuation of the war on crime, as seen in the arrest of suspected militants, both citizens and aliens; the use of harsh methods to extract confessions and mass incarceration of a class of people defined by race and religion as 'dangerous' in a global archipelago of prisons. Many of the deformations in American institutions produced by the war on crime, developments that have made our society less democratic, are being publicly rejustified as responses to the threat of terror (p. 93).

Research on moral panics, fear, and risk show that criminalization of social groups contributes to increased public support for repression, policing, and surveillance (Altheide, 2009; Cohen, 2002; Cohen & Young, 1973; Douglas, 2003; Furedi, 1997). As Sociologist David Altheide (2009) states, "The terms *crime*, *victim*, and *fear* are joined with news reports about terrorism to construct public discourses that reflects symbolic relationships about order, danger, and threat that maybe exploited by political decision makers." As Altheide points out, news coverage of terrorism contributes to the production of public discourses of fear, crime, and victimization that are used to legitimate repressive policy decisions.

President Bush first used the term 'war on terrorism' in a televised prime-time address on September 11, 2001 (Jackson, 2005), declared a "war on terror" on September 20, 2001 (Bush, 2001a), and semiofficially used "global war on terror" to describe the U.S. response to the attacks. The Bush administration's use of the "war on terror" or "global war on terror" to describe the attacks gained its full ideological power through the media's uncritical reproduction of the same language. Stephen D. Reese and Seth C. Lewis (2009) analyzed *USA Today* stories from September 2001 until 2006 and found that the press internalized the language of the WOT as a way of making sense of the attacks on September 11, 2001. On the uncritical use of the term "War on Terror" by journalists, Reese and Lewis (2009) state, "In addition to simply repeating the preferred terminology of the President [Bush], journalists reified the policy- treating it as an uncontested 'thing'- naturalized it, suggesting they accepted its use as a way of describing a prevailing condition of modern life" (p. 792). The researchers concluded that beyond simply transmitting the language used by the administration, media coverage reified the U.S. policy response as uncontested and naturalized it as commonsense (Reese & Lewis, 2009).

The media's uncritical repetition of the Bush Administration's "war on terror" framing continued with the invasion of Iraq. Amy Gershkoff and Shana Kushner (2005) compared the connection between Iraq and the war on terror in Bush's speeches and *New York Times* coverage. They found that the paper

reproduced Bush's framing of the 2003 invasion of Iraq as part of the war on terror without debate. In a

textual analysis of the editorials in the top ten largest U.S. newspapers from September 12, 2001 until

October 8, 2001 (the date bomb strikes began on Kabul), Michael Ryan (2004) found that all of the

editorials echoed the same narrative about a "new kind of war" ushered in by the attacks. Not one

editorial questioned the appropriateness or success of an invasion of Afghanistan (Ryan, 2004). Since the

media uncritically reproduced the language of the "war on terror," it is no surprise that U.S. media

coverage of terrorism, compared to other countries such as Sweden (Dimitrova and Strömbäck, 2005)

and the UK (Papcharissi, 2008), produced coverage more supportive of militarized solutions. Because of

the power of the war on terror metaphor for justifying the invasion of Iraq, Stephen D. Reese (2007)

claims it is one of the most important frames in recent history.

The declaration of war as a response to the attacks framed the attacks in a way that legitimized

state of exception policies, such as new security and surveillance legislation, the repression of dissent and

disregard for civil liberties, the invasion of sovereign nations, and the flouting of international human

rights law. As Richard Jackson (2005) aptly puts it in his book *Writing the War on Terror: Language,*

Politics and Counter-Terrorism:

> The language of the 'war on terrorism' is not simply an objective or neutral reflection of reality:
> nor is it mere accidental or incidental…Rather, it is a deliberately and meticulously composed set
> of words, assumptions, metaphors, grammatical forms, myths and forms of knowledge—it is a
> carefully constructed discourse – that is designed to achieve a number of key political goals: to
> normalise and legitmise the current counter-terrorist approach: to empower the authorities and
> shield them from criticism: to discipline domestic society by marginalising dissent or protest: and
> to enforce national security by reifying a narrow conception of national identity. The discourse of
> the 'war on terrorism' has a clear *political* purpose: it works for someone and for something: it is
> an exercise of power (p. 2).

Even within the Bush Administration, the ideological language of the 'war on terrorism' was not without

criticism. In 2005, key members of the administration, including Defense Secretary Donald Rumsfeld,

engaged in an internal discussion about moving away from the "war on terrorism" language (Stevenson,

2005). Some felt that the use of the term "war on terror" was too negative and didn't offer a positive

enough image (Stevenson, 2005). Some felt that it inaccurately identified ideology as the target of the

war instead of extremists. Others didn't like the use of the term "war" because it advocated for a military

solution (Stevenson, 2005). However, in a speech on domestic policy on August 3, 2005, President Bush

(2005, cited in Stevenson) affirmed that it was indeed a "war on terror," which he repeated five times,

saying, "Make no mistake about, we are at war." It wasn't until 2009, in an attempt to distance his

administration from Bush, that President Barack Obama and the Defense Department officially changed

the name from the "Global War on Terror" to "Overseas Contingency Operations" (OCO) (Burkeman,

2009).

In addition to uncritically reproducing the Bush administration's framing of the attacks and

militarized response, the media played a role in producing the exception by legitimizing and normalizing

state of exception policies, like war and torture. One of the most notorious examples of the press failing

to act as a watchdog on executive power was in the lead up to the invasion of Iraq in 2003. During this

time, the press uncritically reproduced faulty Bush administration claims concerning the presence of

weapons of mass destruction in Iraq and claims linking Iraqi president Sadaam Hussein to the September

11 attacks (Moyers, 2007). In failing to ask critical questions that could have cast doubt on the key

justifications for the invasion of Iraq, the press legitimized and normalized the U.S.'s pre-emptive

invasion (Bennett et al., 2008).

Criticism of the U.S. media's failure was widespread. *Salon* co-founder Gary Kamiya (2007) called

it "one of the greatest collapses in the history of the American media." Media watchdog group Fairness

and Accuracy in Reporting argued, "It is hardly controversial to suggest that the mainstream media's

performance in the lead-up to the Iraq War was a disaster" ("Iraq and the media," 2007). And political

scientists Alexander Nikolaev and Ernest Hakanen (2006) suggest, "the media were slow to react,

uncritical, sometimes ignorant, and often misleading…In many ways, the media are as culpable as the U.S. administration for America's confusion" (p. 5). The body of literature tracing exactly how and why the American media failed in providing its critical function in the years following the September 11 attacks is so extensive that it far eclipses the capacity of this chapter (see for example Altheide, 2009; Bennett et al., 2006; Bennett et al., 2008; Brandenburg, 2005; Calabrese, 2005; Dimitrova & Strömbäck, 2005; Finney, 2009; Fahmy and Johnson, 2005; Gershkoff & Kushner, 2005; Moyers, 2007; Nikolaev & Hakanen, 2006; Papacharissi, 2008). However, what this research demonstrates is the essential role of the media in legitimizing and normalizing the invasion of Afghanistan and Iraq, policies pursued under emergency appeals.

Media as legitimizing force: Torture

The Abu Ghraib prisoner torture scandal offers another particularly insightful example of how the media perform a critical function in legitimizing and normalizing exceptional states. As mentioned previously, the U.S. military's use of torture in violation of international law was a controversial feature of the post-9/11 state of exception. In 2004, photos and reports of U.S. soldiers torturing detainees at the Abu Ghraib detention center in Iraq received extensive media attention. Researchers Lance Bennett, Regina Lawrence, and Steven Livingston (2006) found that the news media consistently followed the Bush Administration's framing of the events as "mistreatment" or "abuse" and not "torture" despite the fact that prominent critics and mid-level officials offered descriptions of the events as "torture." Bennett, Lawrence & Livingston (2006) conclude their study by stating:

> Even when provided with considerable photographic and documentary evidence and the critical statements of governmental and nongovernmental actors, the nation's leading media proved unable or unwilling to construct a coherent challenge to the administration's claims about its policies on torturing detainees. As it turned out in this case, the photos may have driven the story, but the White House communication staff ultimately wrote the captions (p. 483).

By primarily refusing to define the acts as torture and instead following Bush administration language, the media helped to legitimize Bush administration claims in the eyes of the public.

Another example of how the media normalized the practice of torture during the war on terror is evident in newspaper coverage of waterboarding, a controversial practice used by the U.S. military. Students at Harvard University analyzed media coverage of waterboarding before and after its use by the U.S. military broke in the U.S. media in 2004 (Desai, Pineda, Runquist and Fusunyan, 2010). They found that before 2004, U.S. newspapers almost exclusively referred to waterboarding as torture. In the years following revelations that the U.S. used waterboarding, the trend almost reversed itself, with U.S. newspapers rarely calling waterboarding torture unless it was being conducted by a foreign organization or country (Desai, Pineda, Runquist and Fusunyan, 2010). Laura Henderson (2012) compared media framing of waterboarding with judicial framing and legal outcomes, finding similar results: Before 2002, the dominant media and judicial frame for waterboarding was torture, whereas afterwards it was described as either "high-pressure interrogation technique," "enhanced interrogation," or simply as a "technique" (p. 48). Henderson's (2012) analysis revealed that the frames originated with the executive branch and were communicated to the judiciary largely through the media, which then influenced the courts. Specifically, she found that media influenced the choice of law used in the case, the judge's interpretation of the facts, and application of the law – and in the case of waterboarding, the change in framing from torture to softer terms was correlated with less legal censure for waterboarding (Henderson, 2012). As this research demonstrates, media play a key role in legitimizing and normalizing state of exception practices like war and torture.

Press and speech rights as a target

Communication is tied to a state of exception in the way that emergency powers restrict press and speech rights. While this paper focuses on the U.S. context post 9/11, the repression of journalists is

hardly unique and, in many cases, the length of imprisonment and conditions of repression are much more severe. For example, during the 2007 state of emergency in Pakistan hundreds of journalists were jailed (Mariano, 2007) and during the state of emergency in Sierra Leone in 2014, journalists were arrested for criticizing the president ("In Sierra Leone," 2014). However, in terms of press freedoms, the U.S. is not as democratic as its ideological claims contend. According to the Reporters Without Borders's 2008 Press Freedom Index, the United States ranked #36, tied with Bosnia and Herzegovina, Cape Verde, South Africa, Spain, and Taiwan. This was an improvement over its 2007 ranking at #48 and 2006 ranking at #53.

The U.S. has a long history of sacrificing the First Amendment rights of free speech and the press in the interests of national security and in a time of war. In an October 23, 2001 memo, John Yoo (2001) stated, "First Amendment speech and press rights may be subordinated to the overriding need to wag war" (n.p.). Reacting to statements Bill Maher made questioning the courage of the terrorists, White House Press Secretary Ari Fleischer, in a September 26, 2001 press conference, warned, "There are reminders to all Americans that they need to watch what they say, watch what they do, and this is not a time for remarks like that; there never is" (Office of the Press Secretary, 2001). There was even direct pressure from the White House. Condoleezza Rice, Bush's national security advisor, pressured major news networks to censor videos of and from bin-Laden, which resulted in an agreement of ABC, CBS, CNN and Fox to refrain from playing bin-Laden videos (Carter & Barringer, 2001). The repression of dissent and the press in the U.S. after 9/11 included the firing of journalists and professors, the arrest and killing of journalists, media self-censorship, government pressure to shape media content, manipulation of media content through government misinformation, policies restricting dissenting speech and expression on public and private property, violence against and arrest of protesters, and government surveillance of

political groups. These activities highlight how states of exception target and restrict communication,

adding yet another layer to the role of a communication in understanding a state of exception.

Several journalists were fired for speaking out against the Bush Administration and for engaging

in criticism of U.S. foreign policy. Dan Guthrie, an award-winning Oregon-based journalist, and Tom

Gutting, a Texas journalist, were fired for writing opinion pieces criticizing Bush's reactions to the 9/11

attacks (Rothschild, 2002). Tim McCarthy, a prize winning New England editor, was fired in 2002 for

editorials critical of Bush and for defending a cartoonist who did the same (Rothschild, 2002). *NBC* fired

Pulitzer Prize winning journalist Peter Arnett in 2003 for granting an interview to state-run Iraqi media

during which he made comments suggesting the U.S. war in Iraq was failing (Cozens, 2003). And in 2003,

MSNBC fired legendary TV host Phil Donahue for inviting antiwar guests onto the show and questioning

the Bush Administration's push for war (Isquith, 2014). These cases demonstrate how mainstream

media outlets engaged in self-censorship and silenced voices critical of Bush's exceptional policies,

producing an environment with less tolerance for dissenting views and critical analysis.

Restricting press access to information was another way that press rights were restricted after the

attacks and, like restrictions on speech rights, it was done under appeals to national security interests

and the WOT.   The Freedom of Information Act (FOIA) was signed into law in 1966 with the goal of

increasing press access to and public knowledge of government activities. It was passed in response to

press and public pressure over excessive government secrecy spanning from World War II to the Cold

War (Kirtley, 2006). Countering the intent of the FOIA, U.S. Attorney General John Ashcroft issued a

memo to executive agencies shortly after the attacks expanding the ability of the agencies to deny

requests made under the FOIA. Ashcroft claimed FOIA denials were in the interests of protecting the

"fundamental values of our society," including "safeguarding our national security [and] enhancing the

effectiveness of our law enforcement agencies" (Ashcroft cited in Finan, 2007). Writing in 2006, media

ethics and law professor Jane Kirtley (2006) said, "The Bush administration's contempt for the public's right to know amounts to an organized assault on the freedom of information that is unprecedented since the enactment of the Freedom of Information Act forty years ago" (p. 479). Various public access lawsuits resulted from denial of FOIA requests, including a suit related a 2003 request from the ACLU requesting the release of videotapes documenting the torture of detainees in U.S. custody.

After the attacks, the National Archives accelerated a secret program to remove thousands of historical documents that had previously been declassified and copied by historians (Shane, 2006). While the program began in 1999, 8,000 of the estimated 9,500 documents were removed after the September 11 attacks (Shane, 2006). Even the memo directive outlining the National Archives program was classified. The concealment of information also took the form of closing off spaces. Chief Immigration Judge Michael Creppy issued a memo on September 21, 2001 ordering the closure of deportation trials to family members of defendants and the press, citing Ashcroft's call to protect national security (Glaberson, 2001). Before the invasion of Iraq, President Bush enforced a ban on photographing the return and transport of U.S. military coffins, which he justified as necessary in protecting the soldiers and their families (Benjamin, 2005). Many viewed the ban as an effort to minimize the cost of war and dissent (Benjamin, 2005). In addition, wounded soldiers were scheduled to arrive on flights landing at night, thus making photos of wounded soldiers difficult and scarce (Benjamin, 2005).

The embedding of press with the military in Iraq, a practice in which journalists report on the war from a position within a military unit, functioned to legitimize the exceptional pre-emptive invasion of Iraq by producing news coverage that was more favorable toward U.S. policy (Haigh et al., 2006). The effect was not a result of direct censorship, but the feeling of connection to and acceptance of military organization experienced by embedded journalists (McLane, 2004; Pfau et al., 2005). What the cases of journalist embedding, media firings, information and trial secrecy, and press bans demonstrate is the way

in which public knowledge and press freedoms were restricted under appeals to terrorism and emergency conditions, highlighting yet another way that media and communications can be theorized within a state of exception.

Sources of resistance

Media and communication are integral in understanding the ways in which challenges and changes to a state of exception can occur. For example, anti-democratic behaviors of the press—such as self-censorship and uncritical coverage of executive actions—can backfire as a means of legitimizing emergency powers when those behaviors become publically known and criticized. Beginning in 2004, the tide of public opinion began to shift regarding the decision to use military force in Iraq, with half the public surveyed by Pew Research saying they didn't think it was the right decision (Bush and Public Opinion, 2008). These changes emerged in relation to increased public awareness of the U.S. military's use of torture at Abu Ghraib (Bush and Public Opinion, 2008). During this same time, the failure of the press in questioning administration claims about weapons of mass destruction i Iraq became so widely known that many media organizations including *The New York Times* (The Times and Iraq, 2004), *The Washington Post* (Kurtz, 2004), and right-wing talk show host Bill O'Reilly published mea culpas acknowledging their failure (Murphy, 2004).

Additionally alternative media outlets, such as *Al Jazeera* and *Democracy Now,* offered counter narratives of stories covered by dominant media organizations. *Al-Jazeera*, a satellite news channel created in 1996 and owned by the Qatari state, published images, facts, and perspectives censored by the U.S. media, including video messages of Osama bin Laden and graphic images of Iraqi and U.S. military causalities (Samuel-Azrah, 2010). *Al-Jazeera* has been criticized for being anti-American and anti-Semitic (Ricchiardi, 2011) as well as bowing to influence from the Qatar government (Sabbagh, 2012). While

official accounts claim it was an accident, the U.S. military bombed in *Al-Jazeera's* Kabul offices in 2001

and Baghdad bureau in 2003 (Samuel-Azran, 2010).

The availability and use of Internet technologies, including blogs, social media, and cell phones,

also created space for alternative narratives. Blogger Iraqi Salam Pax provided first-hand accounts from

Iraq as soon as the U.S. began dropping bombs on Baghdad (Kahn & Kellner, 2004). For the first time, U.S.

soldiers on the ground used blogging platforms like Blogger and WordPress to share their photos, videos

and accounts in ways that challenged historic military gatekeeping. These "milblogs," short for military

blogs, became part of what is known as "soldier journalism," a kind of reporting that allows soldiers to

communicate with family and friends, express their experiences and perspective, and counter

misinformation in real-time to a potentially global audience (Robbins, 2007). Many voices within the U.S.

government and military argued that milblogs represented a threat to national security (Lytle, 2006),

leading to regulations requiring troops to seek approval from a commanding officer before publishing a

blog or email (Shactman, 2007).

The Zapatistas in Mexico in the 1990s (Best & Kellner, 2001) and the World Trade Organization

protests in Seattle in 1999 (Juris, 2005) were some of the first examples that demonstrated the power of

networked communication and Internet technologies. After 9/11, organizations like MoveOn,

International ANSWER, and United for Peace & Justice effectively used the Internet to organize and

mobilize anti-war demonstrations (Kahn & Kellner, 2004). While the use of Internet media and platforms

for political activism is not new, the increased use of the Internet by activists to reach broad audiences,

organize protests, offer alternative narratives and analyses of events, raise awareness about issues,

criticize WOT policies, and engage in direct action demonstrates its capacity for challenging unjust

policies (Kellner, 2003a). Richard Kahn and Douglas Kellner (2004) state, "The global internet is creating

the base and basis for an unparalleled worldwide anti-war/pro-peace and social justice movement

during a time of terrorism, war and intense political struggle" (p. 88). The Internet was effectively used

to coordinate organization between different movements that were mobilized around anti-war issues

and to facilitate participation in anti-war protests in 2001 (Vasi, 2006). People opposed to the war used

the Internet to find alternative news and used the Internet as a space for political discussion, which often

led to participation in anti-war movements (Nah, Veenstra, & Shah, 2006). There is mounting research

that corporately owned platforms like Facebook (Caren & Gaby, 2011; Gaby & Caren, 2012; Faris, 2008;

Marichal, 2013), Twitter (Gerbaudo, 2012; Hands, 2011; Lindgren, 2013), and YouTube (Askanius &

Uldam, 2011; Thorson et al., 2013; Wall & El Zahed, 2011) *have the potential* to be used by activists to

counter repressive policies. While networked communications do present new potentials for resistance

and democratic communication, their power comes from social movements and is strengthened by non-

virtual activities.

Conclusion

Communications research provides a way to explain the processes of normalization, legitimation,

and resistance that are crucial to the production of a state of exception. As stated previously, while it is

often either overlooked or taken for granted, communication pervades the production of and challenges

to a state of exception. States of exception are traditionally conceived as a legal designation and legal

means remain the dominant way they are established; however, analyzing the role of communications

and media answers how those decisions, arguments, and policies are communicated to the greater public.

Where the press failed in serving as a counterweight to executive power, it succeeded in shaping public

discourse and thought about emergency policies. Studying media and communications also provides

insight into how challenges are mounted to states of exception. When pressure for change comes from

social movements, media coverage is crucial for publicity. While challenges to states exception typically

come from social or popular movements and are publicized through media coverage, pressure for change

can also come from within the press, especially in cases directly related to press freedoms, such as the declassification of documents, the ability to conceal confidential sources, and access to trials. Additionally, analyses of communication and media are helpful in critiquing Schmitt's call for a state of exception as a corrective to the failures of liberalism as they help to bring into view the inherently anti-democratic policies an exception brings.

Chapter 3

The Militarization of Protest Policing

     The Arab Spring revolutions in places like Tunisia, Egypt, and Libya demonstrated how social

movements can use the networked power of new communication technologies to challenge injustice and

demand that their voices, concerns, and experiences are a legitimate part of political debate (Castells,

2012; Gerbaudo, 2012; Wolman, 2013). However, private companies, intelligence organizations, and law

enforcement are also utilizing communication technologies in ways that respond to and have an impact

on social movement and political dissent. The exploration of the relationship between media,

communication, and protest policing undertaken in this chapter serves to compliment and add nuance to

the growing literature that focuses on the ways in which new communication technologies and social

media, in particular, are creating more open, less regulated spaces for social movements to grow and

communicate (Castells, 2012; Gerbaudo, 2012; Howard & Parks, 2012; Khondker, 2011). As David

Cunningham (2003) states, "We know a great deal about how social movement organizations recruit

participants, mobilize resources, and initiate activity, but have considerably less understanding of how

authorities allocate repression in response to (and sometimes in anticipation of) protest events" (p. 209).

In many cases, new laws and the loosening of existing laws passed under the pretense of counter-

terrorism after the 9/11 attacks allowed law enforcement and police forces to use communication

technologies to control dissent in new ways.

     Protest is a form of political communication where people express, through diverse actions and

behaviors, their dissatisfaction and seek to mobilize support, raise awareness, and change existing

policies, social institutions, and political, cultural and economic regimes. Social movement theorist Karl-

Dieter Opp (2009) defines protest more specifically as "joint (i.e. collective) action of individuals aimed at

achieving their goal or goals by influencing decisions of a target" (p. 38). Within this definition, protests vary along variables of violence, regularity, organization, legitimacy, and legality (Opp, 2009). The degree to which protest is deemed a legitimate method of expressing political and social goals is historically variable and, in times of war and emergency, is often framed as a threat to public safety or national security. Long-time ACLU lawyer Christopher Dunn (2005) observed, after the 9/11 attacks, "The effort to associate protest activity with terrorism is alarming" (n.p.). Similarly, Nancy Chang (2002) states, "As a result [of the US PATRIOT Act] protest activities that previously would most likely have ended in a charge of disorderly conduct under a local ordinance can lead to federal prosecution and conviction for terrorism" (p. 113). A fundamental component of these changes include the accelerated expansion of surveillance powers, the US PATRIOT Act, and the creation of the Department of Homeland Security. The controversial PATRIOT Act amended legal definitions of domestic terrorism, foreign intelligence information and warrant certification, police surveillance powers, wiretapping authority, financial transaction privacy, and disclosure of education and library records (Bloss, 2007). The John Warner Defense Authorization Act of 2007 (NDAA), signed into law by President Bush in 2006, repealed portions of the Posse Comitatus Act, which prohibits the deployment of U.S. armed services, including the National Guard when under federal direction, on non-federal land for provision of law enforcement or peace-keeping. The NDAA "allows the President to declare a 'public emergency' and station troops anywhere in America and take control of state-based National Guard units without the consent of the governor or local authorities, in order to 'suppress public disorder'" (Morales, 2006). While the NDAA received no mainstream media attention, many worried that the vague language concerning when the president could declare a public emergency would lead to violent military suppression of mass demonstrations and protest (Goodman, 2008; Kuber, 2007; Morales, 2007; Wolf, 2007). The ambiguity and vagueness of the

language leaves open the potential expanded police powers will be used to criminalize those whose political and social beliefs pose a threat to existing power relationships.

Analysis of the militarization of protest policing reveals how post-9/11 state of exception limits the bounds of debate, de-legitimatizes particular forms of political expression, devalues dissent, shapes the development and use of media and communication technologies, and disempowers of marginalized groups. The new norm of protest control is characterized by militarized policing, similar, but more repressive than those used to repress the antiwar movement in the late 1960s. The militarization of protest policing poses new challenges for social movements, protesters, and media workers as it marks a departure from previous philosophies that privileged open communication, negotiation and tolerance of civil disobedience in favor of preemptive raids, mass arrests, the confiscation of media equipment, and the use of communications technologies in surveillance.

This chapter begins by discussing the militarization thesis within the context of post-9/11 state of exception policies, which were legitimized by appeals to the perceived risk of terrorism. Next, this chapter traces the history of policing styles, trends in government surveillance, and the bounds of dissent since the 1960s. This forty-year periodicity is significant because it bridges significant political moments in protest history, allowing analysis of historical similarities and changes in the policing of dissent. The militarization of protest policing is one of the de-democratizing processes occurring under the state of exception and legitimized by appeals to the war on terror. The chapter concludes by discussing the specific challenges the militarization of protest policing poses for dissent, political communication, and freedom of speech and expression.

Militarization

The militarization of protest policing is part of the larger processes of militarization, which gained strength and renewed legitimization during the post-9/11 exception and the appointment of key

neoconservatives to positions of power within in the Bush administration.   Militarization describes an

increase in defense spending and war production and the normalization of military ideology, including its

language, ideals, goals and practices, throughout society and culture. Peter B. Kraska (2007)

distinguishes between militarism, the set of beliefs and values that privilege violence as the most effective

and favored method of problem solving, and militarization, the implementation of militarism.   According

to Kraska (2007):

> [Militarism] emphasizes the exercise of military power, hardware, organization, operations, and technology as its primary problem solving tools. *Militarization* is the implementation of the ideology, militarism. It is the process of arming, organizing, planning for, threatening, and sometimes implementing violent conflict. To militarize means adopting and applying central elements of the military model to an organization or particular situation (p. 503).

Similarly, Catherine Lutz (2002) uses the term militarization to describe describe how investment in and

implementation of methods of force and the related militarized ideologies privilege the use of force in

problem solving. Lutz includes Kraska's concepts of militarism and militarization within one term:

Militarization. However, she takes her definition a step further in arguing that militarization has the

capacity to shape all spheres of human activity, including gender, the family, education, and immigration.

Drawing off these two related definitions, this dissertation defines militarization as the interrelated social,

political, and cultural processes involved in the ideological production of force as the appropriate means

of problem solving.

While the use of the terms "military culture" and "militarization" run the risk of reification because

specific military cultures vary by region and historical period, there are broad characteristics of

militarization that are useful in illuminating the transformation of social and media institutions into

repressive state functions, a transition that marks a move away from democratic rule. For example,

militarization privileges rule by force over other non-coercive means. The militaristic valuation of

hierarchy, chain of command, and maximum force as a method of political problem solving are in direct

opposition to the democratic ideals of inclusion and deliberation. In fact, their very exercise precludes

such forms of organization. Giroux (2004) warns, "As militarization spreads throughout the culture, it

produces policies that rely more on force than on dialogue and compassion; it offers up modes of

identification that undermine democratic values and tarnish civil liberties; and it makes the production of

both symbolic and material violence a central feature of everyday life" (p. 219).   Because militarization

privileges force as the preferred method of problem solving and depends on hierarchies and top-down

decision making, the increase of militarization within or in place of liberal democratic rule is a de-

democratizing process.

The process of militarization

This section begins by addressing historical examples of militarization in the U.S.   Next, this

section examines two facets of militarization: The increased investment in military force and the

ideological transformation of non-military spheres within post-9/11 anti-terrorism efforts. Historians

have identified different periods during which American culture and society became more militarized

(Kohn, 2009; Lutz, 2002). Richard H. Kohn (2009) argues that World War I marked a major turning point

in American militarization because the entire country became involved in the war effort, from public

relations to conservation efforts to the creation of new laws aimed at suppressing dissent. During this

time, the military reached out to businesses to aid in the research and development of new technologies,

forging a stronger military-business alliance (Kohn, 2009).   The war ethos from World War I carried over

into the Great Depression. Herbert Hoover and Franklin D. Roosevelt used war metaphors to describe

the depression and government war agencies served as the model for the New Deal (Kohn, 2009;

Leuchtenburg, 1964).

The establishment of the National Security Act in 1947 and the Cold War continued to foster a

close relationship between the military and scientific innovation in the U.S. Political historians describe

the National Security Act as one of the most significant pieces of U.S. legislation, second only to the Civil

Rights Act (Stuart, 2003). Douglas T. Stuart's (2003) research on the creation of the National Security

Act (SA) shows how the SA fundamentally transformed the institutional structure of power in the U.S.

government, terminating the traditional separation of government peacetime and wartime functions.

Stuart (2003) states:

> The omnibus legislation [SA] that passed…effectively scrapped a 160-year tradition of separation between the peacetime State Department and the wartime armed services…The new system was expected to protect Americans against another Pearl Harbor by improving interservice cooperation within the armed forces, centralizing the gathering and analysis of foreign intelligence and facilitating civilian-military coordination (p. 297).

In addition to merging government wartime and peacetime functions, the SA was produced by and

productive of fundamental changes in American ideology. Stuart (2003) states:

> Over time, the concept of national security displaced national interest as the leitmotif of American foreign policy, and it became increasingly difficult for U.S. policy makers to calculate American interests unless they were framed, and justified, by reference to national security. In accordance with the logic of national security, policymakers were predisposed toward worst case scenarios and tended to favor military instruments of power and influence (p. 303).

Stuart's analysis demonstrates how the massive restructuring of government in 1947 required and was

accompanied by changes in ideology. These changes laid the groundwork for post-911 state of exception

policies in the way they privileged worst-case scenarios and couched virtually all discussion of foreign

policy in terms of national security. The attacks on Pearl Harbor were used to legitimize the passage of

the SA. The significance of such a legitimizing event was not lost on the neoconservative think-tank

Project for a New American Century (PNAC).   In 2002, the PNAC argued that they needed "a new Pearl

Harbor" to achieve their political vision of U.S. global military dominance (Donnelly, 2000).

During the Cold War, technological and scientific innovation became a key way the U.S.

demonstrated its military superiority. Industrial military production includes military hardware and

weaponry, as well as surveillance and communication technologies, which have the dual purpose of

military use and civilian control (Ericson & Haggerty &, 2006).   Anti-communist fervor fueled the growth

and expansion of international (CIA) and domestic (FBI) security organizations.   The FBI's infamous

COINTELPRO targeted antiwar groups, civil rights organizations, the American Indian Movement, and the

Klu Klux Klan. In his 1961 farewell speech, Dwight D. Eisenhower famously cautioned against the

growing power of the military-industrial complex, the combined power of the military, business

community, and defense industries to compromise democracy by overshadowing investment in social

programs, like education, healthcare, housing, transportation infrastructure and agriculture. While

Eisenhower was critical of the military-industrial complex, his fear of communism powered the

expansion of the CIA and the development of the state-of-the-art espionage equipment (Taubman, 2003).

The marriage between the executive branch, private industry, and the military in the 1950s produced the

basic surveillance infrastructure that existed until the war on terror (Bacevich, 2011; Taubman, 2003).

While militarization has been growing since at least World War I, the September 11 attacks

reinvigorated the militarization drive and defined policy initiatives in all spheres within the war on terror

ideology (Giroux, 2004, 2005, 2008; Kohn, 2009; Lutz, 2002). The threat of terrorism, the need to prevent

future attacks, and the desire to obliterate terrorist organizations infiltrated policy decisions and

justifications in all spheres. For example, a 2004 manual created to help law enforcement intelligence

leaders coach their subordinates on intelligence gathering policies, technologies, and practices states:

> New expectations and responsibilities are being placed on law enforcement agencies of all sizes to
> develop an intelligence capacity as part of a cohesive national strategy to protect the United States
> from terrorism…Particularly after the events of September 11, 2001, unprecedented initiatives
> have been undertaken to reengineer the law enforcement intelligence function (Carter, 2004).

Post-9/11 militarization included the transformation of other spheres in line with WOT policies, such as

networked surveillance, the privatization of policing forces, preventative and pre-emptive repression,

and racial and religious profiling. Contextualized within the larger state of exception during which it is

occurring, post-9/11 militarization threatens to weaken democratic forms of communication and governing.

Investment in the military

The first dimension of militarization includes an increased buildup of and investment in military forces, which in the current epoch is tied to neoconservatism and surveillance. The ideology of counterterrorism legitimized skyrocketing defense budgets, the deployment of state and private military forces in Afghanistan and Iraq, and the growth of the surveillance state and industries. U.S. defense spending hit all-time historic highs during the invasion of Iraq and Afghanistan, even when adjusted for inflation, and, in 2011, compromised 20% of all federal funding (Plummer, 2013). Brown University's Cost of War project estimates that wars in Iraq and Afghanistan cost the U.S. government over $2.2 trillion, including the interest paid on borrowed funds and care for injured veterans (Brown University, 2013). In addition to spending record sums of money pursing perceived terrorist threats abroad, the U.S. government funneled enormous funds into domestic intelligence gathering and surveillance, with a large portion of funding going to the Department of Homeland Security (DHS). According to a Harvard study, the DHS has received $790 billion in federal funding since its inception in 2003, almost $300 billion more than the New Deal, when adjusted for inflation (Hellman & Kramer, 2013). The DHS got its start only eleven days after 9/11 when President appointed Pennsylvania Governor Tom Ridge as the first director of the Office of Homeland Security (Department of Homeland Security, 2013a). The creation of the DHS, which consolidated over 22 federal departments and agencies, was the largest restructuring of U.S.-domestic security since the Cold War (Andreas, 2003). One way the DHS supports law enforcement intelligence gathering is through the distribution of grants to state, local, and tribal law enforcement agencies for policing dissent.

The U.S. intelligence community, comprised of sixteen spy agencies, including the CIA, the FBI and the NSA, spent over $500 billion in federal funds from 2001 to 2013 (Desilver, 2013; Gellman and Miller, 2013). While specific figures are not available, experts estimate that Cold War intelligence spending peaked in the 1980s at around $71 billion (adjusted for 2013) dollars (Gellman and Miller, 2013). Since 2001, the intelligence budget has continued to swell. For example, in constant dollars, the intelligence budget was 25% higher in 2006 than it was in 2001, and by 2012, the intelligence budget had increased to 50% the 2001 amount (Gellman and Miller, 2013).

Ideological production of militarization

In addition to an increase in defense and intelligence spending, militarization also includes the normalization of military ideology. Catherine Lutz (2002) describes how militarization involves the ideological shaping of other spheres of activity, such as family and schools, to reflect military ideals. Lutz (2002) states, "Militarization is simultaneously a discursive process, involving a shift in general societal beliefs and values in ways necessary to legitimate the use of force, the organization of large standing armies and their leaders, and the higher taxes or tribute used to pay for them" (2002, p. 73O). Ideological production is necessary in sustaining and legitimizing such changes.

Stephen Graham discusses a "new military urbanism" whereby the landscape of urban spaces is privatized, imagined, and governed as a war zones constantly under threat by non-state actors (Graham, 2010).   Urban spaces are delineated, controlled and transformed into militarized zones during global summits, sport games, and other high profile events. Graham highlights the role of the state of emergency in creating these spaces. He states, "Walling, cordoning and pre-emptive incarceration reach further extremes during the 'states of emergency' that now hold sway when political summits, global sporting events, and high profile events take place…Security strategies turn open city districts into temporary, mobile 'security islands' replete with paramilitary forces, militarized cordons and even

surface-to-air missiles" (Graham, 2010, p. 121).   Graham's analysis speaks directly to the militarization of protest policing that is explored later in this chapter and the case study in Chapter 4.

Peter Andreas (2003) shows how border control is another recent site of growth for military forces and technologies, spurred in part by the loosening of the Posse Commitus Act, a piece of Civil War legislation aimed at preventing the involvement of military in domestic issues. With the wars in Afghanistan and Iraq receding as a source of profit, defense contractors are turning to U.S. border control to make money. Andreas (2003) lists the following military technologies as being used in border control: Night-vision equipment from the 1991 Gulf War, an automatic biometric identifications system used by the U.S. Navy in 1992 to process Haitian refugees, and infrared body sensors from the Vietnam era. Customs and Border Protection, now the U.S. government's largest law enforcement agency and under the Department of Homeland Security's umbrella, invests in Blackhawk helicopters, fixed winged jets, and Predator B drones, equipped with "man-hunting" Vadar technologies, all of which were deployed in Afghanistan (Miller, 2013b). The 2013 Immigration Reform Bill plans to add $46 billion to the already $100 billion spent on border control since 9/11 and the annual $18 billion budget for border and immigration enforcement (Miller, 2013a).   The majority of people arrested by Border Patrol are migrant workers, crossing the border to work out of economic necessity and inequalities driven by the North American Free Trade Agreement (NAFTA), which put 2 million Mexican farmers out of work (Miller, 2013a; Miller, 2013b). The production of the U.S.-Mexico border as a militarized space has altered migration patterns, making the dangerously remote Tucson Sector the most traveled route on the U.S.-Mexican border (Binational Migration Institute, 2013).   A study by the University of Arizona's Binational Migration Institute (2013) titled "A Continued Humanitarian Crisis at the Border" reports that militarization of border policing is a direct cause of traffic on the Tucson Sector and responsible for the continued rise in migrant deaths due to exposure to the elements.

Federal drug policy is another sphere where appeals to terrorism were linked with fear and crime to justify policy changes and crackdowns. Radly Balko (2014) describes how the war on drugs, which began in full force in the 1980s, cultivated a rhetoric and mentality of "us versus them" that legitimized military training for police officers, the widespread proliferation of SWAT teams, investment in military armor and weaponry for police departments, and the normalization of no-knock, night-time raids on people suspected of criminal activity. Because of the police militarization that occurred during the war on drugs, police departments were already primed for the escalation of militarization that followed the 9/11 attacks. The 1033 Program, which provides local police departments with surplus military equipment was started to help aid in the war on drugs, but greatly expanded after 9/11 under the threat of terrorism. After 9/11, there was increased funding for SWAT gear, weapons, and military-style vehicles. There were changes in surveillance law and legal regulations concerning warrants, raids, and criminal law—all justified under appeals to terrorism. In December 2001, President Bush used the terrorism framework to give new justification to the federal drug prohibition campaign while signing a bill expanding the federal anti-drug program for the next five years. President Bush (cited in Campbell, 2002) stated, "If you quit drugs, you join the fight against terrorism." In making the case, the Office of National Drug Control Policy produced and aired a series of televised public service announcements directly linking everything from marijuana to ecstasy to cocaine to the funding of terrorism.

The process of militarization has transformed the culture of the military itself. Lindsey Feitz and Joane Nagel (2008) argue that despite the increase of women in the military in recent decades, hegemonic constructions of masculinity and femininity, which posit men as brave, virile, tough and daring, and women as virtuous and vulnerable, continue to shape the cultural infrastructure of militarism. This militarized production of gender has dire consequences for women in the military. According to Naomi Wolf (2013), the normalization of torture beyond international law and the

dehumanizing of enemy forces, key features of U.S. military action during the war on terror, has contributed to the dramatic rise of reported and increased visibility of the military's "rape culture." And while the greater inclusion of women in the military and combat is believed to be promoting equality, the militarization of gender is contributing to the normalization of sexual violence against women.

Giroux (2008) describes how militarization has transformed the university from a public institution committed to social responsibility and critical thinking into a "militarized knowledge factory," which values market fundamentalism and commercial success. The militarization of higher education includes the rise of university-corporate partnerships, the defunding of public universities (especially humanities and liberal arts programs), skyrocketing tuition rates, attacks on academic freedom and tenure, increasing reliance on temporary faculty and private contractors, and the growing dominance of corporate governance (Giroux, 2011). The erosion of critical thinking in higher education is producing neoliberal students uninterested or incapable of critiquing fundamental societal processes and shifts that undermine human agency (Giroux, 2006; Giroux, 2011). Far from suggesting that the erasure of critical counterforces to militarization precludes the possibility of resistance, Giroux's call to arms implores educators in the academy to foster a culture of questioning and critique in students capable of challenging a nation weary of criticism, ripe with anti-intellectualism and shaped by neoliberalism and militarization. These examples also show how policies pursued as part of a state exception become ideologically entrenched throughout social institutions, transforming them in ways that erode less violent and more liberal-democratic modes of governing. In addition to describing an increase in military and security funding, investment and deployment, a key facet of militarization includes the transformation of other spheres and spaces in line with military activities and goals.

Militarization and inequality

As with previous militarization processes, post-9/11 militarization is unequally distributed along lines of class, race, and ethnicity. An example is the increasing use of what is known as stop-and-frisk practices by police in New York City, a practice where police temporarily detain individuals on the street to question them and potentially search them. A 2012 analysis of the practice by the Center for Constitutional Rights (CCR) found that Blacks and Latinos are disproportionately subjected to stop-and-frisk, representing 85% of those stopped ("Stop and Frisk," 2012). In addition to charges of police misconduct during stop-and-frisk, such as sexual harassment, improper arrests, and unnecessary use of force, respondents described the policing style as militaristic and likened the relationship of NYPD to their communities as one of occupation ("Stop and Frisk," 2012). One respondent said that the police "have borrowed from military tactics, because when they patrol the streets, they don't patrol in a community-friendly way. They do it like [they're] on a search-and-destroy mission" (Samuel T. cited by ("Stop and Frisk," 2012, p. 19). The historical roots of post-9/11 militarization reveal how such processes were legitimized by appeals to a threatening enemy, whether communism, crime, drugs, or terrorism. The unequal production of militarization—the way it structures relations of power— has historically functioned to the detriment of women, people of color, immigrants, the working class, and political and religious dissidents.

Police Militarization

Kraska (2007) provides four dimensions or indicators useful for empirically measuring the relative militarization of police forces: Material (advanced military weaponry and equipment, such as automatic weapons, armored vans), cultural (use of military language, style and appearance, such as battle dress or riot gear, and military beliefs and values), organization (normalized use of elite squads based off military special operations teams, such as SWAT teams), and operational (practices of

intelligence gathering, surveillance, and zero tolerance initiatives). As a result of extensive ethnographic

research and two national surveys, Kraska argues contemporary police practices rank high on

militarization for all indicators, supporting the police militarization thesis (Kraska, 2007; Kraska and

Cubellis, 1997; Kraska and Kappeler, 1997). As evidence of this fundamental shift in policing, Kraska

(2007) cites the government response to Hurricane Katrina. Instead of relying on traditional models of

social welfare and humanitarian aid, the militarized response revolved around issues of security and

crime and was policed by paramilitary police squads, private security soldiers, including Blackwater, and

the U.S. National Guard (Kraska, 2007).

The emergence of the militarization of protest policing can be traced to the 1908s and the war on

drugs, as previously discussed. In his study of the war on crime and urban underclass, Daryl Meeks

(2006) claims that urban law enforcement, responding to middle-class suburban fears, began adopting a

military mindset in the 1980s.   In doing so, Meeks describes how metaphor of war played an ideological

role in legitimizing policing changes. Criminal justice scholars find similar trends of police militarization,

in the rise of paramilitary police units within police forces beginning in the 1980s (Kraska & Cubellis,

1997; Kraska & Kappaler, 1997; Kraska, 2007). Paramilitary police units (PPUs) are distinguished from

traditional police because PPUs have at their disposal a variety of militaristic equipment and technology,

including high-tech military weaponry and non-lethal weapons, such as concussion grenades and tear

gas, have an organizational structure similar to the military, wear military-style uniforms, placw high

values on group solidarity, and view themselves as "elite officers" (Kraska & Kappaler, 1997). As with

urban underclass policing, the growing presence and power of PPUs within police departments is

reinforced by war metaphors in American culture (ex. the war on drugs, the war on poverty). Kraska and

Kappaler (1997) state, "It takes little acumen to recognize how the metaphor of 'war' – with its emphasis

on occupation, suppression through force, and restoration of territory – coincides naturally with the

'new science' of the police targeting and taking control, indeed ownership, of politically defined social spaces, aggregate populations, and social problems with military-style teams and tactics" (p. 14).

In liberal democracies, concerns over the anti-democratic potential of a military-police alliance contributed to the creation of laws intended to keep each organization distinct, a separation that was a key feature of the modern nation-state (Lutterbeck, 2004). The military-police separation was made according to geographical jurisdiction and degree of force: Police maintain internal order and use minimal force, whereas the military secure the borders of the nation-state against common enemies and use maximum force (Brooks, 2005; Weiss, 2011). Despite the ideological separation, the fact that the power of the police and the military are rooted in the legitimate use of violence to maintain social control makes it less of a rigid boundary: The police have always been 'militarized,' the historical question is to what degree (Kraska, 2007). As with other liberal-democratic ideals, such as civil rights and rule of law, the principle wasn't always applied to all groups equally and the military-police boundary was often blurred in the repression of minority communities, marginalized groups, dissident social movements, and trade unions. What distinguishes police militarization under the politics of the war on terror is the normalization of militarized policing, marking a fundamental shift in power away from other forms of problem solving towards militarized solutions (McCulloch, 2004). This change is interpreted, according to Peter B. Kraska (2007), "as an indicator of repressiveness and a lack of democracy" (p. 501).

A key contributor to the blurring military-police boundary is the erosion of the nation-state and its national borders, precipitated by the rise of neoliberal globalization and transnational forms of governing, such as the G20, World Trade Organization, and the European Union, and transnational risks, such as terrorism, drug trafficking, and organized crime (Andreas, 2003; Lutterbeck, 2004). As transnational neoliberal governing allows for capital and individuals in powerful positions to cross borders more freely, the same borders become more rigid for the classes of people on whose cheap labor

neoliberal capitalism depends on and for those who are perceived as a risk or threat to the existing order.

Not surprisingly, border security emerged as one of the primary sites where the lines between the police

and the military began to blur in the post-Cold War Era (Andreas, 2003; Lutterbeck, 2004). Not only did

law enforcement become increasingly tasked with intelligence gathering and anti-terrorism efforts, but

the military also became more involved in the securing of borders, a change that Andreas (2003) argues

complicates the argument that globalization lessened the power of national borders through increased

mobility.

Protest policing: A short history

During repression of Occupy camps in 2011 in places like Oakland and the University of California,

Davis, the militarization of protest policing began garnering some media attention (Baker, 2011;

Navarrette, 2011; Vitale, 2011). However, militarized protest policing has deeper origins. It began near

the end of the 1990s and intensified during the war on terror, coinciding with the militarization of other

spheres. What distinguishes the new militarization in protest policing from other repressive periods,

such as the 1960s, is that contemporary policing processes criminalize dissent by linking it with

terrorism and the use of including networked intelligence gathering, preemptive raids and arrests, and

use of non-lethal weapons. In order to fully understand what is new about the militarization of protest

policing, it is useful to look at previous trends in policing styles, including escalated force and negotiated

management.

Escalated force, the dominant policing philosophy during the 1950s and 1960s, describes a police

philosophy where the degree of force used is determined by the degree of violence, real or perceived, of

the protesters (McPhail, Schweingruber & McCarthy, 1998). Criticisms of law enforcement treatment of

protesters under escalated force—optimized by the crackdown at the 1968 Democratic National

Convention in Chicago where police were chasing and beating down protesters on national TV— led to

the adoption of less violent methods. During the 1970s and 1980s, protest policing tended towards less repressive forms of protest control with police being more respectful of the law, more adaptable, open to communication with protesters, and more tolerant of civil disobedience. Under this model, known as negotiated management, the police and the protesters communicate and negotiate before the demonstration to avoid conflict and ensure the protection of First Amendment rights (McPhail et al., 1998). While the negotiated management style of policing is advertised as a way of protecting the communicative and expressive rights of protesters, critics charge that the over-structured and orderly chain of events, from negotiation, to civil disobedience, to arrest, to processing, to release, make the act of civil disobedience routine and ineffectual (Smith, 2013). So while it is less violent than escalated force, the negotiated management style diminishes public visibility of protest issues by producing a thoroughly planned event.

The WTO protests in Seattle in 1999 are regularly cited as a turning point away from negotiations and open communications toward more violent and repressive policing measures. Alex Vitale (2005) labels the latest incarnation of police philosophy as "command and control." Command and control, according to Vitale, describes how police micro-manage protests to eliminate the possibility of disorder or disruption and is distinguished from negotiated management because it includes little to no negotiation with protest organizers. He distinguishes it from the unorganized violence of escalated force in the 1960s where police supervisors were seen chasing down officers in the streets to stop them from beating protesters. Under the command and control philosophy, according to William Smith (2013), the "aim is to reduce the risks typically associated with transgressive protest through various pre-emptive strikes." The command and control style of protest policing criminalizes dissent by linking it with terrorism and relies on militarized policing.

The militarization of protest policing refers to the following practices: The increasing use of repressive, military-style force, including the use of SWAT teams, riot gear, chemical agents and non-lethal weapons; preemptive raids and arrests of political groups and journalists; mass arrests; confiscation of electronic devices (phones, PDAs, hard drives, recording equipment); media embedding; use of surveillance technologies (i.e. flying surveillance drones, police video cameras) and the infiltration of political groups and demonstrations, including agent provocateurs; and strict control of protesters space and mobility, including the denial of permits, the use of free speech zones and fencing, and shutting down public transportation. In a similar vein, but with less attention to the ways protester communication is targeted and media are censored and repressed, Alex Vitale (2005), drawing on the NYC-based organization, The Campaign to Demilitarize the Police, defines paramilitary policing as:

> Surveillance and infiltration of non-violent political organizations; the denial of permits or tight restriction of demonstration locations; the heavy deployment and use of defensive equipment, such as body armor; the use of 'less lethal' weapons on non-violent protesters; the deployment of highly trained police units to control demonstrations; preemptive arrests and targeting of protest leaders; and coordination between local and federal law enforcement officers. (p. 290)

Militarized protest policing is justified is through appeals to terrorism, security and homeland defense. As the case of the 2008 RNC makes clear, the militarization of protest policing is one process through which the problematic linking of antiterrorism, criminal activity and dissent is shaping communication technologies and media freedom.

Mobility and protest. The geographic concepts of space and mobility are useful for understanding how the militarization of protest policing, as part of the state of exception, functions by normalizing undemocratic forms of mobility and space at mass demonstrations. Mobility, according to Tim Cresswell (2000) is the social production of movement through time and space; "a *necessary production*" (p. 22). Mobility is necessary because, for the majority of people, it is part of being human

(Creswell, 2000).[3] Its ubiquity works to naturalize and universalize particular mobilities; however, it is an unequal, politicized process. For example, Cresswell (2000) describes how the mobility at airports is differentiated according to nationality, purpose of travel, status as citizen or alien, and class of traveler (first, business, economy, stand-by, etc). The mobility of some (tourist, business traveler) is produced by the exclusion or immobility of others (airport workers, aliens). The differential production of mobility and its contestation is evident in the international neoliberal trade agreements and the mass demonstrations protesting their philosophy and practices. From the perspective of the international trade organizations, the free mobility of goods, investments, and capital across national boundaries is the lifeblood of modernity, a perspective synonymous with the neoliberal, globalization project. According to Anup Shah (2013),"Neoliberalism, in theory, is essentially about making trade between nations easier. It is about freer movement of goods, resources and enterprises in a bid to always find cheaper resources, to maximize profits and efficiency." While the ideology of free trade celebrates the unfettered capital mobility over alternative visions and experiences, global trade agreements include selective protectionist barriers, import duties, and quotas that privilege certain countries and economies over others. Additionally, the ability of free trade agreements to produce profits for the few requires immobile labor forces secured by national borders and distinct economic, legal, and political systems, which enable profiteering off fluctuations in localized economies. The international trade organizations also restrict mobility in the repressive control of the protests outside of their meetings. The closing of public transportation, use of fences and free speech zones, forced mobility and corralling during mass arrests, and revoking of march permits during mass demonstrations are methods of controlling mobility used to protect the interests of the trade organizations from dissent.

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[3] For a description of the "mobility turn" in cultural geography and a related literature review see Blunt, A. (2007). Cultural geographies of migration: mobility, transnationality and diaspora. *Progress in Human Geography 31*(5): 684-694.

It is the differentiated and unequal production of particular mobilities that challenges the ideological power of mobility as universal. Those protesting outside of international trade agreement meetings use mobility to symbolically critique the universalizing neoliberal ideology of mobility by demonstrating that not all mobility is celebrated; quite contrarily, some mobilities are criminalized.   In his analysis of the FTAA protests in Québec City in 2001, Bruce D'Arcus (2013) contrasts the security fences erected to immobilize and separate the protesters from the ministerial conference, which was convening with the aim of increasing transnational capital mobility.

Specific to dissent, space provides two primary contexts: It provides the necessary place, including virtual places, in which democratic rights can be enacted and it provides symbolic sites of contention. The space of dissent is, like mobility, a process shaped by power and struggle. Spaces for dissent do not simply exist; they must be created. As Mitchell (2003, p. 81) states:

> Rights have to be exercised *somewhere*, and sometimes that "where" has itself to be actively produced by taking, by wrestling, some space and transforming both its meaning and its use- by *producing* a space in which rights can exist and be exercised.

Because rights in general, and protest rights specifically, are exercised in spaces, the availability of space is inherently bound to democratic practice. Even collective action in cyberspace, such as shutting down of government websites and electronic sit-ins, is dependent on access to the terrain of (virtual) space (Calabrese, 2004).

Space and protest. As with mobility, the symbolic and ideological qualities of space become opportunities for protesters to draw attention to injustices. For example, Noakes et al. (2005) explore how protesters target particular spaces, such as monuments, government buildings, or historical sites that possess a certain symbolic and cultural communicative value. Researchers show how complex permitting systems for mass demonstrations often function as a method of controlling legal protester access to symbolic sites (Mitchell and Staeheli, 2005).   The value of these spaces is not lost on

authorities who actively struggle to prevent protest acts and to (re)assert control over the space and its meaning (Wainwright, cited in Noakes et al., 2005). As Cresswell (2000, p. 163) states, "The unintended consequence of making space a means of control is to simultaneously make it a site of meaningful resistance." The designation of free speech zones and permitted march routes as a means to control the space of protest create new sites of transgression for protesters to challenge not only hegemonic delineations of political space, but also the processes of the hegemonic power, in general.

Conclusion

Militarized protest policing within a state of exception threatens to become the norm and liberal ideals, whose universalism, however flawed, gave people the grounds on which to stake claims for freedoms, rights and equality will be abandoned. Police militarization is accelerated and legitimized by WOT policies and funded by increased government funding for counter-terrorism. These processes encapsulate neoliberal trends, creating profitable markets for the country's most wealthy corporations as they rush to secure lucrative government contracts—evidenced by the growth of industries producing weapons technologies, surveillance, intelligence gathering, border control, security, and crime prevention. The functions of surveillance, security, and policing, traditionally the role of state, are increasingly delegated to the private sector. This marks not only financial gain for the private sector, but also an increase in power over the legitimate use of force, previously the monopoly of the state.

Militarized police forces have been increasingly deployed to control poor communities, whose problems of crime, poverty, unemployment, food insecurity, drug addiction, gang violence, and homelessness and a need for better education, medical and mental health services are a direct product of the neoliberal deregulation, privatization, and economic policies. In this scenario, the neoconservative investment in military and defense spending, along with mechanisms of social control, is used as a solution to and means of controlling the problems of gross social, economic, and political inequality

produced by neoliberal capitalism. The result is a failure to address the historic, systematic, and structural causes that plague poor communities. Additionally, privatization of government services and the dismantling of social programs lines the pockets of private corporations that directly profit from "solving" the conditions of inequality. Police militarization, therefore, provides an excellent example of how the interests of neoliberalism and neoconservatism can align in ways that oppress and repress poor communities, stripping them of rights and opportunity.

The systematic repression of protest seeks to mark protesters as outside civil rights protections and outside the bounds of acceptable democratic participation. The abandonment of universalism and egalitarianism are two key ways that the political ideology of neoliberalism is stripping political culture and governmental concerns of democratic responsibilities, goals, and ambitions (Brown, 2006). In other words, the militarization of protest policing occurring alongside and in relationship with neoliberalism is a de-democratizing process. It has done more to dismantle the democratic right to protest than any of the contradictions of the public sphere: Where the ideal of the public sphere held out the potential for universalism and equality, creating a site for contention and further democratization, militarization completely lacks such appeals to equality and inclusion. Militarization closes spaces of debate and dissent. As this chapter has argued, changes in protest policing, part of a larger process of militarization, are happening under the pretense of post-9/11 anti-terrorism efforts and result in the stifling of political communication: Shaping *who* gets to be heard and *what* gets to be said.

Chapter 4

The Militarization of Protest Policing at the 2008 Republican National Convention: Impact on Media and Use of New Communication Technologies

This chapter explores how the politics of the exception and the precautionary logic of terrorism have governed social unrest, specifically protest, during the war on terror (WOT). As the literature on the state of exception, security, and risk suggests, dissent has become one of the targets of emergency power in the war on terror. To investigate these issues, this chapter explores how recent changes in police work, known as the "militarization" trend in policing, is transforming the way police units interact with and define protesters. These changes marks one important way that political communication is being repressed and restricted by post-9/11 security processes. In this chapter, the militarization of protest policing, a repressive global process accelerated and transformed by the politics of the war on terror is examined through a case study of the 2008 Republican National Convention (RNC) protests in St. Paul, Minnesota.

In November 2003, about 10,000 demonstrators from around the U.S. and the world showed up to protest the Free Trade Area of the Americas Summit (FTAA, in Spanish, the Área de Libre Comercio de las Américas, ALCA) in Miami, Florida. Other cities sent representatives to study the protest control tactics in what the mayor of Miami Manny Diaz called "a model for homeland defense" (Klein, 2003). The method of policing dissent has since become known as the "Miami Model." Far from being a model for homeland defense, the Miami Model, which represents the culmination of repression tactics used across the world, has become the new global normal for repressing dissent. John Timoney, Miami's police chief who oversaw the Miami Model, was hired by the Bahraini government in 2012 to train and reform the country's security forces, which have a violent history of suppressing protest (Devereaux, 2012). A year

after Timoney's training of security forces began, the violent suppression of protests in Bahrain intensified with the use of tear gas, a hallmark of Timoney's Miami Model, leaving three people dead and setting the death toll from tear gas at 13 since 2011 (Devereaux, 2012). The policing of the 2008 RNC protests, or as the protesters refer to it, "The Battle of St. Paul," provides insight into militarization tactics five years after "The Miami Model." By viewing the 2008 RNC through the analytic lens of police militarization, this chapter argues that the policing of protest is an area in which anti-terrorism policies have a chilling effect on dissent and mass demonstrations, a hallmark of democratic expression.

The case study in this chapter focuses on the crackdown against dissent in the U.S. at one historical juncture in order to illuminate the normalization of militarized protest policing during the war on terror; however, the contemporary changes are part of transnational and historical processes that are continually challenged, subverted, and changing. Mass demonstrations against the gross inequities and destruction wrought by neoliberalism, capitalistic globalization, and oppressive authoritative governments have mobilized people to take to the streets. These diverse, yet interrelated movements can be understood as part of the "global justice movement" (GJM). These protests have, in many cases, been met with militarized police forces. For example, people took to the streets in Argentina from 2000 to 2002 protesting economic restructuring, austerity measures, the International Monetary Fund, and high unemployment. The violent repression of the protests by police included the use of rubber bullets, tear gas, and other abuses—leaving five dead (Rogers, 2011). In 2001, when anti-globalization protesters mobilized against the Group of 8 Summit in Genoa, Italy, police responded with repressive tactics and shot and killed Carlo Giuliani, a 23-year old Italian demonstrator. In recent years, demonstrations in Greece, Spain, Portugal, London, and other European countries against austerity measures have been marked by the excessive use of force by militarized police units. In 2011 Amnesty

International condemned actions by Greek police against peaceful protesters, criticizing the use of tear gas, stun guns, chemical agents and beatings, which left hundreds hospitalized (Phillips, 2011).

The use of the police and the National Guard to repress protests against neoliberal policies and the conditions they create is a perfect example of how the state protects property rights, neoliberal policy makers, and benefactors of the system. Returning to the example of the 2003 FTAA meeting in Miami, one reason the State of Florida and the City of Miami governments invested heavily in creating a "model of homeland security" is that they were vying to become home to the FTAA and the "undisputed Gateway of the Americas" (Board of Directors, 2003). Cities hoping to be considered had to provide security capacities and crime statistics (Board of Directors, 2003), and Miami hoped to prove itself on this count by providing a high level of security for the Secretariat. As part of the preparations, an 8-foot steel fence was erected around the Hotel InterContinental in Miami to create a no-protest buffer zone (Bell and Mussenden, 2003). The steel fence ensured the protesters, including U.S. steel workers, would be well out of the eyesight and earshot of the trade meeting. Additionally, police forced protesters into Miami's Overtown neighborhood. Overtown is an economically depressed neighborhood where over 46% of individuals and 40% of families live below the official poverty line (U.S Census Bureau, 2000). Since 1960, the population has decreased by about 25% and businesses have likewise left (Independent Media Center, 2004). The landscape of Overtown bears witness to the unequal distribution of material wealth resulting from racial discrimination and neoliberal policies. Overtown residents report that during the FTAA they were encouraged by the police to rob the protesters (Rameau cited in IMC, 2004). A local Overtown resident said the police presence during the FTAA was the largest he had seen, even larger than during riots resulting from the murder of a black man by the police in 1989 (cited in Sustar, 2003). In the case of the 2003 FTAA, militarized police forces repressed people demonstrating against neoliberal policies and protected neoliberal policy makers from having to hear dissent or criticism—in doing so,

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they went well beyond protecting against a security or terrorist threat. Ironically, the police

marginalized dissent by forcing protesters into an area devastated by the policies being negotiated at the

FTAA—communities whose poverty levels FTAA policies would have further exacerbated had it been

approved.

As explored in the previous chapter, many of the techniques of repression characteristic of the

current militarization of protest policing have historical precedent. Historical surveys analyzing the

treatment of dissent reveal that state and private forces have often resorted to force to suppress dissent

and control populations perceived as a threat within U.S. national boundaries. Egregious examples

include the 1941 Ludlow Massacre, the Japanese American Internment during World War II, repression

of the Civil Rights Movement in the 1960s, the Kent State shootings in 1970, and repression of the

American Indian Movement in the 1970s.   In many cases, repression is a dialectical force, contributing to

the strengthening and growth of protest movements. For example, when the National Guard opened fire

on a Vietnam War protest and killed four students at Kent State University, the public was outraged and

nearly 4 million students and faculty went on strike at over 450 U.S. campuses ("Kent State," 2012). This

chapter is situated within these global and historical examples of crackdown and protest repression.

Method

In order to investigate how the militarized style of protest control is becoming the new global

norm for delegitimizing dissent as a form of political communication, this chapter presents a case study

of the Republican National Convention (RNC) in St. Paul, Minnesota in 2008. The case study is supported

by participant observation conducted at both the 2008 RNC and DNC in Denver. Some questions asked

include: What was the police narrative about the protests? How did police use communication

technologies to create their narrative? What was the role of the private sector in surveillance and

policing? The findings are compared against the media narrative constructed through a textual analysis

in the next chapter to determine in what ways the police and media narratives converged and diverged.

At both the Republican National Convention in St. Paul and the Denver National Convention in

Denver, the police were militarized. In Denver, convoys of Ford Expeditions featured external platforms

so riot gear clad police could stand and surround the SUVs as they patrolled the streets of Denver. The

city of Denver set up a free speech zone that was so far removed from the convention that it was difficult

to find, hard to access, and went almost unused by protesters or media. The size of the Denver police

force was doubled and they had on display a Ballistic Engineered Armored Response Vehicle, which is

manufactured by Lenco Armored Vehicles and closely resembles a tank, and the slightly smaller BearCat,

used by Denver SWAT (Illescas, 2007). The militarized police display in Denver was so apparent and

visible; St. Paul wished to distance itself from the show of force of Denver. Despite such stated intentions,

the model of highly visible militarized policing characterized the RNC in St. Paul as well.

The RNC in St. Paul was chosen for closer investigation for a number of reasons. First, the

Republican Party had been in control of the Executive Branch since 2000, a period which included the

9/11 attacks and the controversial U.S. policy response. As a result, the protests drew a greater number

of protesters and the protests were more energized. Second, the police response in St. Paul was

characterized by greater repression—there were more protesters and media arrested, the police were

more likely to use chemical agents to control crowds, and there were more allegations of police abuse

and misconduct. Third, in St. Paul there was not a sense of "business as usual" downtown around the

convention. The delegates and conference attendees where shuttled from hotel to convention to after

parties in secure private shuttles. The businesses and restaurants in downtown St. Paul were virtual

ghost towns. In Denver, while there was a highly visible militarized police force, delegates, convention

goers, media, and protesters mingled in restaurants, bars, and public spaces. So while both conventions

featured militarized police forces, there was a difference. One key difference was the use of pre-emptive

raids in St. Paul. Finally, there was much more data available about surveillance, intelligence gathering,

and policing decisions during the RNC. The data became available through FIOA requests, St. Paul's

independent review of allegations of police abuse, lawsuits, and government leaks. The availability of

these documents provided a unique opportunity to analyze police narratives and surveillance activities.

The focus on the RNC in this case study and the following textual analysis is not intended to single

out the Republican party for their reliance on militarized policing models. Both the Democratic and

Republican parties relied on militarized models of policing in controlling dissent at their national party

conventions. Additionally, both parties have supported policies that contributed to police militarization,

which the history of the War on Drugs, the rise of paramilitary police units, and the WOT makes clear

(Balko, 2014; Kraska, 2006). The problems described in the following empirical chapters are indicative

of problems that are widespread and are relevant to both the dominant political parties—in much the

same way that neoliberalism runs through both parties. The difference between parties is evident in the

sometimes-different circumstances in which each party turns to police militarization as a legitimate form

of problem solving (Balko, 20014). However, both parties support and contribute to the growth of police

militarization.

Case study

A single case study design was chosen because the 2008 RNC provided a critical case, meeting the

conditions for testing theory, and a representative case, deserving of attention because it reveals typical

occurrences (Yin, 2014). According to Tanni Haas (2004), "One of the most important principles of

qualitative case study research is the use of multiple, as opposed to single, sources of information" (p 64).

The 2008 RNC allows investigation of theoretical claims concerning the changing nature of political

power under a state of exception, including: The impact of militarization on communication and media;

the use of new communications technologies in the surveillance of dissent; restrictions on political

dissent legitimized by appeals to anti-terrorism; and the media coverage of these changes. The 2008 RNC

constitutes an extreme case in that police repression was widely condemned (even in post-convention

police reports), over 45 media workers were arrested, and protesters were charged under anti-terrorism

law. However, there are more violent cases, including the repression of the Black Lives Matter protests in

the U.S. and the ongoing repression of political dissent in Puerto Rico.

While one particular case cannot speak to the sheer diversity and scope of these practices, this in-

depth analysis contributes to the overall understanding of the global militarization of protest policing.

John Gerring (2002) states, "Sometimes, in-depth knowledge of an individual example is more helpful

than fleeting knowledge about a larger number of examples. We gain better understanding of the whole

by focusing on a key part" (p. 1). In order to meet the methodological values of reliability and validity,

this study draws on multiple sources of information. Using multiple sources is important because it is a

form of data source triangulation, a practice that helps case studies establish the validity and reliability of

their measures. The use of multiple sources provides various measures of the same case (Haas, 2004).

Sources used in the case study include participant observation, firsthand accounts, interviews, police

reports and documents, newspaper articles, internal government memos, government reports, speeches,

court documents, security documents and surveillance reports (FBI, CIA, NSA), Congressional reports,

documentary video, private sector press releases, non-profit investigations, and organization websites.

This is the first in-depth, academic investigation into the 2008 Republican National Convention protests.

Participant Observation

Participant observation increases the validity of qualitative studies, allows collections of data not

available elsewhere, and allows first-hand observation, eliminating self-reporting bias (Guest, Namey &

Mitchell, 2013). In this case study, participant observation allowed first-hand observation, interviews,

the collection of video and still photos, and a deeper understanding of how police militarization impacts protesters. Combined with the primary and secondary sources in the case study, participant observation contributed to a more holistic understanding. Thanks to a research grant from the Graduate School at the University of Colorado, Boulder, I was a participant observer at the Democratic National Convention in Denver and the Republican National Convention in St. Paul in August and September of 2008. I volunteered to work with a documentary film crew led by Joan Seckler and borrowed film equipment from CU Boulder's School of Journalism and Mass Communication. For the RNC, I was in St. Paul from August 31, 2008 to September 5, 2008.

In St. Paul, my film crew shared media space and collaborated with *The Uptake,* an independent media organization based out of Minnesota. The media space was located directly outside the Excel Center's security perimeter. Police were using the parking lot police across as a makeshift station. On September 4, 2008, the last night of the convention, police barricaded the building and refused to let any media personnel exit until things "calmed down."   Many of the reporters, myself included, felt that barricading unnecessarily restricted the ability of the press to cover events.

Other events also shaped my experience of the convention. The first day of the convention, September 1, a police officer shot pepper spray in my direction while I was attempting to cover a direct action. At the time I was wearing press credentials. The last night of the convention, police used snowplows to block the bridges and shut protesters out of the city after revoking a permit to march. When darkness fell, law enforcement conducted mass arrests and chased protesters amid seemingly constant explosions from smoke bombs, flash bombs, and concussion grenades.   During this time the police pushed protesters into a Sears parking lot and dispersed media and protesters throughout the parking lot. The dispersal was bedlam. Protesters and media did not know where to go and police orders were not clear. It appeared as if the police were trying to break up groups of protesters, chase small groups, and make

arrests. People leaving the still open Sears store got caught up in the confusion and ended pursued by

police. While trying to figure out what I should do, I saw a team of police in full riot gear run around the

corner of Sears. I began filming the police for lack of a better idea. The police spotted a 17-year-old girl

wearing black who appeared lost. I continued filming as the police chased the young girl between parked

cars. Once between the cars, they knocked her to the ground with batons. While she was down, they

pepper-sprayed her in the face a few times. They told her to get out of there, at which point she tried to

get up and an officer hit her to the ground with is baton and pepper sprayed her again. The footage was

included in the trailer for the documentary *Terrorizing Dissent*, released by the Glass Bead Collective.

While I strived to maintain the critical distance, these incidents nevertheless informed my experience.

The 2008 RNC protests provide an excellent opportunity to explore the processes of police

militarization, exception, criminalization, and resistance. First, the techniques of surveillance and

preemption used to control the 2008 RNC protests represent a culmination of the militarization of

protest policing. Second, eight activists were arrested and charged during pre-convention raids with

conspiracy to riot in furtherance of terrorism, the first ever application of Minnesota's PATRIOT Act,

which demonstrates how terrorism law works to criminalize dissent. Third, the differential treatment of

journalists shows how the police treat some media workers as legitimate and others as criminal.

Case Study: 2008 RNC

The RNC protests are a subtle reminder that despite the symbolic reinforcement of democratic

institutions that an election year brings and the illusory proclamations that racial and gender inequality

are nearing their end, as evidenced by the 2008 electoral success of Barack Obama and the candidacy of

Sarah Palin, American democracy falls short of its ideals. By 2008, Bush's approval ratings were at all-

time historic lows. The middle-class was dwindling, unemployment rates were rising, more and more

people were losing their homes to foreclosure as a result of predatory lending schemes, and the volatile

capitalist financial system was on the verge of collapse. Public opinion had turned against the wars in

Iraq and Afghanistan, which ended up being more costly than the Bush Administration had promised.

The fact that the Bush Administration had knowingly used faulty intelligence to mislead the American

public into supporting the wars was exposed. Many Americans were sick of the way things were going

and were ready for change, which is one reason why Barack Obama's message of hope and change

resonated. Despite John McCain's effort to distance himself from Bush and Dick Cheney, the public's

dissatisfaction with the Republican Party haunted his campaign, reflected in the wide margin by which

Obama won the presidential election. In attempt to appeal to female and swing voters, McCain selected

Sarah Palin, a little-known governor from Alaska, as his running mate. It was against this backdrop that

the 2008 RNC took place.

Preventing "Another Seattle"

In the lead up to the 2008 RNC, the Saint Paul Police Department (SPPD) repeatedly told the

community their presence would be different from the heavy handed, riot-dressed police forces on

display at the 2004 RNC. The SPPD promised they would follow "the St. Paul way" in policing the protest

by supporting the "free expression of ideas, community policing and an open and welcoming approach"

(Heffelinger and Luger, 2009). The SPPD held over a hundred community meetings to answer concerns.

Additionally, they drew on a European model of protest policing by relying on a small group of officers

known as a "Dialogue Team" or "Free Speech Liaison Team." The goal of the SPPD team was to meet and

negotiate with protesters in advance of the event, letting protesters know the police supported free

expression and peaceful protest (Heffelinger and Luger, 2009) and to "establish communication

networks and have them in place before the excitement and fervor of the RNC are in full swing"

(Laurence & Schnell, 2008). Despite this effort, the Dialogue Officers were not incorporated into security

planning and were not on the ground during the protests (Heffelinger and Luger, 2009). What happened

on the streets of St. Paul during the convention differed greatly from what police advertised as "the St. Paul way." In total, over 800 people were arrested, including over 45 journalists, sparking widespread outrage and criticism. Community pressure led to the creation of the RNC Public Safety Planning and Implementation Review Commission [Commission Report], a seven-member group tasked with investigating allegations of police abuse and misconduct. There was an obvious disconnect between the type of atmosphere the police wanted to create during the convention and the militarized show of force. The disconnect was so great that when former federal prosecutor Andy Luger, co-author of the Commission Report, presented the report to the St. Paul City Council, laughter erupted when he said the St. Paul officials attempted to "have a convention with a very soft and light presence" (Luger, cited in Yuen, 2009). Despite these stated claims, internal documents shared by intelligence agencies reveal that police and their partners prepared for all out war.

The Department of Homeland Security (DHS), created in 2003 by President Bush, designated the 2008 Democratic and Republican conventions as National Special Security Events (NSSEs), which placed the DHS as the lead agency in charge of security operations. Predating the existence of the DHS, the NSSE status was created in 1999 by President Bill Clinton as part of a federal counter-terrorism program (Reese, 2009). While every national party convention has received NSSE status since its inception, only five events have received financial appropriations from Congress (Reese, 2009). These events included the 2004 Democratic and Republican national conventions, the 2008 Democratic and Republican national conventions, and the inauguration of Barack Obama. A Congressional spending bill, known as the Consolidated Appropriations Act of 2008, provided $100 million to state and local law enforcements agencies for "security and related costs" during the 2008 RNC and DNC conventions (P.L. 110-161). St. Paul spent $1.9 on chemical irritants, $1 million on private guards, invested in a mobile nuclear detection device (Havens, 2008) and $3.4 million on a surveillance system (Furst & Lonetree, 2008). The number

of sworn police officers increased from six hundred to thirty-five hundred. The RNC bought a $10 million insurance policy with a private firm to cover legal battles over police brutality, marking the first time a party host committee done so. The RNC bought the insurance policy from the Lexington Insurance Company, owned by American International Group, Inc. (AIG). Just weeks after the RNC, AIG was nationalized in response to the financial crisis and later received billions of dollars in federal bailout money to offset its loses from the subprime mortgage crisis.[4]

In addition to expanding police forces, the United States Northern Command (NorthCom) was deployed to the RNC. NorthCom, a division of the U.S. military, was created in 2002 as part of the Bush Administration's antiterrorism efforts. NorthCom's vague mission includes civil support and homeland defense, guided by their vision: "WE HAVE THE WATCH" (Miles, 2013). Northcom engages in extensive domestic intelligence and the dissemination and coordination of intelligence information with the Federal Bureau of Intelligence, Central Intelligence Agency, National Security Agency, and the Counterinsurgency Field Agency (Dycus, 2008). NorthCom also works with private sector partners such as Home Depot, Wal-Mart, and Fed-ex (Rothschild, 2009). NorthCom leaders told the Heritage Foundation that they provided intelligence to local law enforcement (Rothschild, 2008). A 2008 article in *Army Times* stated that the NorthCom unit "may be called upon to help with civil unrest and crowd control" (Cavallaro, 2008). In response to public outrage over the article's implication that the U.S. military might be used in domestic law enforcement, a direct violation of the Posse Comitatus Act, legislation intended to separate the power and function of police and military, the *Army Times* retracted their statement in a press release. The Counterinsurgency Field Agency (CIFA), one of the agencies in NorthCom's intelligence network, is the now-defunct organization infamous for its role in spying on anti-

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[4] For an analysis of the political implications of AIG failure see Matt Taibi's (2009) *Rolling Stone* article, "How Washington is Using the Bailout to Stage a Revolution."

war groups beginning in 2002 (Dycus, 2008). In an interview with *DemocracyNow*'s Amy Goodman, Col.

Michael Boatner denied allegations that NorthCom was involved with sharing intelligence with local law

enforcement in St. Paul during the RNC (DemocracyNow, 2008).   Describing NorthCom's role in the

2008 RNC, Col. Boatner states, "They were just doing routine screens and scans of the area in advance of

this kind of venerable event" ("Is Posse Comitatus," 2008). NorthCom illustrates the blurring distinction

between military and law enforcement in domestic security. As Matthew Rothschild points out, security

sweeps conducted before political conventions like the RNC were previously the purview of local law

enforcement ("Is Posse Comitatus," 2008).

Terrorism, anarchy and imagined risk

The militarization of law enforcement was justified by predications of risk leading up to the

convention—with anarchists playing a significant role in the risk imaginary. Local law enforcement,

government, and business members consistently stressed early in the planning processes that they

believed "Saint Paul and surrounding areas were facing an attack by violent anarchists" (Huffelinger and

Luger, 2009).   Police turned to the 1999 Seattle WTO, the 2000 Los Angeles Democratic National

Convention, the 2001 Quebec Summit of the Americas, the Boston Democratic National Convention 2004,

and the New York Republican National Convention in order to imagine what the 2008 RNC protests might

bring (Huffelinger and Luger, 2009).   No event, however, proved more influential in imagining risk than

the 1999 World Trade Organization (WTO) demonstrations. In numerous official documents, the events

in Seattle were described as a violent anarchist "attack" intended to shutdown the WTO summit, which

culminated in a victory for the anarchists.   According to the Commission Report, "No police department

since 1999 wants to be responsible for another Seattle" (Huffelinger and Luger, 2009, p. 26).   In their

effort to avoid being responsible for "another Seattle," SPPD studied what the law enforcement

community identified as the takeaway lessons from the 1999 WTO. The lessons included: Develop and

implement a well-coordinated, well-funded security plan that includes a highly mobile police force, take into account worst-case scenarios and never underestimate the "violent nature and tenacity of anarchist groups," and make sure the community understands the threat of anarchists and the force the police might use to control them (Huffelinger and Luger, 2009, p.27).

Intelligence memos distributed to regional law enforcement explicitly stated their purpose as preparing law enforcement for worst-case scenarios (Minnesota Joint Analysis Center, 2008a). The memos feature menacing photos of protesters in gas masks with half-barrel shields amid destroyed property. The memos included photos of anarchist books and list bicycles, food ("as organic as possible"), bottled water, computer equipment, PVC piping, and rebar as items believed to be indicative of an impending anarchist attack. Essentially, anarchy is equated, without exception, with violence and criminal behavior throughout law enforcement and intelligence planning. And the perceived threat of anarchist activity, as imagined by law enforcement and security forces, was consistently used to justify the militarization of protest policing in St. Paul.

Wild Rose Rebellion. One example of how security forces equated protesters with terrorist activity was the FBI's nine-month long investigation into an Iowa City activist group, the Wild Rose Rebellion (Petroski, 2010). FBI documents, declassified as a result of FOIA requests, describe the Wild Rose Rebellion as "an anarchist collective...formed...to organize for various protest activities at the Republican National Convention (RNC) and Democratic National Convention" ("Confidential Human Source," 2008). In order to investigate the group, the FBI opened a Terrorism Enterprise Investigation ("Wild Rose Rebellion," 2008). According to the Department of Justice, a Terrorism Enterprise Investigation:

> May be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of: (i) furthering political or social goals wholly or in part through activities that involve force or violence and a violation of federal criminal law, (ii) engaging in terrorism (Office of the General Inspector, 2005).

This type of investigation allows law enforcement and intelligence agencies to conduct long-term surveillance and infiltration projects on anyone perceived to be a member of the group without any evidence of wrongdoing ("NYPD has labeled mosques," 2013). For example, the New York Police Department identified over a dozen mosques as terrorist organizations to legitimize surveillance and infiltration, a practice that has been heavily criticized ("NYPD has labeled mosques," 2013). Designating the Wild Rose Rebellion as a terrorist organization under the Terrorism Enterprise Investigation designation, allowed FBI agents to follow, photograph, and videotape the political group (Petroski, 2010). The designation also authorized the FBI to rummage through the group's garbage, analyze their cellphone and motor vehicle records, and infiltrate their meetings (Petroski, 2010).

RNC Welcoming Committee. The FBI's Terrorist Enterprise Investigation targeting the Wild Rose Rebellion included the investigations of the RNC Welcoming Committee (RNC-WC) and Unconventional Action because they claimed that the groups might have some of the same members. The RNC Welcoming Committee (RNC-WC) was self-described as an "anarchist/anti-authoritarian organizing body formed to prepare for the 2008 Republican National Convention in St. Paul, Minnesota" ("Why the RNC?," 2008). One FBI report from August 19, 2008 speculates that two of the members are likely to "really do some type of criminal action at the RNC where someone could get hurt" ("Confidential Human Source," 2008). An FBI infiltrator noted that it would probably not be violent crime, but more of the "property destruction type criminal activity" ("Confidential Human Source," 2008). The FBI investigated the RNC-WC by examining public documents, using undercover officers and informants, and utilizing expanded surveillance powers gained since the 9/11 attacks.

The case of the RNC-WC presents a clear example of the linking of dissent and terrorism by law enforcement and security forces in ways that criminalized political expression. A March 2008 report co-

produced by Highway Watch, a private organization tasked with anti-terrorism and security along the

highways, and the Department of Homeland Security's Transportation and Security Operations Center

warned, "*RNCWC*'s early formation, comprehensive membership drives, strategic partnerships and

flexibility is likely to result in a more robust and balanced effort than other groups' at previous

conventions…Security is apt to more difficult to maintain than during previous national conventions"

(Department of Homeland Security et al., 2008). The report goes on to warn that the RNC-WC community

is a decentralized network that will be more difficult to disrupt as "the national convention anarchists are

following the pattern of most terror networks in this respect" (Department of Homeland Security, 2008,

p. 7). Initially, the anti-union American Trucking Association founded Highway Watch in partnership

with state authorities to involve truckers in crime reporting on America's highways. In 2003, the mission

of Highway Watch was expanded to include terrorism prevention as part of a new partnership with the

Transportation Security Administration (Patton, 2009). The intelligence reports created and shared by

Highway Watch reveal not only how counter-terrorism surveillance organizations investigated protest

groups, but also the role of the private sector in such data collection.

As a result of pre-convention surveillance and infiltration, eight members of the RNC-WC were

arrested before the RNC on charges of conspiracy to riot in furtherance of terrorism, the first-ever

application of the Minnesota Anti-Terrorism Act of 2002. Due to an influx of criticism, prosecutors

removed the charges with the terrorism enhancement in 2009, and by 2010 the trial ended with four

defendants pleading guilty to a single misdemeanor offense related to their intent to commit property

damage. The Minnesota Anti-Terrorism Act of 2002 is similar to the US PATRIOT Act in that they both

create new categories of criminalization based on terrorism, which remain vague and ill defined.

Criticism of the federal act, which the state act was intended to support, cites the act for being overly

broad, violating basic civil rights, eliminating judicial oversight, and discriminating against people based

on race, class, ethnicity, religion, political association, citizenship status, and nationality (Bocccabella, 2002; Doyle, 2003). Minnesota is one of over thirty-three states that decided to create new crimes and penalties for acts of terrorism following 9/11; however, as of 2010, five states have passed statewide resolutions against the PATRIOT Act (ACLU, 2011, Lyons, 2002). According to Bruce Nestor, an attorney for one of the RNCWC members, "This [the case against the RNC-WC] was a political case from the beginning, using charges of terrorism and conspiracy to riot to try and justify the massive police presence and repression" (Nestor, cited in Moynihan, 2010). The arrest of activists on the pretense that they intended to participate in criminal activity and the association of political actions with terrorism demonstrates how terrorism laws are being used to control political dissent.

Websites and social media. Law enforcement, intelligence agencies and security forces turned to the Internet and social media to investigate activities that they perceived as a threat to convention security. FBI documents reveal that information on Unconventional Action, an anti-authoritarian group based out of Des Moines, Iowa, was collected from the organization's website and from their social media pages, including MySpace pages and MySpace Groups ("Domestic Terrorism," 2008). The FBI found an Internet posting on the RNC-WC site claiming that Tasers had been ordered for every protesters and would be in hand at the protest as a reaction to the 234 Tasers requested by the St. Paul Police Department ("Domestic Terrorism," 2008). The FBI failed to consider the fact that the post was most likely a joke or that the financial resources and logistical barriers required would be prohibitive. The effectiveness of Internet surveillance, specifically of social media sites like MySpace and YouTube, demonstrated to the police, the critical need to expand video surveillance activities in the future. For example, in the lead up to the RNC, police uncovered a YouTube video made by a Minnesota-based activist group the RNC-WC, which became instrumental for the police and security in imagining the anarchist risk.

After the 9/11 attacks, intelligence agencies and police were more likely to label protest groups as terrorists and to repress dissent through the application of counter-terrorism law. Additionally, the Internet and social media proved to be a reliable source for information in creating fear-based narratives about anarchist destruction. In a review of FBI guidelines, Attorney General John Ashcroft stated that restrictions preventing FBI agents from surfing the web for information, attending public events to observe ongoing activities, and using data available from the private sector were giving terrorists an advantage (Office of the General Inspector, 2005). The Attorney General Guidelines, which outline the legal constraints under which the FBI operates, were expanded more than any other guidelines after the 9/11 attacks (Office of the Inspector General, 2005). These post-9/11 changes rolled back regulations passed in the 1970s that sought to limit the power of the FBI in investigating political organizations.

Video surveillance

St. Paul's surveillance expenditure included a wireless video surveillance system purchased from Avrio RMS Group, a company that provides security "solutions" to police departments, border control agencies, and the FBI, among others (Avrio RMS Group, 2013). Avrio RMS is one example of a private company that has made a fortune off police militarization. They have sold their IP-surveillance services and products to security forces at Obama's Inauguration, the Democratic National Convention, the G20 Summit and the Superbowl—all events that received a NSSE designation and federal anti-terrorism grants. The RNC surveillance system included high-resolution video cameras with wireless signals to deliver real-time video to several locations, including a central command room and the SPPD's mobile command-and-control vehicles (Avrio EMS Group, 2008). Web servers allowed security forces to view the information simultaneously at multiple locations. The system relied on open architecture software, allowing coordination with organizations outside the SPPD and with other surveillance technologies, such as license plate recognition and "sensor solutions" (Avrio EMS Group, 2008). The video surveillance

system consisted of ninety-six cameras, which Ramsey County and the City of St. Paul used to collect around 6,000 hours of footage requiring 6 terabytes of storage (Ramsey County, 2012). The wireless video surveillance system shows how new communication technologies are being utilized in the militarization of protest policing. Similar video technologies were deployed during the 2008 DNC in Denver, the G20 in Pittsburg, and the 2012 DNC in Charlotte ("Protecting the 2012," 2013). Once in place, these video surveillance systems become a permanent fixture of law enforcement, intelligence activities and routine investigations.

The utility of video surveillance footage in identifying and prosecuting "violators" and in serving as a "major element of defense of the City of Saint Paul as it relates to ongoing civil suits," demonstrated to law enforcement officials the value of collective video surveillance for the future (Ramsey County, 2012). The information was so critical that Ramsey County and the City of St. Paul declared, "The 2008 Republican National Convention served as a wakeup call. Video documentation of events was at unprecedented level" (Ramsey County, 2012). The same report concluded:

> Video record management today is a critical source of latent intelligence. Law enforcement agencies will need to understand and adapt to the rich source of information. This information can be collected from internal and external video systems, seized evidence, and open source sites, such as YouTube and Facebook. The future seems clear: law enforcement agencies must consider all aspects of video records and begin to manage those records to the standards of a traditional Records Management Systems (Ramsey County, 2012).

The extensive and expensive video surveillance system provided law enforcement with information that went well beyond that of preventing and documenting crime. What it provided was a way to watch the protesters, challenge charges of police misconduct, control the nature of political communication and expression, and delegitimize civil disobedience as a form of political communication. As one police officer makes clear, the use of the video went far beyond the identification of "violators." He states, "The system gave us a level of situation awareness never before possible and allowed us to develop new techniques to prevent and react to civil disobedience" (Avrio EMS Group, 2008). According to this officer's account, the

cameras allowed law enforcement to preempt civil disobedience, meaning that officers were able to stop forms of political communication before they even occurred.   The preemptive style of militarized policing does away with negotiated management's belief that civil disobedience is something that should be tolerated and treated in a different fashion from regular crime.

Intelligence gathering: The Fusion Center

The Minnesota Joint Analysis Center, or the Minnesota Fusion Center (Fusion Center), demonstrates another way in which law enforcement used communication technologies as a method of control. The Minnesota Fusion Center is part of the Minnesota Bureau of Criminal Apprehension. The Minnesota Fusion Center is part of a national network of information gathering centers created between 2003 and 2007 to facilitate information flows between intelligence agencies like the FBI, CIA, DHS, and DOJ.   In addition to coordination with these agencies, fusion centers collect, analyze, and share information related to terrorism and crime with federal, state, local, and private partners (Department of Homeland Security, 2013ba). A Congressional report states, "The events of 9/11 provided the primary catalyst for the formal establishment of state, local, and regional fusion centers across the country" (CRS, 2008). The Department of Homeland Security (DHS) defines fusion centers in similar terms. The DHS website reads, "Fusion Centers can gather and share the information necessary to pursue and disrupt activities that may be indicators of, or potential precursors to, terrorist activity" (Department of Homeland Security, 2013b). While created under the pretense of fighting terrorism, fusion centers, like the Minnesota Fusion Center, have been used to investigate groups and individuals based off ethnic, religious, and political affiliations.

For example, in 2013 the ACLU released redacted Suspicious Activity Reports from California-based fusion center's surveillance programs, which documented information tips targeting ethnic minorities and protesters. Examples of the tips included: "Suspicious photography of Folsom Dam by

Chinese nationals," "suspicious ME [Middle Eastern] males buy several large pallet of water," and an email about a "demonstration against law enforcement use of excessive force" (ACLU, 2013). A 2012 report by the U.S. Senate's Permanent Subcommittee on Investigations leveled similar criticisms, concluding that some of the fusion center investigations had endangered civil liberties and privacy rights (Levin & Coburn, 2012). The Congressional report also concluded that fusion centers failed in collecting information on counterterrorism, a failure that, in some cases, actually harmed counterterrorism investigations. The Minnesota Fusion Center's intelligence gathering activities during the 2008 RNC protests are a prime example of how these centers, initially created under the pre-tense of counterterrorism, became a tool through which law enforcement attempted to control dissent.

The Minnesota Fusion Center was created in May 2005 and funded by $4 million in federal homeland security grants (Schulz, 2009b). In the lead up to the RNC, the Fusion Center released a series of memos to local, state, and regional law enforcement outlining activities by "criminal elements" at previous protests. Despite the fact that the Fusion Center repeatedly stated that they had no information indicating that *any* of the protest activities they listed were going to occur, they continued to release memos to law enforcement framing the event as a violent attack on police, property and civilians by protesters and anarchists. For example, a report from the Fusion Center warned that protesters planned to shut down the city, hoped to deter future cities from hosting conventions in the future, and would use the media to their advantage (Minnesota Joint Analysis Center, 2008a). The report warned law enforcement that in pursing these goals protesters will likely try to block bridges, use bridges as platform to express their "opinions," get media coverage, and enact violence on "law enforcement, the delegates, bystanders and the media" (Minnesota Joint Analysis Center, 2008b). According to the Fusion Center report, the information was gained "entirely from open sources on the internet" (Minnesota Joint Analysis Center, 2008). Some of the websites they listed include the Twin Cities Indy Media, the

Independent Media Center, a Twin Cities Daily Planet article, and the RNC-WC's website. The Fusion

Center used independent media and protest photos, which they cut and pasted from Google search image

results, in order to create a sense of urgency around the protests and frame protesters as violent, cop-

hating hooligans. For example, the report featured photos, cited in the memos as "Google Images," of

protesters and police clashing, direct actions and civil disobedience blocking roads, people dressed in

black (presumably anarchists) throwing things, and someone dressed in all black writing graffiti reading

"ALL COPS ARE BASTARDS."

The Fusion Center issued a call on behalf of local law enforcement to investigate places RNC

protesters were renting and camping, to photograph their belongings, and, if possible, confiscate any

materials that might be used in a direct-action (Schulz, 2009a). The list included communication

equipment such as computers, "phones, hand held radios, modified radio equipment, walkie talkies,

direct connect type phones…various book and pamphlets related to direct action and anarchist activity"

(Minnesota Joint Analysis Center, 2008a).   Photos, presumably collected on Google, depict various

anarchist books that police should look out for, including *Anarchism and Other Essays, The Anarchists'*

Convention and Other Stories, the Anarchist Handbook, and *An Activist's Guide to First Aid*. Fusion Center

memos reveal that regional law enforcement were instructed to view communications and media—

including computers, cellphones, radios, and camera equipment—as vital components of criminal

behavior, whose disruption would prevent direct action and promote convention security. The Fusion

Center did not uncover any terrorist activity—the purpose and source of its funding. Fusion Center *only*

investigated people and groups that planned to come to the Twin Cities to engage in political

communication and expression critical of the Republican Party, the U.S. political system, and the unequal

global distribution of resources and power.

Targeting the Media

While it is difficult to trace direct lines of influence from the Fusion Center memos to police action, law enforcement confiscation of communication and media equipment during the convention suggest at least a convergence of strategies. For example, a week before the convention, police detained three members of the Glass Bead Collective, an independent film group in town to cover the protests. The Glass Bead Collective produced a feature-length film on the 2008 RNC protests, the COP15 United Nations Climate conference in Copenhagen in 2009, and anti-police brutality marches in NYC spurred by the police killing of Sean Bell in 2009. *Terrorizing Dissent*, their film on the 2008 RNC, provided extensive video coverage of police brutality and misconduct, much of which was later presented during the investigation of police abuses. The filmmakers were stopped and detained by police under the pretense of car burglaries and trespassing. While detained, the police searched the filmmakers and their belongings without a warrant and confiscated their video equipment. A Fusion Center memo on the same incident reported that police confiscated "cell phones, video cameras, still cameras, a computer, hard drive, clothing, personal objects and money" without filing an official report or giving the filmmakers a receipt. The officers claimed the search and seizure was legal as it was covered by the national security threat as designated by the DHS (Minnesota Joint Analysis Center, 2008b).

The Fusion Center warns, "It can be expected that other out of state 'journalists' will be on hand to document demonstrator events during the RNC" (Minnesota Joint Analysis Center, 2008b). The use of quotations around the word "journalists" in reference to the Glass Bead Collective provides insight into how law enforcement and intelligence communities viewed independent media organizations and media workers that expose abuses of power. First, solely because independent media challenge the traditional relationship between mainstream media and officials (as discussed in the previous chapter), their legitimacy as actual journalists is challenged. Second, because they document police abuses, law

enforcement view the use of the term "journalist" by independent media works as a cover or a way for protesters to try and receive special status.

Intelligence gathering: Mainstream media

In January 2008, nine months before the convention, the St. Paul Police Department created a nine-page document entitled, "Department's SIU Policy and Guidelines for Investigations and Information Gathering Operations Involving First Amendment Activity." While the police argued that the document was unrelated to upcoming RNC and they didn't have any plans to investigate protest groups, the timing left many skeptical (Furst, 2008). Critics argued that the document was created for the 2008 RNC protests (Furst, 2008). Despite police claims that they had no plans to investigate protest groups, the Commission Report shows otherwise. The SPPD and the Ramsey County Sherriff's Office gathered intelligence on the RNC-WC using open source information, undercover agents, informants, and surveillance (Heffelinger and Luger, 2009). The new SPPD guidelines proscribed procedures for investigations involving "mainstream Media," but offers no definition of what type of organization qualifies or explains why a special designation is provided for mainstream media and not others (Saint Paul Police Department, 2008). The report reads, "If SIU [Special Investigations Unit] is going to conduct an authorized investigation into a person who happens to be of the mainstream Media (such as a reporter) investigators will consult with a prosecuting attorney for guidance regarding data, records or information that may include portions of their work product for such media outlet." While the fact the SPPD recognized the need to proceed with caution when investigating media, the "mainstream" designation is troubling.

The assumption is that independent, alternative, and activist media are less legitimate than mainstream media, are not covered by the same legal protections, and do not deserve the same freedoms. As the next chapter details, mainstream media almost never provide in-depth, contextualized coverage of

the issues that are the raison d'être of the protest. Mainstream media are more likely to be critical of

protesters and question the legitimacy of protest as a form of democratic expression. Furthermore, they

are less likely to be critical of police repression than independent and activist media. This is especially

true for those journalists that decide to embed with police forces during the protests. By creating an

exception for mainstream media, the new guidelines suggested the police would be more likely to protect

journalists who typically have a closer relationship to police officials and are more sympathetic to police.

According to the Commission Report, changes in traditional definitions of journalism due to new

communication technologies left law enforcement confused about who was or was not a journalist

(Heffelfinger & Luger, 2009). The Bill Moyers Journal states, "In St. Paul the police seemed especially

intent on singling out independent journalists and activists covering the Republican convention for the

Internet and other alternative forms of media" (Winship, 2008). The distinction between those reporters

perceived by law enforcement as legitimate and those that are not (i.e. independent media organizations,

non-embedded reports, or protest media)— criminalizes journalists and represses critical media

coverage.

Pre-emptive raids & arrest of reporters

In the days before the RNC, police conducted a wave of raids in Minneapolis and St. Paul during

which police SWAT teams of 25-30 officers dressed in all black and entered the homes of suspects with

semi-automatic weapons drawn, handcuffing inhabitants and ordering them to lay on the floor

(Greenwald, 2008). One of the raids on August 20, 2008 targeted the RNC-WC's convergence center.

Convergence centers are sites open to activists and community members for a variety of purposes,

including event planning, education, group activities, and meals. According to the RNC-WC, their

convergence center was intended as a "space for people to gather during, before, and after the RNC. There

will be computers, limited bag storage, bikes, food and more" ("Why the RNC," 2008). The St. Paul Police

Department and the Ramsey County Sherriff's Department entered the center with guns drawn. The police proceeded to search the premises and photograph and record identification information. The police confiscated communication technologies, including computers, hard drives, cell phones, and notebooks.

In another raid, police surrounded and entered a space being used by I-Witness Video, a film collective based out of New York City whose footage during the 2004 RNC in New York exposed police abuses and acts of perjury. Out of the 1800 arrests made during the 2004 RNC, 400 were overturned based on video evidence from I-Witness Video. During the 2008 police raid, the police entered through the attic with guns drawn, handcuffed the journalists and held them at gunpoint. The journalists remained under arrest for two hours before the police produced a search warrant, which was for a neighboring unit (Segura, 2008). Security forces raided space occupied by I-Witness Video another time before the convention began; entering office space the reporters were renting with a battering ram and batons (Segura, 2008). The police told a neighboring tenant they were raiding the building an informant had tipped them off that anarchists a hostage in in there ("I-Witness Video Collective," 2008). The legal implication of identifying a hostage situation allows police to enter premises *without a search warrant* and authorizes their right to shoot ("I Witness Video Collective," 2008). It took two hours for police to obtain a search warrant, which specified "computers, cell-phones and the like" in addition to firearms and weapons (Heffelfinger & Luger, 2009). Covering the raids, Glen Greenwald (2008) writes:

> Targeting people with automatic-weapons-carrying SWAT teams and mass raids in their homes, who are suspected of nothing more than planning dissident political protests at a political convention and who have engaged in no illegal activity whatsoever, is about as redolent of the worst tactics of a police state as can be imagined (n.p.).

Some reporters charged that confiscation of their equipment and notebooks for long period represented prior restraint as it prevented them from covering on-going events.

Police arrested journalists during the convention as well. According to the Minnesota

Independent, over 45 journalists were arrested for unlawful assembly, obstruction of the legal process,

and felony to riot. *Democracy Now!* Host Amy Goodman and two producers were thrown in jail. One of

the producers filmed her arrest, which depicts police forcefully throwing her to the ground after she tells

them she is a journalist and shows them her official RNC credentials. In another incident uniformed

officers tackled two Associated Press photographers who were wearing multiple press credentials. One

of the photographers was kicked in the ribs and the other was arrested and detained for over 10 hours.

In addition to actual arrests and detentions, many reporters were attacked with less lethal weapons, like

tear gas and pepper spray. During the massive crackdown that occurred on the first and last nights of the

convention, journalists were unable to cover disturbances as police threatened them with arrest, pepper

spray, and batons. The Commission Report points to a failure of law enforcement to provide a protocol

for dealing with journalists caught up in or trying to cover an unlawful assembly despite repeated request

from lawyers.

Media embedding

The St. Paul Police Department offered journalists the opportunity to embed during the

convention, a military practice first applied to protest during the 2003 FTAA. The police sent out an

invitation to news organizations offering eight embed positions. According to Tim Nelson (2008), a

reporter from Minnesota Public Radio [MPR] who embedded with a SPPD "platoon," embedded reporters

had to sign an agreement stipulating that they wouldn't publish any reports based off their work as a

embed until after the convention. Other embedded reports included Pioneer Press reporter Mara

Gottfired and photographer Thomas Whisenand (Nelson, 2008) and WCCO-TV reporter Maria Awes

(Brauer, 2008).   When police arrested and detained over a dozen journalists on the last night of the

convention, they arrested reporters from the same news organizations as embedded reporters.   St. Paul

Police Chief John Harrington explained that some reporters were sprayed with chemical weapons because they decided to stay and "cover the story from the protesters side" (Collins and Harrignton, 2008). Harrington's remarks demonstrate the either-or mentality of the police force—either you are embedded with the police or you are embedded with the protesters.

The practice of journalist embedding was drawn from the military playbook in Iraq. In Iraq, media embedding represented the culmination of government efforts to control media coverage of the war. Controlling media coverage was deemed important due to the perception that media coverage of the Vietnam turned public opinion against the war (Tumber, 2004). While the historical roots of journalist embedding predate the Iraq war, the Iraq War was the first time there was a highly coordinated and deliberate embedding effort by the U.S. Department of Defense (Brandenburg, 2005; Tumber, 2004). Studies comparing stories by embedded and non-embedded reporters in Iraq found that reports written by embedded journalists were more favorable towards the military (Fahmy and Johnson, 2005; Finney, 2009; Pfau and et al., 2009). Stories by embedded journalists are more episodic and fragmented (Pfau and et al., 2009) because their experience of events is limited by the activities of the unit to which they are assigned and their isolation from other members of the press corps (Brandenburg, 2005).

The capacity of embedding to contribute to a pro-police perspective is evident in the account of journalist Tim Nelson, who was embedded with police during the 2008 RNC. Nelson defended police actions the last night of the convention, stating that while he did see journalists with RNC credentials in handcuffs, there were also a lot of illegitimate reporters- "people with handmade 'media' insignia and several students claiming to be with a college paper in Iowa" (Nelson, 2008). He claimed that police explicitly told media on Wednesday night that they would be arrested if covering an unlawful assembly and that increased accessibility of video technologies made it difficult for police to differentiate between credentialed media, un-credentialed media, and others (Nelson, 2008). Police told Nelson the safest place

for him was behind police lines. A sergeant told him, of he chose to cross the police line, "You're on

you're on your own out there" (Nelson, 2008). In a footnote, Nelson describes that one of his colleagues

at MPR was able to pass by police by holding her credential high, speaking politely to police and asking

which way to go (Nelson, 2008). In his opinion, the arrest of journalists was a case of "buyer-beware."

In the case of St. Paul, not only were media embedded with police units, but they also agreed not to

publish any of their stories from work as an embed until after the convention. Under this arrangement,

delay publication and weaken the journalistic value of timeliness. As the report of one embed reveals,

embeds were not allowed to cross police lines lest they wanted to be "on their own." As the concept of

being on one's own satisfies the journalistic ideals of independence and objectivity, the use embedding

cuts to the heart of a free press.

Conclusion

Law enforcement, their private sector partners, and counter-terrorism organizations, created and

funded by post-9/11 policies, utilized new communication technologies to control protest at the 2008

RNC. The use of new communication technologies includes searching social media and websites,

collecting search engine image, and establishing wireless video surveillance. Surveillance and

intelligence gathering focused almost exclusively on anarchists and other protests to create a narrative of

violence, destruction, and potential terrorism. The police's narrative of violence and destruction at the

hands of anarchists linked protesters to terrorism and was used to justify police militarization.

The use of video surveillance shows how communications infrastructure created for an

exceptional national security event and paid for by federal anti-terrorism funds becomes a normal

surveillance feature of community policing. Once the infrastructure for surveillance is there, the

likelihood that it will be used in illegal and inappropriate ways is ever-present. Also, whether or not

police utilize the technology, its very presence has Panopticon-like effects. Drawing on the work of

Michel Foucault, the panopticon is a metaphor for modern disciplinary power: The idea that people are always being watched, regardless of whether or not they actually are, results in the internalization of social norms and the self-regulation of behavior (Foucault, 1977).   The goal, from the perspective of law enforcement, is to delegitimize specific forms of political communication, especially property destruction and civil disobedience, and to attempt to regulate who gets to be heard and what issues become part of public discourse. The systematic repression of protest seeks to mark protesters as outside the bounds of acceptable democratic participation.

Anarchy and civil disobedience were continuously linked in surveillance, security, and police documents to crime and terrorism, which served to criminalize dissent and justify the need for preemptive raids and arrests. A clear example of this process occurred when protest organizers were charged with "furtherance of terrorism," the first-ever application of the Minnesota PATRIOT Act. Surveillance, the pre-convention raids, and the targeting of media workers relied on the practices of preemption, surveillance, risk, and criminalization. The pre-emptive raids were intended to govern imagined sources of future harm generated by a host of surveillance experts. The linking of dissent to terrorism served to preempt political discourse and action, silencing opposition to the Republican Party, militarism, capitalism, the two-party system, economic warfare, social injustice, and a host of other issues. In addition to the singling out of anarchists and acts of civil disobedience, police targeted media workers with a history of criticizing police actions.   Exceptional policies like this work to divide media populations and to define the terms of loyalty to the police.

The repression of the 2008 RNC protests represents a intensification of previous trends, many exemplified by the 1999 WTO protests, which serve as a "worst-case scenario" and justification for suspension of the rule of law. Contemporary practices of controlling dissent and protest create a space of exception around events of symbolic and political importance to protesters and to those in power. The

space of exception is an inherently antidemocratic space that violates the rule of law and restricts

democratic expression and participation. In the context of dissent, the politics of the exception is anti-

democratic, It stifles voices that argue the existing political, cultural, social, and economic relations fail to

provide the basic conditions necessary for self-realization and democratic citizenship. On a much larger

scale, the paradigm of liberal democracy, which the political left has long criticized and which has been in

decline over the course of the twentieth century, is being eclipsed by a politics that is not tied to

democratic practices, institutions or ideals. It is a form of governing based on business models: Police

purchase insurance policies to protect against abuses. Private surveillance companies are hired to

investigate political organizations, exercising counter-terrorism surveillance powers. The result is a form

of politics that deepens existing inequalities based on class, race, ethnicity, gender, nationality, and

political association, meanwhile proclaiming such categories are no longer able of describing the

distribution of power through society.

Chapter 5

The Anarchists are Coming!

A Textual Analysis of Newspaper Coverage of the 2008 RNC Protests

"Every time you write a story about them [anarchists], you give us a hard time."
- Boston Police Superintendent Robert Dunford, *Pioneer Press*, July 18, 2008

This quote from Boston Police Superintendent Robert Dunford, published at the end of *Pioneer Press* article on July 18, 2008, just a few short weeks before the 2008 Republican National Convention (RNC), warns about the threat posed to St. Paul by anarchists who, among others, planned to protest during the convention. The article is unique in that it addresses the history and aims of anarchy alongside the more standard warning about violence, destruction, and illegal acts. However, like articles that warn of riots, mayhem, and a shutdown of the convention, it was intended as a primer for things to come during the 2008 RNC. The article warns that the anarchists are so dangerous that even writing or reading about them increases the threat they pose to society as "media coverage…is helpful to their cause" (Hoppin, 2008). The irony of the warning is that such coverage does more to justify police militarization at protests than it does to boost anarchist actions or participation. As the villain, anarchists are portrayed the problem, which justifies heightened security, police militarization, and repression of civil liberties at mass demonstrations. Anarchists are routinely portrayed in media as irrational, naïve, anti-democratic, and violent—not only outside social norms, but diametrically opposed to them. This chapter explores how this characterization is used to justify the militarization of protest policing and repression of civil liberties for all participants. The scapegoating of anarchists by the police and media carries with it the potential to accelerate fissures between protest groups, works to justify and normalize

police militarization, enhanced, and sometimes illegal, surveillance and intelligence gathering, and the repression of political rights leading up to and during mass demonstrations.

The previous chapter examined how police, intelligence agencies, private companies, and security forces relied on anti-terrorism laws passed after September 11th to collect dossiers of information on protesters and protest activity during the 2008 RNC preparation. The collected information was used to create a narrative of violence, risk, and terrorism, which was widely circulated across local, state, and federal law enforcement communities. This narrative was used to justify the need for a militarized police force to "secure" the convention through vast expenditures on surveillance and communication equipment, coordination of thousands of local, state, and federal law enforcement officers, pre-emptive raids and arrests, the seizure of media equipment, the arrest of media workers, mass arrests, designated and tightly controlled "free speech zones," the use of fences and barricades (the last night of the convention they used snow plows to block the bridges and access to the city), and the use of non-lethal weapons, such as pepper spray, rubber bullets, concussion grenades and chemical irritants. This chapter seeks to explore to what degree the media narrative coincided, questioned, or countered the new militarized modes of policing at the 2008 RNC protests. It also compares the similarity between media narratives and the police narrative, outlined in the previous chapter. This chapter argues that the mainstream news media, by covering the protests in the way that they did, worked to legitimize and, ultimately, normalize militarized modes of protest policing.

Literature Review

In his seminal analysis of nightly news *Deciding What's News*, Herbert Gans (1979) defined news as a power struggle over interpretations of reality involving all participants in the transmission process, including news organizations, journalists, news sources, businesses, government officials, public service organizations, think tanks, and audiences. However, some participants have greater power in shaping

the news than others. For example, government officials are frequently the subject of news stories, routinely used as sources in news stories, and have the ability to mobilize the press to cover their events, such as at press conferences, announcements or speeches, public visits, and other campaigning activities. Another factor Gans (1979) identifies are the professional norms and routines of journalism that shape coverage through the characteristics of "newsworthiness," the values of objectivity and balance, the politics of sourcing, and the competitive desire to be the first to break story. Since advertising is the main source of revenue for the vast majority of the U.S.'s commercial media companies, businesses and corporations have the ability exert pressure through financial power. Advertiser influence can be direct. U.S. journalists have cited a rise in the number of advertisers asking them directly to kill a story (Soley, 1997). Or it can be indirect, like when media censor an issue they know could damage an advertiser (Self-Censorship, 2000). Gans distinguishes his theory of news from "ideological determinists" who believe "journalists align news to the political ideology of those holding power in the country" and "cultural theorists" who see "journalists as selecting stories which accord with the values of a national culture" (Gans, 1979, p. 79). He felt these approaches oversimplified a complex process and completely discarded with any journalistic agency. However, he did believe that dominant cultural values and ideology shape news production and dedicated a portion of his book *Deciding What's News* to precisely these forces. Extending from Gans's approach, this dissertation recognizes that the production of what gets to be news, including the processes of ideological work, is a complex struggles between forces that sometimes align, sometimes diverge, sometimes collide, but are always thoroughly propelled by relationships of power, privilege, and access.

Framing Theory

Those with the ability to shape the news command immense power because news is a major way through which people come to learn about the world beyond their immediate experiences (Dewey, 1954;

Lippmann, 1997; Gitlin, 2003). This is especially true when the audience has little knowledge of or first-hand experience with an issue (Gitlin, 2003). According to Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke, and Brian Roberts (1999), "The media define for the majority of the population *what* significant events are taking place, but, also, they offer powerful interpretations of *how* to understand these events" (p. 247.) This process whereby media select and interpret events give audiences powerful frameworks for making sense of the events is referred to as "framing." Todd Gitlin (2003) describes the process of framing by stating, "*Media frames are persistent patterns of cognition, interpretation, and presentation, of selection, emphasis, and exclusion, by which symbol-handlers routinely organize discourse, whether verbal or visual*" (p. 7). Gitlin (2003) argues that the concept of framing is useful for understanding how media shape the dominant discourse about protest by analyzing how particular aspects of an issue or event are highlighted and what aspects are omitted or downplayed. In another oft-cited definition of framing, Entman (1993, p. 52) states, "To frame is to *select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation* for the item described." Defining the process of framing in this way, Entman (1993) provides a way to analyze how news stories define problems, identify causes, make moral judgments and offer solutions or remedies. Framing describes the way news ha the ability to create powerful narratives that explain experiences, events, relationships, and processes.

Social Movements and media

The issue of framing is of critical importance to social movements as they rely on mass media to enact political and social change, raise public awareness and increase movement involvement (Gitlin, 2003). Social movements are "conscious, concerted, and sustained efforts by ordinary people to change some aspect of their society by using extra-institutional means" (Goodwin and Jasper, 2009).   They rely

on media to publicize and frame their issues. Similar to media framing, social movement framing involves defining problems, identifying causes and proposing solutions (Snow and Bedford, 1992). Linda Jean Kensicki (2001) explores a unique example where a protest movement, Deaf President Now (DNP) was able to exert some control over their issue and garner positive media. Kensicki attributes DNP's success to the group providing media with information before journalists were aware of the protest and to an assimilation of elites within and corporate sponsorship of DPN. While interesting, the case of DPN differs drastically from the majority of protests in their acceptance of corporate sponsorships and ability to be the media's main source of information on the protest.

With few exceptions, social movements rarely have control over how they are covered or presented (Gitlin, 2003). This is especially troubling for social movements because the media provide, for the majority of people, their experience with and knowledge of movements and protests (Gitlin, 2003). Todd Gitlin (2003) describes an incident in 1965 when the Students for a Democratic Society (SDS) staged protests at a key site, the world headquarters of the Chase Manhattan Bank near Wall Street, to protest and publicize the bank's funding of the South African government (Gitlin, 2003). This goal was dependent on the symbolic space of Chase's headquarters and media coverage of the protest, which would publicize and convey the SDS's framing of Chase as funding and supporting Apartheid.

Like the SDS's actions, civil disobedience requires publicity. Civil disobedience occurs when individuals publically and conscientiously break the law in order to change social norms, laws, or policies (Brownlee, 2010). According to Andrew Calabrese (2004, p. 326), "Civil disobedience is, first and foremost, the public expression of the politics of shame. To shine light on injustice usually means embarrassing those who perpetuate it." Public shaming, by definition, requires publicity. The need for publicity is problematized not just by the fact that social movements rarely have control over framing, but also by the fact that protests are often underreported and ignored. The fact is so stark that media

researchers John D. McCarthy, Clark McPhail and Jackie Smith (1996) declare, "The vast majority of demonstrations are ignored by the mainstream media."

When protests and protesters receive coverage, the majority of the time they are portrayed negatively and the issues they are trying to raise awareness about go largely ignored (Dardis, 2006; Brasted, 2005; Gitlin 2003; McLeod & Detenber, 1999; McLeod 1995; McLeod & Hertzog, 1992). McLeod (1995) found that viewing television coverage of protest caused viewers to be less likely to support protests, more likely to describe protests as dangerous, and less likely to acknowledge protest as a legitimate form of political action. McLeod (1995) concludes, "Negative portrayals of social protests may predispose the audience to resist social protest as a viable form of democratic expression, thus the media may reinforce other socializing agents in promoting obedience to authority" (p. 4). The problem with media, from the perspective of protest, is a complex one: Protest groups rely on the media to raise awareness, create change, and recruit new members, but the majority of the time protests aren't covered, and, if they are, they are covered in negative ways that work directly their political, social, and cultural goals. Furthermore, such coverage has the potential to impact the audience's belief in social protest as a legitimate form of democratic participation.

This section turns to the framing of deviance and the protest paradigm, which describe routine ways media marginalize protester goals and legitimacy in coverage. First, studies of deviance are interested in critiquing the social processes through which certain groups become defined as deviant, of which media are a significant part, and the implications of such labeling. The processes of deviance labeling include identification of social, political, and economic problems and the individuals and groups who are to blame (i.e. who is the scapegoat or deviant) (Iyengar, 1991). Deviance is historically variable and the product of what powerful groups define as right or wrong, correct or incorrect, appropriate or

inappropriate, and legitimate and illegitimate (Cohen, 2002; Conrad & Schneider, 2010). Peter Conrad,

Joseph W. Schneider (2010) define deviance as follows:

> Those who have comparatively more power in a society are typically more able to create and
> impose their rules and sanctions on the less powerful. In consequence, deviance becomes actions
> or conditions that are defined as inappropriate to or in violation of certain powerful groups'
> conventions. Such deviance is believed to be cause not by mysterious forces beyond the
> individual's control but rather the consequence of particular definitions and rules being applied by
> members of certain groups to other people and/or situation (p.2).

Studies of media, deviance and protests reveal that the more deviant the protest groups are portrayed

and perceived to be, the more likely the audience is to form negative opinions of the protesters and

protest rights in general (McLeod and Detenber, 1999). Media coverage that highlights the involvement

of anarchists, portrayed as highly deviant agitators guided by lawlessness and capable of irrational

violence, has just this effect (McLeod and Detenber, 1999). Media coverage is a key process through

which protesters become labeled as deviants and defined as a problem that needs to be controlled.

Scholars developed the "protest paradigm" to describe the way media frames protest in

predictable ways that shape public perceptions of protests, legitimize repression, and hinder the ability

of protest groups to achieve their goals (Dardis, 2006; McFarlane & Hay, 2003; McLeod & Hertzog, 1999).

This type of coverage downplays the social issues protesters are trying to raise awareness about,

marginalizes the voices and perspectives of protesters, and calls into question the political effectiveness

of protest (Gitlin, 2003). The protest paradigm also describes the processes through which media label

protesters as deviants. The "marginalization devices" include: General lawlessness, confrontation with

police, freak show, Romper Room, idiots at large, carnival, statistics, generalization, witness accounts,

official sources, protest as treason, protest as anarchy, protest as anti-troops, inclusions of

counterdemonstrations, and historical comparisons (Dardis, 2006).

Media also use powerful visual elements to emphasize the deviance of protesters, which are easily

understood by audiences. For example, media tend to focus on the absurdity of protester appearance,

described in the protest paradigm as "freak show," "romper room," "idiots at large," and carnival (Dardis, 2006). The "idiots at large" frame focuses on the mental (in)ability or (in)stability of the protestors (McFarlane and Hay, 2003). Gitlin (2003) found that coverage of anti-war protests during the Vietnam War tended to focus on language, dress, age, and style. When media focus on unusual and odd hairstyles, dress, activities (hacky sack, drum circles, soup kitchens), the issues the protesters are trying to raise awareness about get ignored. The carnival device, developed by Dardis (2006) describes a focus on theatrics, symbolic performance, and celebrity aspects of a protest.

The framing of protest in terms of arrest, civil disobedience, and property damage relies on a violent crime narrative dramatizing demonstrations as a fight between the police and protesters (Dardis, 2006; Gitlin, 2003; McLeod and Detenber, 1999; McLeod and Hertzog, 1999). In this battle, protesters are routinely cast as the aggressors or "villains" and police as the restorers of order or heroes (McLeod & Hertzog, 1992). The dramatization of heroes and villains draws on the news value of conflict and contributes to the definition of problems, identification of causes, assignment of moral judgments and proposed solutions. When protesters are cast as the problem, i.e. the villains, then the solutions center on controlling and containing their behavior. A framing that rarely is featured in coverage would identify the protest issues as the problem instead of the protesters. If the protest issues were cast as the problem, like harsh immigration laws that destroy families, for example, the problem would be immigration law and policies, not potential property damage by protesters. The solution would be developing more humane and just immigration policies, not controlling the protesters.

The dominance of official sources in news articles is another factor that marginalizes protest issues from coverage. Media sources include the people, companies, and organizations that a journalist relies on when writing a story. The vast majority of sources in protest stories are official sources, primarily law enforcement and political officials (Dardis, 2006; McFarlane & Hay, 2003; McLeod &

Detenber, 1999; McLeod & Hertzog, 1999). According to Herman and Chomsky (2002), reliance on official sources is a journalistic routine that increases the ease of gathering material, maintains the image of objectivity, and avoids accusations of bias. The greater the diversity of sources, in terms of such factors as profession, perspective on the issue, relative position of power, demographic factors (gender, race, class, ethnicity), the greater likelihood a story will provide a complex, nuanced and representative picture of what is at stake and who is impacted, i.e. a wider range of critical debate. However, journalists routinely rely on official sources, which increases the ease of gathering material, maintains the image of objectivity, and avoids accusations of bias (Herman and Chomsky, 2002). Heavy reliance on official sources, such as police, think tanks, politicians, corporate representatives, contributes to news coverage that frames issues from the perspective of the powerful and marginalizes other perspectives.

W. Lance Bennett, Regina Lawrence and Steven Livingston (2008) argue that the press provides a wide range of critical debate only when critical discourses are *already* active in elite political circles. Therefore, when critical debate in government is limited or virtually nonexistent, public oversight and accountability is restricted, which increases the likelihood that dangerous, poorly planned, unanalyzed, and corrupt policies will be developed and executed (Bennett et al., 2008). The sheer dominance of official sources contributes to stories that reinforce the status quo and marginalize the perspectives of social movements, protest organizers, protesters, and protesters (McLeod & Detenber, 1999; McLeod & Hertzog, 1992).

Methods

The processes of framing, including the labeling of deviance and the protest paradigm, are useful tools for addressing how media covered the militarization of police forces at the 2008 RNC protests. The process of framing asks: What did media define as the problem in stories about protest? The protesters? The militarized police forces? Other players, forces, or factors? What is the cause of the problem? What

moral judgments did the article make? What solutions were offered or implied as a result of the problem

definition? What were the resulting implications for protest and militarization? Drawing from theories of

deviance: What groups or individuals were portrayed as the heroes? Who were the villains? What was

the central conflict of the story? Related to the protest paradigm: How did media rely on the protest

paradigm? How did they break from it? What was the relationship between this framing and coverage of

police militarization? How were previous protests used as points of comparison and predication? What

sources did the media include in their coverage? What was the prominence given to protester versus

official sources? Other related questions include: Was there a difference in coverage or tone between the

publications analyzed? Were there any patterns across coverage? What specific language did journalists

use to frame the protests? How were issues of national security and anti-terrorism covered in relation to

protest and police militarization? How was the media narrative similar to or different from the police

narrative? To what degree and in what ways did the media discuss police militarization?

Textual Analysis

Describing the benefits of textual analysis within media research Elfriede Fürsich (2009) states,

"Textual analysis allows the researcher to discern latent meaning, but also implicit patterns, assumptions

and omissions of a text" (p. 241). Because it focuses on ideological negotiation, the narrative quality of

media texts, and keeps open the possibility of meaning (i.e. analysis is not shaped necessarily by the

responses of journalists or audiences or traced directly to the economic interests of the corporate media

producer), textual analysis allows researchers to interpret the meaning and significance of media texts

and their relationship with historical, cultural, economic, and social contexts of power (Fürsich, 2009). In

the context of this study, textual analysis provides in-depth analysis of the specific ways media coverage

works to legitimate and challenge the police narrative, police militarization, deviance (including

terrorism), and the protest paradigm. Textual analysis can ask: What specifically happened in *this case?*

Sampling

This study utilized a purposive sample of five newspapers: *Minneapolis Star Tribune* (*Star Tribune*), *Pioneer Press*, *The Denver Post, The New York Times*, and *Chicago Tribune*. Purposive sampling is a non-probability form of sampling that selects elements for inclusion in analysis based off their unique characteristics and position (Schutt, 2007). In purposive sampling, the researcher is selecting specific cases relevant to the phenomena in question in order to develop rich information (Teddlie and Tashakkori, 2009). Because the goal is to collect rich information on specific phenomena, the sample usually includes fewer items that quantitative studies with 20 to 30 texts being typical (Teddlie and Tashakkori, 2009). A purposive sample combined with qualitative textual analysis allows the researcher to gain an in-depth understanding of issues relating to the central purpose of the research study. While the results of non-probability samples cannot be generalized without additional quantitative research, the results serve as exploratory research for studies relying on a probability sample.

The *Star Tribune* was selected because it is the largest daily newspaper in the Twin Cities, a 13 county region including the cities of Minneapolis and St. Paul where the RNC and protests took place. It has one of the largest circulations locally and nationally, ranking in the top 25 daily newspapers for circulation (#18) (Guskin et al., 2013). The *Pioneer Press* is based in St. Paul and has the largest circulation in the eastern portion of the Twin Cities, a region including St. Paul and six counties ("The Pioneer Press Audience," 2014). While smaller than *Star-Tribune*, the *Pioneer Press* is a major U.S. newspaper, which ranks #32 nationally ("Top Media Outlets," 2014). The *Denver Post* was selected for inclusion because Denver was host to the 2008 Democratic National Convention, which took place a week before the RNC in St. Paul. Analysis of *Denver Post* coverage is useful for a couple reasons. First, events in Denver were widely heralded by police and security documents and newspapers in the Twin Cities as predicting things to come during the RNC, making media coverage a factor in risk assessment. Second,

media coverage of the DNC protests can be compared and contrasted to the framing and tone found in RNC protest coverage. Third, the *Denver Post* is a major national daily ranked #13 for circulation and its framing of the protests has the potential to reach a large segment of the public ("Top Media Outlets," 2014). The *New York Times* was selected because it is a leading U.S. newspaper. It is ranked #1 in overall reach of U.S. opinion leaders and its website has more unique website visitors than any other news site (Erdos & Morgan, 2013). It is widely recognized as the "paper of record" (Orkent, 2004) and boasts the motto, "All the News that's Fit to Print," a motto that has often been used ironically by critics. In addition to its status as one of the largest and most elite newspapers in the U.S., the *New York Times (NYT)* is based in New York City, the site of the 2004 RNC. Because of this history, the RNC protests would have increased relevance to NYC residents and *NYT* journalists would have recent experience covering convention protests.

The terms "Republican National Convention" and "protest," "demonstration," "anarchist," "anti-war," "arrest," "security," or "police" were searched on the Lexis-Nexis and ProQuest databases. First, an article was selected if it provided substantial coverage of the protests, policing, or security planning. Second, straight news and feature articles were selected over editorials, letters to the editor, and columns because they are perceived as being more objective and less opinionated. Third, the most prominent articles were selected for final analysis. Prominence was determined by the location, length, and presence of images. All of the articles included for analysis were featured on the front page of the paper or the front page of section of the newspaper.

The *Pioneer Press* published 113 articles on the protests, seven of which were chosen for analysis; the *Star Tribune* published 76 articles on issues related to the protests, nine were chosen for analysis; the *New York Times* published seven articles, four of which were chosen, the *Denver Post* published 3 articles, two of which were chosen for inclusion. Twenty-two articles met the criteria for inclusion, which is

within the suggested number for a qualitative textual analysis. It should be noted that during the time period of this study, the non-local papers were publishing articles on protests that carried more local relevance for their audiences than the 2008 RNC. For example, the *Denver Post* was still covering the aftermath of the 2008 DNC protests and the *New York Times* was still covering charges of police misconduct, contested surveillance spying, and lawsuits related to the 2004 RNC as well as the G20 protests and a New School protest. While the coverage of these events are relevant to the central research question in this dissertation, due to the limitations of space and time, the use of qualitative methods, and the desire to focus on the 2008 RNC, these articles were omitted from analysis. Additionally, initially the *Chicago Tribune* was selected for inclusion because it is a major U.S. newspaper (#8 in terms of circulation) and because Chicago was the site of the famous 1968 Democratic National Convention: A seminal event in U.S. protest and political history where police brutally repressed Vietnam War protesters in a case par excellence of the escalated force style of policing. The images violence were broadcast on television screens across the country, in an era that, according to Gitlin (2003), solidified the importance of the mass media for the life or death of social movements. However, the *Chicago Tribune* did not publish any papers on the 2008 RNC protests.

News articles fell into three main temporal categories: Pre-convention, convention and post-convention stories. The two papers for which the convention was a local issue, the *Pioneer Press* and *Star Tribune*, provided more coverage overall, but also divided their coverage more equally over the time periods. The papers that did not have a local presence were more likely to concentrate their coverage on the convention period. This is explained by the journalistic values of proximity and relevance and by the fact that many of the non-local papers only had journalists on the ground during the actual convention.

The preconvention phase began in early September 2006, just a few days after St. Paul was announced as the venue for the 2008 RNC. This phase included stories about preparations (making sure

the city had enough jail cells, arrest predictions, security planning, free speech zones, and safety issues),

estimates of protester numbers and group profiles (predictions of what groups and how many total

protesters might show up, counter-protest plans), permits and lawsuits (routes, duration, protests about

the permitting process), and arrests. Many of the stories used the WTO protests in Seattle in 1999, the

RNC protests in New York in 2004, and the DNC protests in Denver in 2004 to predict the types of groups

that might show up, how many people might be arrested, and point out how St. Paul would be different.

Given what happened during the protests, it is surprising how many of the articles claimed that St. Paul

would be different citing that police and city claims that all RNC visitors, including protesters, would be

treated to "Minnesota Nice," demonstrating "the St. Paul Way" (Gottfried, 2008; Hoppin, 2008; Orrick,

2008).

In terms of sheer numbers, the *Pioneer Press* published the highest quantity of articles on protest,

policing, or security during the preconvention period (48 articles), comprising 42% of all coverage.

Breaking it down further, 44% of articles dealt mainly with permits and lawsuits, 33% dealt with

preparations, 19% with groups and numbers, and 4% on arrests. The *Star-Tribune* published forty

articles during the preconvention period, comprising 53% of overall coverage. Of *Star-Tribune's*

preconvention coverage the majority (57.5%) focused on permits and lawsuits, followed by preparations

(30%), with protest groups and numbers estimates getting the smallest margin of coverage (12.5%). The

Star-Tribune was unique in that two of the preparation articles dealt with questions of whether or not

police and security preparations were infringing on the free speech or privacy rights. While the *Star-*

Tribune did include coverage of these concerns, the concerns were not the prime focus of the article and

were buried near the end. Based off analysis of the of the articles published, the pre-convention period

was most likely to include stories that addressed the specific issues that protest groups were trying to

raise awareness about. During the convention period, the issues were eclipsed by the news value of

conflict and, after the convention, became less timely and relevant. This analysis suggests that protest groups may have the best chance of raising awareness of their issues before the scheduled protest event, though more research is needed.

The second phase of articles, written during the convention from August 29-September 5, 2008, included stories about police raids, upcoming protest events, police's hopes and perspective on the protests, arrests/violence/conflict, detention, and legal issues.   The *Pioneer Press* published 25 articles about protest during the actual convention, representing 22% of the paper's total protest coverage. While the number of articles written during this period was the smallest, the articles tended to be longer. Almost half of the coverage focused on arrests, violence (between protesters and police and connected to protesters, including property damage), and conflict. The *Star-Tribune*, the other local paper analyzed, published 20% of its articles on protest while the convention was taking place. Of its convention phase coverage, almost a third (27%) focused on violence and conflict, another third (27%) focusing on civil rights, 20% on protest events, and the remaining coverage split between counter-protests, police preparations, raids, and court issues (6.5% each).

The third main phase of coverage followed the convention, starting on September 6, 2008 and continuing in the local papers until December 2010. This phase covered assessment of police action and investigations, lawsuits and legal issues, and raids. In the *Pioneer Press*, 35% of the paper's protest coverage was published during this phase, the vast majority (80%) focused on lawsuits and legal issues (for example, whether charges against different individuals and groups would be dropped). These articles tended to be shorter. For the *Star-Tribune*, 27% of their protest coverage was published during the post-convention period, with the majority (71%) dealing with legal issues and lawsuits, followed by articles about protesters (13%) and assessment of police actions (13%), and the remaining coverage split between raids and continued searches for crime suspects.

<center>**Results**</center>

Normalizing Militarization

Almost none of the articles used the term "militarized" to describe the police forces. This was true when the articles described key characteristics of police militarization, including police weaponry and riot gear, surveillance technology, mass arrests, raids, fencing, free speech zones, and non-lethal weapons. As this section argues, describing features of police militarization without describing them within the historical context of militarization functions to normalize police militarization at protests. Only one article in this study, published in the *Star Tribune* on September 6, 2008, came close to explicitly defining the police as militarized. In the article, the journalist, describing events after a Rage Against the Machine concert in Minneapolis the last night of the Republican National Convention, states, "Like the response at similar protest events in St. Paul, there was a strong military feel to the strategy" (Chanen, 2008).

While media coverage avoids labeling policing styles as explicitly militarized, it does address the presence, role, and influence of the military in protest policing. For example, a *Denver Post* article looks to the events in St. Paul to understand how Denver could better public face on its protest policing in the future, suggesting that using officers with military experience, better prepares law enforcement for controlling domestic protests (Plunkett, 2008). The article reads, "With the experience of a year in Baghdad in 2005 behind him, [National Guard Specialist Jordon] Snow seemed more than relaxed to be helping to look after St. Paul" (Plunkett, 2008). According to the article, using returning war veterans to police protests could create a "more than relaxed" vibe on the streets, purportedly because they are used to the horrors of war and are not as easily startled as regular police (Plunkett, 2008). The article suggests that the hard reality of war better trains police forces for "looking after" civilian populations (Plunkett, 2008). Retired solider Snow describes his role in policing the demonstrations as part of a "'hearts-and-

minds policy'" (Snow cited in Plunkett, 2008). The "hearts-and-minds policy" cited by Snow, a retired

solider, is taken straight of the military playbook from Vietnam and the war in Iraq. The modern use of

the term "hearts and minds" emerged in 1950s UK to describe a counterinsurgency strategy that, in

theory, advocates the provision of social, cultural and political programs and aid to civilian populations

alongside traditional military intervention as crucial in reducing the power of insurgents (Dickinson,

2009). During the war in Iraq, President George Bush and the U.S. Army and Marine Corp. advocated a

"hearts and minds" policy for the Middle East and Iraq (Dickinson, 2009).

While there were some examples where media coverage explicitly mentioned military

involvement with the police forces, it was more common for coverage to discuss features of militarization

without labeling it as such. For example, the *Denver Post* published an article titled, "Violence Taints

Protest Black-clad Youth Break Away From March to Damage Property, Battle Cops." In the article, the

protests are described as a "battle" between police and protesters and anarchists are portrayed as the

villain (Plunkett, 2008). The article begins by describing the National Guard's containment of "small

incidents of property damage with tear gas and rubber bullets," and continues by citing mass arrests,

police injury, delegate bus sabotage, and natural disaster (Plunkett, 2008). After a discussion of the size

of the march, the violence of the protesters, and the risk posed by anarchists, the article concludes, "Riot

police used a wide variety of methods to contain the protesters, including tear gas, rubber bullets, and

concussion grenades" (Plunkett, 2008). While both the police and protesters are described as engaging

in "violent" acts, only the protesters are portrayed as a problem- the protesters needed to be "contained."

Another article describes police as dressed in "riot gear" (Protesters in St. Paul, 2008) and

"wearing helmets, padded vests and shin guards" (Healy and Moynihan, 2008). While these simple

descriptors give readers an idea of what the police may have looked like at the protests, but it does not

provide any additional comment or context about the use of riot gear at protests. Nor do the articles

reconcile the use of "riot gear" with the "Minnesota Nice" approach the police assured the community would characterize their treatment of protests at the convention. This highlights one reason why the concept of police militarization is excluded from the framing: Militarization is a non-issue precisely because it is not problematized; militarization is a solution and a response to violent protester behavior. When police militarization is covered, it is not contextualized within historic changes; therefore presenting such appearance as the norm.

Turning to the use of surveillance technologies, the *Pioneer Press* published an article titled "The World Will be Watching; The Cops Will have Close-ups" (Gottfried and Orrick, 2008). The title is a riff off the famous chant "the whole world is watching" that protesters cried during the 1968 Democratic National Convention in Chicago as media broadcast scenes of brutal police repression to millions of viewers. The article suggests that while the whole world may be watching the protests, the police will have a leg up with "close-ups" of the action. Police Sergeant Jack Serier tells the *Pioneer Press* that the police are installing over 40 cameras across the city, funded by a $50 million federal grant (Gottfried and Orrick, 2008). The officer defends the cameras by claiming they will be used to "monitor security and safety during the four-day convention" (Gottfried and Orrick, 2008). The article cites other police camera projects that are underway, including a 25 camera project funded with a $1.2 million grant and $300,000 from Target Corporation, which highlights the role of private industry in supporting and profiting from militarization efforts.

In some cases, media cover the use of surveillance technology and weaponry with excitement. Take for example a *Star-Tribune* article about the Denver Democratic National Convention. It reads, "The security center looks like a room straight out of a Hollywood thriller – it's long row of tables set with phone and laptops, flat screens on the walls with zooming satellite images of downtown Denver. It's a 24-hour nerve for command-level authorities keeping a watchful eye on the Denver National Convention"

(Louwagie, 2008).   As with other dimensions of police militarization, surveillance is not problematized.

The media narrative, similar to the police narrative, problematizes the anarchist threat. Police

militarization is not named, preventing protest policing from being understood within a larger political

and historical context. What this framing reveals is that as the solution, militarization is excluded from

problematization. This means that while the characteristics of militarization, like riot gear, surveillance,

mass arrests, are mentioned, they are not labeled or described as part of the process of police

militarization. The absence of context to understand police militarization as a *change*, functions to

normalize the militarization. It is simply presented as the appropriate and normal response to protest

and protester violence.

Legitimizing Militarization

  Framing Anarchists as Deviants. Media coverage focused on a small minority of protesters who

were framed as deviants, criminals, and terrorists, which functioned to legitimize militarized protest

policing. In other words, the police as a solution normalize militarization, while the anarchists as the

problem justify it. As described earlier, the framing of deviance identifies problems and causes, makes

moral valuations, and offers solutions. No group received more media play during the 2008 RNC than the

anarchists, despite the relatively small numbers of anarchists that showed up to protest. The coverage of

anarchists used differences between protest groups to mobilize fear and condone police militarization.

In the media and police narratives, anarchists play the role of the villain.

  Anarchists are consistently cast as social deviants, clearly distinct from constitutionally protected

political activity and peaceful civil protest. For example, ne *Pioneer Press* article states, "The group [RNC-

WC] differs from the Coalition to March on the RNC and Stop the War, which is organizing the main

protest march on the convention, and its aims are broader. Rather than advocating an end to the war in

Iraq, anarchists want to an end to corporate globalization and, for some, a return to a more primitive

lifestyle" (Hoppin, 2008). In this characterization, the RNC-WC, the most visible anarchist group, is contrasted against the Coalition to March on the RNC and Stop the War [Coalition to March] in order to demonstrate how anarchist aims are more radical, vague and socially deviant. The Coalition to March is presented as a single-issue anti-war protest group, more in-step with safer and more familiar Vietnam-era protesters (i.e. your "father's protest") and more in sync with public opinion. [5] The RNC-WC's goals are presented as vast ("end corporate globalization"), vague, and backward ("a return to a more primitive lifestyle").

Drawing on the protest paradigm, the anarchists were portrayed as "idiots at large," a device which describes protesters as irrational and childish. For example, the use of the anarchists' opposition to "corporate media" and disregard for corporate property demonstrates their deviance from mainstream capitalist norms that value private property, business, and the profit motive. In absence of any context, history, or analysis, their dislike for corporations and corporate media is portrayed as childish and irrational. For example, one *Pioneer Press* article reports that while the RNC-WC says it won't talk to "corporate media," one of the nation's most prominent anarchists, John Zerzan, gladly talks to them. The juxtaposition of these two positions functions to display anarchists as inconsistent and irrational. It also positions the RNC-WC as even more radical than leading anarchists who don't share the RNC-WC's irrational distrust of corporate media. While presented as an expert on anarchy and contrasted with the RNC-WC, the article also characterizes Zerzan as an extremist, identifying him as "a confidant of Theodor Kaczynski in the mid-1990s while the Unabomber awaited trial" and someone who "doesn't see property damage as violent" (Hoppin, 2008).

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[5] At the time of the 2008 RNC, Pew Research Center's (2008) public opinion polls show an all-time high of 54% of the public believing that the decision to use force in Iraq was wrong and half of the public believing the war in Iraq was going not well at all, up from 7% in 2003.

In the same article, the *Pioneer Press* article states that anarchists don't hide their intentions, quite the contrary, they openly publish their plans in hopes that someone else will commit the acts "without having to do it themselves" (Hoppin, 2008). The article continues, "That's why media coverage—despite the RNC Welcoming Committee's stated aversion to mainstream media—is helpful to their cause" (Hoppin, 2008). Here the anarchists are portrayed as cowardly, hoping others, who remain unknown, will commit the criminal acts they threaten. It also casts them as deceptive, feeding off the media coverage they claim to reject. A *Pioneer Press* article describing the installation of surveillance cameras and the planned use of video cameras by police provides another example of how anarchists are framed as "idiots at large." The article begins by discussing how the protesters plan to videotape the police during the protests and goes on to say, "But they don't like the idea of appearing on video themselves" (Gottfriend and Orrick, 2008). In this framing, the protesters are portrayed as hypocritical: They think it is okay to film police, but they don't want police to film them.

The construction of conversations between sources is another way coverage discredits the perspective and rationality protesters. This occurs when media include a quote or paraphrase from an anarchist or protester and the passage is preceded and/or followed by another source, typically a member of law enforcement, which contradicts what the protester said. For example, a *Pioneer Press* article contrasts the sentiments of an ACLU director and a St. Paul police spokesperson over the police's surveillance system. The ACLU director claims that the surveillance system is not very effective at deterring or solving crimes, framing the system as excessive, wasteful, and inefficient. The article concludes with a quote from a police spokesperson: "'If we didn't have examples of this being effective, we wouldn't have invested in the Central Corridor and Port Authority grants the way we did'" (Walsh cited in Gottfried and Orrick, 2008). This juxtaposition was one possible arrangement of many. By selecting this quote as the closing line in the conflict between civil rights advocates and the police, the

article reinforces the idea that protesters and their advocates are "idiots-at-large," failing at capturing the rationale behind the surveillance cameras. What this practice suggests is that even though protest sources may be used, their inclusion does not necessarily represent the protester, protest group, or cause in a favorable light. Many times protest sources can be included as a straw man or a foil for perspectives unsympathetic to their cause.

Not only do media portray anarchists as foolish and irrational in the eyes of the public, they also frame them as such in the eyes of other protesters. In a *Denver Post* article, a University of Minnesota student in St. Paul to protest the RNC is used as a voice of reason, showing that even other protesters think the anarchists are foolish. The student is quoted as saying, "The anarchy thing- that would just prove to the conservatives that we're just a bunch of crazy kids…That doesn't help at all'" (Everett cited in Plunkett, 2008). By referring to anarchy as "the anarchy thing," the quote presents anarchy not as a legitimate and serious political philosophy, but as a type of fad among misguided youth. The rest of the article reinforces this distinction between regular protesters and anarchists, mentioning three times peaceful protesters who come to "make a statement." The assumption is that anarchists are not there to make a statement and instead are there for some criminal, non-political purpose. The moral of the article is that protesters are not necessarily bad; most protesters are peaceful and there to make a statement; however, anarchists ruin it for everybody with their crazy behavior and actually help the conservative cause by portraying the Left as a bunch of foolish children.

The Worst-case Scenario. The militarization of police forces at the RNC was also legitimized through coverage of the worst-case scenario. This type of coverage imagined the protests as lawless, anarchist riots, involving widespread violence against property, innocent bystanders, and other protesters. A *Star-Tribune* article published before the convention on June 21, 2008 begins with the following: "Suicide bombers. Chemical or biological attacks. Lone gunman. Terrorist attacks. Riots.

Blockades that could shut down the Republican National Convention" (Kersten, 2007). These nightmare

scenarios featured in pre-convention and convention coverage further define the problem and deviancy

of the anarchists. This type of covearge framed anarchists as an unknowable threat that requires pre-

emptive action, strict security, and militarized police forces. This narrative echoes the police narrative

about the unpredictable risk posed by the anarchists, which argued that since it is impossible to assess

the threat posed by the anarchists, police must imagine and prepare for the worst. A July 18, 2008

Pioneer Press article captures this unknowable quality in its title, "How Real are Anarchists' Rumblings?

It's Unclear" (Hoppin, 2008). Relying heavily on official sources, the article repeatedly reinforces the idea

that no one knows what the anarchists will do and that the police must prepare for the worst, which has

the effect of warranting a militarized police presence.

The 1999 WTO protests in Seattle played a key role in media narratives about the worst-case

scenario. Dramatizing the events at the WTO, a July 18th *Pioneer Press* article begins:

> On a November day in 1999, Seattle police lost control of their city. During a meeting of the World
> Trade Organization, protesters blockaded intersections, cut off delegates from the conference and
> rifled through local businesses, causing extensive damage. Police used rubber bullets and tear gas
> to control the crowd, but it took days to restore order. A group of Twin Cities anarchists is now
> making similar threats against the 2008 Republican National Convention in St. Paul (Hoppin,
> 2008).

In this account, it is not the anarchists or protesters who "won" the "Battle of Seattle," but the "police who

lost control." Framing the events in this way, the problem in Seattle and the lesson for St. Paul is that a

lack of police preparation, organization, and force can result in a violence, anarchy, and lawlessness. The

use of "their city" also assigns ownership of the city to police, positioning the protesters as an outside

force creating an "us vs. them" dichotomy where the citizens and police represent the "us" of the city and

the protesters and anarchists are the "them" that will descend upon it. The *Star-Tribune* uses this divisive

language as well, using "we Minnesotans" to refer to the public as a homogenous force aligned against

"they," the anarchists (Kersten, 2007). This process of othering leaves no room a grey area, producing a

"you are either with us, or against us" mentality" about imagined anarchist activity, criminalizing not only anarchists, but any group not opening hostile to them.

The *Star-Tribune* describes the events at the 1999 WTO in Seattle events as "mayhem," using the event as warning of what could happen to St. Paul (Kersten, 2007). The specific story of Seattle laid out in the article is the following: "A relatively small group of activists used weapons like Molotov cocktails and ammonium-nitrate bombs with nails to provoke violent confrontations with the police" (Kersten, 2007). The article continues to inspire fear by quoting an anarchist website that claims St. Paul geographic layout presents unprecedented strategic advantages for direct action. In addition, the article diverges from accounts that claim the anarchists will represent a small, yet powerful and disruptive group, claiming that "for a critical mass of protesters at the 2008 convention, the main goal will be to obstruct the free speech rights of others, not exercise their own civil rights" (Kersten, 2007). The problem in this article is not only the anarchists, but also the lawyers who are lining up to defend them, for, as the article claims, legitimate protesters, such as "earnest grandmas who wave signs," aren't likely to get into any legal trouble.

While the 1999 Seattle protests functioned to define the worst-case scenario with police losing control, other protests, including the RNC's in Boston and New York were used to identify the solution. The solutions offered by other conventions included massive showings of police force, preemptive arrests, and police coordination. The *Pioneer Press* published an article relying heavily on quotes from police officials in Boston and New York intended as a lesson for St. Paul (Hoppin, 2008). The article offers the 2004 RNC protests in New York City as an example where police maintained control of the city. The article starts, "New York did disrupt anarchist activities before they occurred" (Hoppin, 2008). The *Star-Tribune* echoes this sentiment stating, "Anarchists apparently planned similar mayhem [to 1999 Seattle] at the 2004 Republican National Convention, but were largely deterred by careful police planning and a

massive show of force" (Kersten, 2007). The *Denver Post* turns to St. Paul, just as the *St. Paul* journalists

turn to other cities, to understand what lessons their law enforcement can learn from what was

perceived as a successful control of protesters, offering pre-emptive arrest a take-away point for the

future (Plunkett, 2008).

Another component of coverage that served as an crucial piece in the worst-case scenario frame

and further defined anarchists as deviants and criminals was the police's confiscation of "buckets of

urine," which the police alleged were to be used to throw at police during the protests. Despite the fact

that it was never proven that any group was storing urine with the intent to throw it at police or other

officials during the convention, the threat that anarchists were planning such an attack was prominently

featured in the *Star Tribune*, the *Pioneer Press*, and the *Denver Post*. An August 30, 2008 article in the

Pioneer Press on the preconvention raids lists among the confiscated items, "Sharp objects to puncture

the tires of the Republican National Convention delegates' buses. Buckets of urine to throw at police

officers. Large-scale maps with routs targeted to be blocked" (Gottfried and Mohr, 2008). At the time of

the article, there was no additional forensics or legal evidence to back up the claim that buckets of urine

had been found or that protesters were planning to throw the urine at police. In a statement by

Minnesota civil rights attorney Bruce Nestor, he claimed that there were actually three buckets of liquid

confiscated in the preconvention raids: Two of which were grey water, or recycled water used to flush

toilets by environmentalists interested in conserving fresh water resources, and one which was urine

(Estrada, McAuliffe & Simmons, 2008). The urine, he claimed was confiscated from an illegal apartment

that did not have a bathroom and was occupied by an individual not connected to the RNC protests

(Estrada, McAuliffe & Simmons, 2008).

The *Star Tribune,* covering the last day of the protests, published a report from a police

commander in charge of the mobile unit who claimed that he heard, though it is not clear from who, of

the "possibility of a bio attack," including urine and feces (Chanen, 2008). In another article St. Paul

Police Chief John Harrington is quoted as saying that protesters threw urine and feces on officers (Havens

& Lonetree, 2008). The article, which appeared on the front page of section B, failed to offer any

investigation or opposing position. Coverage of buckets of urine or "urine bombs," as the *Denver Post*

journalist called them (Plunkett, 2008), repeats the police narrative that functions to portray protesters

as extreme deviants intent on causing harm to other people and justifies the need for a strong police

presence. The "urine and feces" theme in this context establishes the moral depravity and extreme

deviancy of the protesters, the necessity of pre-emptive raids and the police militarization. The use of

urine bombs is consistent with police efforts to criminalize dissent and use repressive techniques.

According to David Solnit (2011), police mention of urine bombs can be traced to the 1999 WTO protests

in Seattle; however, there is no official police or media documentation of such occurrences. The same is

the case in St. Paul: There exists no official documentation that such acts were planned, yet police

allegations were featured prominently in media coverage, functioning to criminalize protesters and

define them as deviants.

Overall, the similarities between the newspapers' framing of the protests were more pronounced

than the differences. However, there were some differences worth noting. One difference between the

Denver Post and the other three papers was the comparison between the show of police force in Denver

and St. Paul. The *Denver Post* was the only paper that claimed Denver had a more militarized police force.

On the first day of the RNC protests, the *Denver Post* claimed that "police presence is low-key" in St. Paul

with "officers forgo[ing] riot gear for quieter protest" (Plunkett, 2008). The article continues, "In Denver,

riot-gear-clad police patrolled in large groups and presented an immense show of force. In St. Paul,

officers and members of the Minnesota National Guard stood on street corners in groups of two and

three, wearing simple pistol belts" (Plunkett, 2008). Compare the *Denver Post* article with a *New York*

Times article written on the same day: "The scenes from the first day of the Republican convention contrasted sharply with the more muted demonstrations at the Democratic convention…The protests Monday in St. Paul were much more pitched, and the number of protesters and police officers…was much greater" (Healy & Moynihan, 2008). By most measures- the number of protesters, the number of police, and the number of lawsuits citing police abuse and misconduct—Denver had quieter protests, less police repression and violence, and more vibrant "business-as-usual" downtown scene. The disconnect between the *Denver Post's* observations and other reports can be explained, in part, by the fact that the article frames the protests in a way that legitimizes future militarization. The *Denver Post* article was framed as a "lesson for Denver." The article reads, "Police here [St. Paul] – unlike in Denver – made five 'pre-emptive' arrests and seized a cache of materials at a residence of alleged anarchists" (Plunkett, 2008). The solution is offered in the actions of St. Paul policing: Take pre-emptive action. The incongruous observation that Denver had a greater and more militarized police presence on the streets serves to legitimize the need for pre-emptive arrest in future protest control.

Discussion

A significant finding of this analysis was the way in which newspaper coverage of the 2008 RNC protests used anarchists and the anarchist threat in framing the problem around the protests, a problem solved with a stronger police presence, pre-emptive arrests, and heightened surveillance, i.e. militarized policing. The violent anarchist narrative, which consistently and repeatedly portrayed anarchists as criminals whose sole purpose is unpredictable violence and destruction, renders routine policing obsolete, equates anarchists with terrorists, and functions to normalize and legitimize police militarization. The criminalization of anarchists is consistent between media and police narratives. In both narratives, the portrayal of anarchists, and by association, protesters, as violent, irrational, contradictory, unpredictable, deviant and possible terrorists, serves to legitimize the police

militarization. In comparison to the police narrative of protest, journalism's value of balance and practice

of sourcing allow protesters to have a voice. However, the inclusion of a protest source, such as an

organizer, civil rights attorney, protester, or movement leader, did not necessarily contribute to

positively skewed coverage for protesters or protest goals. The majority of the time, protest sources

were included to represent the irrationality of protesters or as a counter-point that is eclipsed by an

official source, such as a police officer, politician, or security expert. Given these findings, future research

could examine the relationship between protest sourcing and coverage tone as this study suggests

protester sourcing might not always translate into a positive for protesters.

     In dramatizing the anarchist threat and providing justification for police militarization, police and

media narratives align in their use of previous protests, most saliently and consistently the 1999 Seattle

protests, and imagination of worst-case scenario as a method for dramatizing the problem to which

militarization is a solution.   In both police and media narratives, the 1999 WTO protests in Seattle

continue to inhabit the cultural imagination and exert symbolic power through the retelling and

reshaping by media, protest groups, dissidents, security officials and police. The 1999 WTO protests have

been described as riots, the beginning of an international citizens' democratic movement (DeLuca &

Peeples, 2010), a unparalleled victory for protests against neoliberal globalization (Solnit, 2010), the

resurgence of anarchists on the political stage, the global debut of anarchist Black Blocs (Dupuis-Déri ,

2010), and the beginning of police militarization at protests (Kane, 2014). The telling of history is a

political act with a role in shaping the world; it is the process of presenting a particular view of the past to

solve present problems (Susman, 2003). In this particular narrative, the problem is a dangerous, criminal

element lurking within mass demonstrations that legitimizes police militarization and justifies the

repression of civil liberties as a solution.

The 1999 WTO framing carries beyond the 2008 RNC protests. In a 2010 FBI story about domestic terrorism, the FBI outlines four domestic terrorist threats, one of which is anarchist extremism (FBI, 2010). The FBI article claims that the political beliefs and non-criminal actions of the majority of anarchists are "perfectly legal;" however, "a small minority" advocate change through violence and criminal acts ("Domestic terrorism," 2010). According to the FBI, this "small minority" was responsible for the events at the 1999 WTO protests in Seattle. The FBI states:

> **For today's generation of American anarchist extremists, the rioting that disrupted the 1999 World Trade Organization meetings in Seattle is the standard by which they measure 'success'**—it resulted in millions of dollars in property damage and economic loss and injuries to hundreds of law enforcement officers and bystanders [emphasis in original] ("Domestic terrorism," 2010).

In this passage, the FBI expressly identifies anarchists at mass demonstrations as domestic terrorists. The article continues to explain that the disorganized nature of anarchists makes it challenging for law enforcement: "It gives the extremists anonymity and low visibility, and it makes it tough to recruit sources and gather intelligence" (FBI, 2010). Newspaper coverage of the 2008 RNC relied on a similar narrative of anarchists that functioned to justify and legitimize the repression of all protesters and protest activity regardless of their political affiliation. This method of conflating dissident political views and civil disobedience with terrorist activity is symptomatic of how militarized police forces and intelligence agencies stretched terrorist laws enacted after 9/11 to control and restrict political dissent and protest.

In addition to relying on past conventions to conjure up a vision of a worst-case scenario, newspaper coverage of the 2008 RNC in turn served as part of the media imaginary for future conventions. For example, in anticipation of the 2012 RNC in Tampa, the *Tampa Bay Times* warns, "If it's anything like the last Republican convention, in St. Paul, Minn., they'll come with gas masks, slingshots and bolt cutters. They'll throw rocks, block intersections and break windows. They'll use water guns to

spray urine at police" (Velde, 2011). In a similar vein the Associated Press discusses the possible threat

for the 2012 RNC and DNC by saying, "In 2008, thousands of protesters arrived in St. Paul, Minn. for the

RNC. Some smashed cars, punctured tires and threw bottles in a confrontation with pepper-spray

wielding police. Hundreds were arrested over a few days, including dozens of journalists" (Lush, 2012).

The same article claims the city has "extensively studied" the 2008 RNC in St. Paul. These excerpts

demonstrate the way the particular framing of anarchist deviance and police response are used to frame

future protests in ways that justify and legitimize police militarization.

Framing theory stresses that what is excluded from media coverage is as important as what is

included. Once the convention began, none of the articles connected the militarization of policing at the

protests to the issues of the protest, which criticized counter-terrorism efforts, domestic and foreign

policy, the war on drugs, economic inequality, capitalism, neoliberalism, racism, and gender inequality.

Not only would such coverage require the media to problematize police militarization, which the papers

failed to do, but it would also require critical and complex analysis of historical and social processes.

Failing to address police militarization presented it as the norm and a non-issue. Connecting police

militarization to protest issues, like neoliberalism and capitalism, would also problematize the nature of

the relationship of the police to the power elites at the convention and the institutions and structures

they support.

Another dimension media coverage excluded was the role of the private sector in the policing the

protests. For example, only one article surveyed mentioned Target's contribution to surveillance

equipment. In 2007, the Target Corporation gave the Safe City Initiative, a partnership between the city,

the St. Paul Police Department, and local businesses $300,000 to purchase and install police surveillance

cameras (Marchio, 2007). Target's generous donation was part of the Safe City Initiative, a partnership

between the city of St. Paul, the SPPD, and area businesses, to reduce crime (Marchio, 2007). The Safe

City Initiative is a clear example of private-public partnerships in policing crime, collecting surveillance, and criminalization under neoliberalism. It also shows technologies developed and legitimized with one use, in this case crime prevention, can be applied to other situations. Target Corp.'s headquarters is in Minneapolis. One of its corporate responsibility commitments is "safety & preparedness." Since 1980, Target has been running its "Target and BLUE" program to "form connections with law enforcement, public safety and criminal justice agencies and to share our programs, resources and ideas" (Target, 2014a). As part of this program, Target shares two forensic labs, one in Minneapolis and one in Vegas, and their "Investigation Centers across the country" with law enforcement. They boast, "Approximately 20 percent of our forensics labs' work is unrelated to Target" (Target, 2014a). Additionally, Target Corp. takes a leading role in working to forge private-public partnerships around national security issues as evidenced by its sponsorship and participation in the Aspen Institute's 2014 Security Forum. Target (2014b) argues, "By joining discussion and sharing insights and information, businesses like Target can help out both national and local public safety partners mitigate potential security risks" (n.p.). Under these partnerships, businesses subsidize police work meanwhile receiving the financial benefit of added property protection, keeping the neighborhood around their stores "shopping friendly," and public relations.

The role of Target in 2008 RNC surveillance technologies is connected to the larger issue of data collection, a multi-billion dollar industry in which vast caches of information are analyzed in order to create targeted marketing and advertising. For example, Target uses behavioral science and analytics to interpret customer shopping data, exploiting times when customers are most vulnerable to changes in buying habits (Duhigg, 2012). One of the "vulnerable times" is when women are newly pregnant (Duhigg, 2012). An analyst at Target created an analytic program to determine when women were first pregnant, sometimes before they had told anyone, based off online buying habits (Duhigg, 2012). This represents

one example of the kind of information private corporations collect and how they use it in meaning creation (i.e. to say a woman is pregnant). When companies collecting this level of detailed data partner with government in surveillance and crime prevention, it challenges legal norms, expectations of privacy, and creates the potential for abuse.

Another significant issue that received scant coverage was the Minneapolis City Council making changes to its policy regarding protests in advance of the RNC. In 2008, the Minneapolis City Council revised a resolution banning the use of rubber bullets, the confiscation of video equipment, the targeting of demonstration organizers, and the harassment of journalists. The resolution was initially adopted in 2000 in response to public pressure over the arrest and repression of protesters during the International Society for Animal Genetics meeting (Mannix, 2008; Shaw, 2008). The revision included the removal of the ban on the creation of "political dossiers," the use of rubber bullets, and the targeting of protest organizers and leadership. The only article in this study that covered the revision was a July 29, 2008 *Pioneer Press* article (Orrick, 2008). While coverage of Minneapolis's recent history of police abuse at protests could have contributed to a narrative framing police abuse as a potential problem, the article instead framed the problem as a conflict between "Minneapolis activism" and "Minnesota Nice" (Orrick, 2008).

Conclusion

In the case of the 2008 RNC, the media narrative aligned with police narratives about anarchist threat, deviance, and risk, which functioned to legitimize and normalize police militarization, such as the pre-emptive arrest, the use of free speech zones, the arrest of journalists, confiscation of communications and video equipment, the issuing of ordinances to regulate protester behavior, the investment in and use of tear gas, pepper spray, rubber bullets and other non-lethal weapons, and the use of surveillance technologies. In addition to the narrative of deviance, the media failed to provide the necessary historical

and political context for understanding police actions as part of historical *changes*; instead presenting the show of force as the norm. The failure of media in providing the necessary historical and political context for the public to understand complex social processes is not unique to the case of police militarization. This context-free type of coverage results the media's commercial, advertiser-supported monopoly structure, the shrinking of newsrooms and cost of investigative journalism, political pressures, journalistic routines, and position of media organizations in society. In conclusion, the media narrative of the 2008 RNC casts anarchists as a violent, incalculable threat akin to terrorism, similar to the police narrative, and functioned to legitimize and normalize police militarization.

Chapter 6

Resistance in the Age of Neoliberalism:

The Normalization of Militarized Protest Policing

This dissertation has explored how the militarization of protest policing, accelerated by the state of exception and the terrorist threat, restricted debate, marginalized dissident voices and issues, utilized communication technologies in the surveillance of political groups, and criminalized protest. Communication was shown to play a complex role in this process. First, communication technologies are developed and deployed by government, private contractors, and private corporations for surveillance of political activity and dissent, as described in Chapter 4. The Minnesota Fusion Center offers a prime example of this convergence. Second, media coverage serves to legitimize and normalize emergency appeals and the changes pursued under the pretext of an impending terrorist attack, as analyzed in Chapter 5. Third, police militarization, as regards dissent, involves the confiscation of media and communication technologies, pre-emptive raids on media and political groups, and the surveillance of protester communications, including social media and the Internet, as discussed in Chapter 3 and 4. Floyd Abrams, a lawyer who supported the PATRIOT Act, expresses how the freedom of the press attains an even greater role in the face of exceptional policies. Abrams (2002) states:

> In fact, as we give the government more power, it is all the more important that the press be utterly free to criticize the manner in which the government exercises that power and (more controversially) to be knowledgeable about what the government has done. If, for example, the government should abuse the new powers that are embodied in the anti-terrorist legislation...only the press is likely to serve as a check upon that government conduct (p. 8).

In addition to the militarization of protest policing, other examples of the post-9/11 state of exception that impact public communication include attacks on academic freedom and tenure, restrictions of freedom of the press, including legal persecution of journalists for use of confidential sources, and the

increasing use of private ownership of public spaces to restrict speech and expression, as discussed in Chapter 1.

Exceptional practices constitute relations of power that eschew democratic values, law and norms in exchange for relations that operate on emergency, security, and risk. Laying bare liberal appeals to universalism, however empty and ideological they may be, states of exception, tied to a declared emergency, produce a politics that differentiates and governs populations unequally based on race, ethnicity, nationality, gender, class, sexuality, and political association, as described in Chapter 2. Ironically, the ideological justification for the War on Terrorism (WOT) as a war to fight an enemy whose sole target was American democracy and values was pursued while freedoms, rights, the rule of law, a balance of powers, and privacy protections that purportedly defined American democracy, but never existed in any universal or absolute way, were attacked. As Agamben (2005) states, "At the very moment when it [western democracy] would like to give lessons in democracy to different traditions and cultures, the political culture of the West does not realize that it has entirely lost its political canon" (p. 18). The politics of exception is not bathed in the liberal language of universalism or equality; it makes no such pretense. An exception can define those above or outside the law and those for whom the law applies. Depending on the group, the law, and the context, this can produce the benefits of privilege or the injustice of repression and discrimination.

A state of exception is useful in highlighting how politicians, intelligence and defense agencies, police forces, private security firms, and the media used the threat of terrorism and appeals to exceptional, emergency circumstances to legitimize and explain widespread anti-democratic changes in law and society, including militarized repression of protests. On the flip side, the theoretical lens of the state of exception also connects the repressive and anti-democratic processes of police militarization to the larger anti-terrorism project from which it gains legitimacy, funding, and ideological vigor. It also

reveals the extent to which it is part of a larger process that devalues dissent, participation, and equality. Such a focus can also begin to assess how exceptional the repression of dissent under a declared emergency is in the history of American liberal democracy; an answer that significantly problematizes calls for a return to liberal ideals as a corrective.

The repressive and anti-democratic processes of the 9/11 emergency drew on historical precedents that can be traced to the very founding of the country, as discussed in the history of emergency powers in Chapter 2. For dissident individuals and movements, repression through cultural, political, legal and physical means is the normal experience. This is why Mark Neocleous (2006) argues that a state of emergency is the normal technique of governing, not the exception. It was always part and parcel of the liberal democratic technique of rule, with historical variation in its legitimating ideology, techniques of power, producers, and targets. This is evidenced in the dark and violent history of slavery, Reconstruction, Jim Crow, race riots, and white flight. It also includes the dark and violent relationship between the U.S. government and Indians (or Native Americans), the persecution of anarchists during WWI, the internment of U.S. citizens of Japanese descent during WWI, the communist witch hunts during McCarthyism and the Cold War, and the surveillance, infiltration and attempted repression of the Civil Rights Movements, the Black Panther Party, and the American Indian Movement, and the repression and discrimination of people based on sexual orientation.

There never existed some previous time in American history in which freedoms and rights flourished—like freedom of expression, freedom to assembly, freedom of the press, freedom of petition, the right to equal justice, and the no-quartering right— to which the current epoch represents a fall from grace. On the contrary, rights and freedoms are a site of struggle; they do not exist as a thing above society and beyond history. The language of rights has been regularly deployed to strip other people of rights, as exemplified in the way states' rights worked to counteract the civil rights legislation or "right to

work" laws broke the collective rights of workers. Therefore, appeals to "rights" are not inherently

democratic in nature. Edward Carvalho and David Downing (2010), in discussing academic freedom, put

it this way:

> We should never indulge in nostalgia for a lost 'freedom' that must be recovered. Academic
> freedom is not something 'out there,' like a monarch butterfly we can capture and display for all to
> see, but a historically evolving discourse, critical to higher education in a democratic society, that
> must be continuously debated, constructed, and reconstructed to address changing circumstances
> and changing histories" (p. 4).

The Church Committee provides a perfect example of how freedoms and rights are a site of struggle and

are in constant flux, as discussed in chapter 2.

Despite the historic consistency through which emergency appeals have functioned to repress

dissent, there are specific ways in which the WOT processes were different. As discussed in previous

chapters, the repression of dissent after the 9/11 attacks was defined by a marked increase in

surveillance, made possible by surveillance laws and the expansion and the development of surveillance

technologies. It was also defined by an increase in police militarization. Beyond the 2008 RNC protests

and the Bush Administration, the troubling, repressive and anti-democratic practices analyzed in this

dissertation continue on a national and transnational scale. Examining subsequent events through the

lens of the state of exception, it becomes clear that Obama continues the practices put in motion by Bush,

such as the expansion of executive power, the use of illegal military prisons, and the suspension of the

rule of law. In fact, examining the prosecution of whistleblowers, the killing of U.S. citizens in a drone

strike and the accompanying justification, and the increased use of executive orders, subsequent

administrations intensified exceptional practices tied to the WOT. The changes described in this

dissertation are characteristic of both dominant political parties in the U.S.

This chapter provides a bridge between this historic case study and the future examining how the

militarization of protest policing, including the surveillance of dissent, and media coverage of protest

have fared in the years since 2008. In doing so, this chapter answers the question of whether these

processes, justified as temporary and legitimized as exceptional, are the new normal and, if so, what are

the implications and possibilities for resistance. The final part of this chapter identifies avenues for

future research.

Police Militarization & Surveillance

The secrecy with which the U.S. government and its private contractors conducted and continue to

conduct surveillance and infiltration makes knowing the extent of their activities on political activity

difficult. What is known about government surveillance has been found out through costly and

complicated legal requests and leaked classified information. In 2013, the UK's *Guardian* newspaper

published a leaked, classified document from the U.S. Foreign Intelligence Surveillance Court. The

document was a court order requesting metadata from Verizon regardless if customers are suspected of

any wrongdoing (U.S. Foreign Intelligence Surveillance Court, 2013). In 2006, a whistleblower testified

to the existence of a secret National Security Agency surveillance room at the AT&T offices in San

Francisco (Hepting v. AT&T, 2006). The warrantless wiretapping of U.S. citizens by the NSA with the

cooperation of major telecom companies from 2001-2007 was discussed in Chapter 2. More recently in

2013, a leak by whistleblower Edward Snowden revealed that the U.S. was not only wiretapping its own

citizens, but it was also monitoring the phone conversations of 35 world leaders (Ball, 2013). These

examples represent only a fraction of what has come to light about surveillance by the U.S. government

and their private sector partners.   And what the public knows about surveillance pales in comparison to

what they do not know.

There is evidence that government surveillance, legitimized as part of its antiterrorism efforts, has

targeted citizens engaged in political activity and protest. The American Civil Liberties Union (ACLU)

made a series of Freedom of Information Act (FOIA) requests to the Federal Bureau of Investigation (FBI)

in 2004, 2005 and 2006. The requested documents revealedFBI investigations targeted groups engaged

in protected First Amendment activities ("Unchecked and Unaccountable," 2013). The investigated

groups included School of the America's Watch, Greenpeace, People for the Ethical Treatment of animals,

and the Rocky Mountain Peace and Justice Center in Colorado ("Unchecked and Unaccountable," 2013).

The information in these released documents prompted Inspector General Glenn A. Fine to conduct a

thorough investigation into the FBI's investigation of groups solely based on their exercise of First

Amendment rights. The investigation culminated in a report by the Office of Inspector General (OIG) in

2010. The report found that the FBI improperly investigated the Thomas Merton Center in Pittsburgh

after spying on an anti-war rally and later provided misleading information to Congress and the public

when describing the basis for the investigation (Office of the Inspector General, 2010). The FBI

Pittsburgh Field Division attempted to legitimize its investigation of the group by claiming the group had

connections to a terrorism suspect and was part of an ongoing terrorism investigation, though there was

no evidence to support it (Office of the Inspector General, 2010). Further loosening restrictions on the

FBI investigations, Attorney General Michael Mukasey issued revised guidelines for the FBI in 2008 that

authorized the surveillance and infiltration of peaceful advocacy groups before demonstrations and

factors influencing initial assessment to include discrimination based on religion, national origin, or race,

as long as they were not the only factors ("Unleashed and Unaccountable," 2013).

    Another case revealed in 2010 found that Pennsylvania's Homeland Security Department

contracted a private security firm, the Institute of Terrorism Research and Response (ITRR) to assess

terrorist threats relevant to state law enforcement ("FBI Improperly," n.d.). ITRR, a private security firm,

received a no-bid contract from Pennsylvania's Homeland Security Department (Federman, 2013). Tri-

weekly intelligence reports from ITRR to Pennsylvania Homeland Security provided equal information on

"jihadist" activities and social justice organizations and protests, which the state security agency

distributed to over 800 federal, state, and local law enforcement agencies ("FBI Improperly," n.d.).

Political groups appearing in ITRR's intelligence bulletins include political groups such as MoveOn, Immokalee Workers, ANSWER, PETA, The Yes Men, Tea Party protesters, pro-life activists, the Poor People's Economic Human Right Campaign, the Rainforest Action Network, and other organizations ("FBI Improperly," n.d.; Federman, 2013). The FBI issued a review of their actions in response to media and Congressional criticism claiming that the FBI "identified several cases in which the FBI investigated acts of nonviolent civil disobedience that could constitute federal crimes (such as trespassing on military facilities)" (Office of Inspector General, 2010). The report continues, "These investigations were classified as Acts of Terrorism" (Office of Inspector General, 2010).

The case of the Gas Drilling Awareness Coalition (GDAC), a group of citizens based in Dallas, PA concerned about the negative effects of natural gas drilling, highlights an example of partnerships and alliances between the government and the private sector in surveillance activities. The private security firm ITRR, mentioned previously, had been creating tri-weekly bulletins in 2010 that included information on their organization and sharing it with local police forces, industry groups, federal, state, and private intelligence companies, and natural gas companies, among others (Federman, 2013). The GDAC became aware of the bulletins, when the Pennsylvania DHS director sent an email to someone he thought was someone sympathetic to the natural gas industry, but turned out to be retried Air Force officer and anti-drilling activist Virginia Cody. In the email the PA DHS director asked Cody not to share the bulletins, which he wrongly assumed she had, writing: "We want to continue to provide this support to the Marcellus Shale Formation natural gas stakeholders while not feeding those groups fomenting dissent against those same companies" (Powers cited in Federman, 2013). In this email, the PA DHS director openly admits that they participate in intelligence sharing with natural gas corporations, in

support of companies and their stakeholders, and do not wish to encourage dissident groups criticizing those corporations.

Occupy Wall Street

Police militarization continued in the repression of the Occupy movement, which resulted in arrests of over 7,500 people ("Number of Occupy Arrests," 2014), with particularly repressive protests in Oakland and New York City, both places with histories of police killings and racial discrimination. For example, during an Occupy Oakland protest on October 25, 2011, a militarized police force used tear gas, pepper spray, flash grenades, and rubber bullets to control a protest. Scott Olsen, an Iraq veteran who had served two tours was demonstrating as part of the protest. During police repression of the protest, he was critically wounded by a police projectile and ended up in the hospital with a fractured skull, broken neck vertebrae, and brain swelling ("Scott Olsen," 2014).

In discussing what brought the Occupy movement down, political scientist Matthew Morgan (2014) argues that it was "a concentrated and well-organized attack by the American state and private corporations," which relied on a two-pronged strategy (p. 271).   Of the strategy, Morgan (2014) states:

> First, widespread and indiscriminate violence was employed not only against occupiers, but also on the media which sought to cover the protests. This violence was coordinated at the local, federal, and corporate level, with the scale of violence itself illustrating only the latest turn in a decades long trend of the increasing militarization of policing in America. Second, a raft of regulations and laws were enacted which sought to make a recurrence of political protest based on the Occupy model far more difficult in the future (p. 271).

The militarization of protest policing at Occupy involved coordination between the FBI, the Department of Homeland Security (DHS), and local police, as reported by The Partnership for Civil Justice Fund (PCJF) in 2012 (see "FBI Documents Reveal," 2012 to access the report and related documents). In her summary of the documents, Naomi Wolf concludes, "The documents, in short, show the cops and DHS working for and with banks to target, arrest, and politically disable peaceful American citizens" (n.p.). According to the Mara Verheyden-Hillard (cited in Brown, 2012), Executive Director of the PCJF, "These documents

show that the FBI and the Department of Homeland Security are treating protests against the corporate

and banking structure of America as potential criminal and terrorist activity" (n.p.). She continues,

"These documents also show these federal agencies functioning as a de facto intelligence arm of Wall

Street and Corporate America" (Verheyden-Hillard, cited in Brown, 2012, n.p.).

A report by the Center for Media and Democracy and *DBA Press* in 2013 revealed how the state-

level Homeland Security Departments and their Fusion Centers, described in Chapter 4, have

collaborated with private corporations, and law enforcement to collect information on Occupy Wall

Street protesters. The report, "Dissent or Terror: How the nation's counter terrorism apparatus, in

partnership with Corporate America, Turned on Occupy Wall Street," provides detailed analysis of how

counter-terrorism laws were used to spy on protest groups (Hodia, 2013). While the report covers

surveillance and intelligence gathering in many localities, it focuses on how Occupy Phoenix was targeted

by the Arizona DHS and the "Arizona Fusion Center," or ACTIC CLP, who partnered in various capacities

with private sector interests such as Bank of America, Wells Fargo, National Defense Industrial

Association, Boeing, Oracle Corporation, Google, Xcel Energy, Microsoft, and Colonial Pipeline Company

(Hodia, 2013). Summarizing their findings, the report states, "Put simply, the pattern that emerges from

these pages shows that heavily-funded municipal, county, state, and federal 'counter-terrorism'

agencies…view citizens engaged in movement of political and social dissent, such as Occupy Wall

Street…as nothing less than nascent, if not bonafide, 'terrorist' threats" (Hodia, 2013, p. 1).

The depth and breadth of surveillance of political activity and close coordination with private

sector interests and corporations is troubling, but it is not without historical precedent. Neither is the

linking of political activity and dissent with terrorism an exception. It is an extension and normalization

of militarized policing within neoliberal privatization that developed in the 1990s, which intensified with

under anti-terrorism legitimacy after the 9/11 attacks.

In a critique of public responses police brutality the University of California, Davis (UC Davis)—the incident when a police officer pepper-sprayed students during an Occupy protest—Dylan Rodriguez (2012) powerfully claims, "There is something structurally white supremacist about this very indignation" (p. 30). Rodriguez (2012):

> The political expressions of outrage and institutional shaming over the spectacle at UC Davis are fueled by an overidentification with (historically white) university campuses as places of *presumed innocence*, wherein enrolled and employed (white) bodies are also presumed to presume innocence. If we are to be honest in this moment, we must also recognize that many have once again been provoked into talking and thinking critically about the violence of the police because they are moved to defend the presumption of *white* bodily and spatial innocence, and are necessarily concerned about police violence against those whose bodies (and the spaces they inhabit) are presumed guilty, or something close to it (p. 307).

Rodriguez argues that public reactions, including those of liberal progressives, to the UC Davis incident naturalizes, takes for granted, and fails to identify the historical and institutionalized racism that defines policing. For comparison, Rodriguqez compares the events at the UC Davis to police repression of non-violent protest at his own school- the University of California, Riverside (UC Riverside) that occurred two months after the UC Davis protest on January 19, 2012. During the UC Riverside protests, he argues that the police were even more militarized than they were in Davis, with every UC police force except Davis and Merced mobilized. Also, students were shot with "less than lethal" pellets, police took "sniper positions" on the top of buildings, and police helicopters continually circled the protest (Rodriguez, 2012). Despite the wide availability of photos and videos on the Internet, public awareness or outrage did not reach the levels of the UC Davis pepper spray incident. By contextualizing the UC Davis incident in this way, Rodriquez (2012) raises the question: "If they'll [the police] do this to upwardly mobile white people on a liberal Northern California college campus, what will they do to the rest of us, especially those whose guilt is more or less presumed in the eyes of the police *as well as their recent critics?*" Rodriguez's essay challenges the exceptionality of the exception by arguing that violence is exercised in

ways that disproportionately impact people of color, for which it reserves its most violent and repression

punishments. He also argues that public outrage is more likely to be mobilized when repression spills

over into groups perceived as innocent.

Black Lives Matter

The pattern of repressing protests through militarized policing continued with the protests in

Ferguson, Missouri, New York, NY, and Baltimore, Maryland against the police killings of black men and

people of color. The Black Lives Matter movement is organized against police militarization, institutional

racism, structural violence against people of color, and police and vigilante killings of black individuals.

The movement got its start after George Zimmerman was acquitted for killing 17-year old Trayvon

Martin in 2012 (BlackLivesMatter, 2015). The Black Lives Matter movement gained momentum with the

2014 shooting of 18 year-old Michael Brown in Ferguson, Missouri by white police officer Darren Wilson,

who was acquitted by a grand jury, and the strangulation of Eric Garner by police on Staten Island, New

York.

The shooting of Brown in Ferguson, a majority black town controlled by a white political power

(Smith, 2014), ignited months of protests beginning in August 2014. The protests were met by a

militarized police force, which residents, protesters, reporters, and observers described as a "war zone"

(Apuzzo, 2014). The *New York Times* reported that police officers wore full body armor, rode around in a

BearCat armored truck bought with $36,000 in federal funds, pointed assault rifles at unarmed

protesters, and fired tear gas (Apuzzo, 2014). An account of the Ferguson protests by Slate journalist

Jamelle Bouie (2014) reads, "Image after image shows officers clad in Kevlar vests, helmets, and

camouflage, armed with pistols, shotguns, automatic rifles, and tear gas. In one photo, protesters stand

toe-to-toe with baton-wielding riot police, in another, an unarmed man faces several cops, each with rifle

at the ready" (n.p.). Paul Szoldora (2014), a U.S. Marine who served in Afghanistan, describes the police

force deployed to control the protests in Ferguson as a "heavily armed SWAT team." Szoldora (2014)

continues:

> They have short-barreled 5.56-mm rifles based on the military M4 carbine, with scopes that can accurately hit a target out to 500 meters. On their side they carry pistols. On their front, over their body armor, they carry at least four to six extra magazines, loaded with 30 rounds each. Their uniform would be mistaken for a soldier's if it weren't for their "Police" patches. They wear green tops, and pants fashioned after the U.S. Marine Corps MARPAT camouflage pattern. And they stand in front of a massive armored truck called a Bearcat, similar in look to a mine-resistant ambush protected vehicle, or as the troops who rode in them call it, the MRAP (n.p.).

The display of military force by police in Ferguson was so severe that the federal government was forced

to review its policy of providing local law enforcement with military equipment (Apuzzo, 2014). Justified

under anti-terrorism efforts, the Department of Homeland Security (DHS), Justice Department, and the

Pentagon outfit local police departments with automatic weapons, armored vehicles, night vision goggles,

aircrafts and more (Apuzzo, 2014). In response to the Senate policy review, the DHS claimed that the

provision of military equipment to police departments was required in the fight against terrorism

(Apuzzo, 2014).

In anticipation of the Brown verdict, Missouri Governor Jay Nixon declared a state of emergency

and called up 2,000 National Guard to help with social unrest. Hundreds of active duty military and

veterans sent an open letter to the Missouri National Guard (MONG) on November 25 with an urgent plea

for the MONG to stand with the protesters and not the police. The letter drew on the values of the

Constitution and the Bill of Rights to argue that standing with the protesters reflects the true and moral

duty of the MONG. The letter ended with the warning:

> If you take part in the suppression of the protests for Michael Brown, we will be enshrined in history just as the National Guard soldiers who followed their order to attack and repress civil rights actions, union pickets and anti-war protests. History has not looked kindly on them. But you have the chance to make a different kind of history. Imagine the powerful impact it would have if you abandoned your posts and marched with the protesters ("Veterans' appeal to National Guard," 2012, n.p.)

In April 2017, news network *CNN* obtained documents that showed the National Guard used "highly militarized" language as they prepared for deployment in Ferguson. For example, the MONG referred to the protesters as "enemy forces" and "adversaries" (Starr and Bruer, 2015). The MONG documents include warnings similar to 2008 RNC police documents—warnings about Molotov cocktails, rocks, small arms fire, bulletproof vests, and plywood shields (Starr and Bruer, 2015).

On November 24, 2014, St. Louis Prosecutor Bob McCulloch scheduled an 8:00 p.m. press conference to release the grand jury decision for the murder of Brown. McCulloch's decision to release the verdict at such a late time, presumably with the okay from authorities, was heavily criticized and his motivations were questioned, as the protests leading up to November 24th had typically been peaceful during the day, but more aggressive at night (Koplowitz, 2014). The night of the Wilson verdict, protests erupted in Ferguson. Buildings, cars, and businesses were set on fire. Gunfire was heard throughout the night. *DemocracyNow*'s Amy Goodman reported, "Aggressive riot police, ignoring much touted 'rules of engagement' agreements with protest organizers, fired tear gas canisters at outraged residents" (Goodman, 2014). Despite the presence of the National Guard in the vicinity of St. Louis that evening, no one spotted them until the next morning, prompting local journalist Chris Hayes to press local officials on why the National Guard was not deployed (Hayes, 2015)—a question that has yet to answered.

Not surprisingly, evidence is emerging that the FBI has been engaged in the investigation and surveillance of Black Lives Matter protests. In 2015, a journalist at *The Intercept* revealed that a FBI Joint Terrorism Task Force tracked the time and location of a Black Lives Matter protest at the Mall of Americas (MOA) in Bloomington, Minnesota (Fang, 2015b). According to the FBI account, they were tipped off from someone who found information on Facebook that suggested some individuals might engage in vandalism during the MOA protest (Fang, 2015a). The city of Bloomington charged six protesters with criminal misdemeanors after the protests. *The Intercept* obtained a cache of files from

the MOA that indicate the "tipster" came from security staff of at the MOA (Fang, 2015a). Screenshots, metadata, reverse image searches, and url analysis indicate that mall security set up a fake Facebook account, complete with a banner image featuring a Martin Luther King Jr. quote about activism, to befriend, follow, and access photos of individuals engaged in the Black Lives Matter protest (Fang, 2015a). Part of the information released during trial of the protesters, shows emails between the Bloomington city attorney and the MOA in which the city asked the MOA to retain data they had on Black Lives Matter social media sites (Reinan, 2015). While the city claims its coordination with the MOA is routine and unproblematic, it raises questions about the relationship between the city and the MOA in the surveillance of protest groups through social media. As this example demonstrates, protest groups and political activities were defined as terrorism and investigated under expanded counter-terrorism laws, a clear example of how powers initially granted in service of an emergency are extended to regulate activities and behaviors with little to no connection to their stated purpose.

The application of anti-terrorist laws to police political dissent is one example of how laws created for one particular purpose and legitimized under emergency conditions are extended to other spheres of democratic activity not initially intended. Additionally, as the case of Ferguson demonstrates, the violence and repression of policing dissent is most severe when involving poor communities and people of color. While the case of the 2008 RNC is distinct from Ferguson, the issue of presumed innocence or guilt that Rodriguez refers to is relevant. Anarchists are consistently used in both police and media narratives to justify surveillance, heightened security, and police militarization. Anarchists are a sector of many protest movements, who through their perceived deviance are *presumed guilty*. Therefore, the framing of anarchist deviance functions to criminalize and delegitimize all protesters. In Jeffrey Monaghan and Kevin Walby's (2012) sociological analysis of the protest policing at the 2010 G20 Summit in Toronto, Canada, he came to the same conclusion. Threat assessments, intelligence agency reports,

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and police training focused on the anarchist threat, which was conflated with criminal activity (Monaghan & Walby, 2012).

Media Coverage and Resistance

The repression of protesters Ferguson by a militarized police force provides a good transition into the relationship between police militarization, the exception, and media. On August 13, 2014, a Pulitzer Prize winning journalist and another reporter were assaulted and arrested while working at McDonalds (Schlanger, 2014). An Al Jazeera video team ran from their reporting set-up when police started spraying tear gas in their direction (Schlanger, 2014). Journalists from a St. Louis TV station's camera was hit with a "less than lethal" round while recording the tear gassing of their video team (Schlanger, 2014). Other examples include the *New York Times* freelancer who was hit by a rubber bullet, police asking news crews to leave Ferguson, police asking local stations to pull out news trucks, police drawing guns on journalists, and police asking journalists to disperse (Mirkinson and Taibi, 2014). As of November 26, 2014, 24 journalists have been arrested trying to cover the Ferguson protests (Sandvik, 2014). At the end of March 2015, a reporter from *The Intercept*, who was shot with a rubber bullet and arrested, and three other journalists, sued the St. Louis Police Department and 20 unnamed officers for allegedly violating ther First Amendment rights, using excessive force, and arresting them without probable cause (Currier, 2015). As the case of the 2008 RNC and Ferguson protests illustrate, militarized police forces not only repress protesters, but they also repress journalists and reporters attempting to cover and publicize the events.

The avenues through which information about surveillance comes to light is also under threat. As stated previously, whistleblowers and media leaks are two of the ways through which the public learns about surveillance programs. During the Obama administration from 2009-2015, there have been eight prosecutions, including Snowden, under the Espionage Act of 1917. The Espionage Act has been

historically used to punish critics of the U.S. government including leaders like Eugene V. Debs, Bill Haywood, Max Eastman, and Emma Goldman, and was unsuccessfully used by Nixon to prevent the publication of the Pentagon Papers (Ackerman and Pilkington, 2015). Recent charges and prosecutions under the law include CIA officer John Kiriakou being charged in 2012 for disclosing classified information about the torture of WOT detainees and Snowden's 2013 charge for releasing documents related to the NSA's PRISM program. Prior to Obama, there were only such three prosecutions (Ackerman and Pilkington, 2015).

The persecution of whistleblowers creates an environment in which government officials may become reluctant or unwilling to talk to the press. Such a trend would negatively impact government accountability and public knowledge. For example, the FBI secretly seized the phone records of *Associated Press* (*AP*) reporters, including 20 phone lines from *AP* offices and the cellphones of individual journalists, as part of a leak investigation in 2012 (Somaiya, 2013). Gary Pruitt, the president and chief executive of the *AP*, called the manner in which the records were pursued "unconstitutional" and says that it sends the message to officials "that if you talk to the press, we are going to come after you" (Pruitt cited in Somaiya, 2013). James Goodale, former general counsel of the *New York Times* during that paper's legal battle with President Richard Nixon, writing on Obama's prosecution of whistleblowers, states, "President Obama will surely pass President Richard Nixon as the worst president ever on issues of national security and press freedom" (Goodale, 2013). However, the Obama has used government websites, Facebook, YouTube, and Twitter to produce a constant stream of messages that are favorable to the administration ("The Obama Administration," 2013).

In addition to being targeted by police militarization and a state of exception, the media also participate in the normalization and legitimation of police militarization and the exception. A report by *DBA Press* and the Center for Media and Democracy, which exposed the use of counter-terrorism laws in

policing dissent, describes how the police and the press portrayed protesters at a 2011 American

Legislative Exchange Commission (ALEC) meeting in Phoenix as "violent anarchists," despite the

inaccuracy of such a description (Hodia, 2013). Similar to the results in Chapter 4 and Chapter 5, the

report found a close corroboration between the police description of the anarchists as "wild eyed

'anarchists,' running at them with 'nail filled sticks" and media reports. The report analyzes video

records, police records, and photographs, which depicted police crushing protesters and media with

barricades, police pepper spraying peaceful protesters, and police carrying seated protesters onto private

property, at which point they were arrested protesters for "crossing the line" (Hodia, 2013). Because the

media repeated the inaccurate and alarmist police narrative, the majority of the public heard an

inaccurate, biased, and misleading account. Additionally, the conflict frame that focuses on police-versus-

protesters completely marginalized attention to protest issues and concerns. In the case of the 2011

ALEC protests, the main issue was the anti-democratic network of lobbyists, corporate sponsors,

lawmakers, private sector interests, encapsulated in the work of Charles and David Koch and the

American Legislative Exchange Council (ALEC), which represents a case par excellence of corporate

influence over legislation and political decision-making (Hodia, 2013).

In a study that offers hope for protesters and movements who wish to garner positive or

sympathetic media coverage, researchers found protesters at the 2009 G-20 protests in Pittsburgh were

able to utilize tactics and take advantage of political opportunities to alter the balance of power in typical

protest reporting (Kutz-Flamenbaum, Staggenborg, and Duncan, 2012). Their analysis of media coverage

found that activist sources were cited as often as other sources and that activist frames were present in

coverage (Kutz-Glamenbaum, Staggenborg, and Duncan, 2012). But, as the textual analysis in Chapter 5

of this dissertation argued, the inclusion of protest sources does not necessarily contribute to

sympathetic or contextualized issue coverage. Reaffirming previous studies on alternative media, a study

on the framing OWS in mainstream and alternative media found that mainstream media framed the movement as "lackluster, dismissive and confusing" while alternative news "emphasized the strength and diversity of its protesters and demonstration" (Cissel, 2012). This research suggests that while protest movements occasionally have the power to shape mainstream news discourse about protests events, as was the case with the G-20 Pittsburgh protests, investing in and producing alternative and independent media outlets remains the most consistent and viable source for in-depth, contextualized, and positive reporting on protest.

The research on the potential of social media within protest movements and mass demonstrations is relatively new and few, if any, generalizations can be made. However, the use of social media by protesters during the Arab Spring and Occupy Wall Street has opened up many interesting new avenues for research. In a survey of participants in Egypt's Tahrir Square protests during the "Arab Spring" movements, Zeynep Tufekci and Christopher Wilson (2012) found that social media, specifically Facebook, provided a source of information on the protests that was difficult for the government to control. Controlling for other factors, they found that social media use was associated with a much greater likelihood of participation on the first day of protests. A study analyzing one of the largest datasets, including over 3 million tweets, multiple gigabytes of YouTube content, and thousands of blog posts, focused on the role of social media in the Arab Spring movements in Tunisia and Egypt (Howard et al., 2011). The study found that social media played a critical role in shaping political debates, online revolutionary discussions that preceded major protest events, and helped spread democratic ideas across national borders (Howard et al., 2011).

There is some research based mainly in North American that has found social media ineffective at increasing participation in debate and narrative construction. Thomas Poell and Erik Borra (2002) studied social media use, specifically Twitter, YouTube, and Flickr, as alternative media platforms for

coverage of the 2010 Toronto G20 protests. They found that aside from a slight exception on Twitter, social media did not facilitate crowd participation, it was dominated by a few users, and the resulting narratives were event-focused and decontextualized, containing repetitious criticisms of mainstream media protest coverage (Poell and Borra, 2012). One study that compared traditional media and social media's coverage of Occupy Wall Street (OWS) found that traditional media initially ignored and negatively framed (OWS), whereas social media—specifically Twitter, Facebook and YouTube—supported vibrant debate that celebrated and critiqued the movement and fostered a norm of continued participation (DeLuca, Lawson, and Sun, 2012).

A study by researches in Israel identified two theoretical principles necessary for analyzing the role of social media in collective action: First, it is necessary to take into account the political environment in which the collective action is taking place. Second, social media use typically increases significantly after the protest activity (Wolfseld, Segev, and Sheafer, 2013). A cross-cultural study that looked the use of social media by OWS, Indignados (Spain) and Aganaktismenol (Greece) movements came to the same conclusion; namely, that differences between the movements were caused primarily by national context (Theocharis and et al., 2013). The same study found that the Twitter helped to diffuse information, but calls for participation were not predominant and only a few tweets related to organization or coordination (Theocharis and et al., 2013).

In addition the potential for social actors to use social media to support social movements and protest activities; they are also potential sites of repression. During the Arab Spring, Egyptian authorities blocked Twitter and Facebook and then directly ordered all major telecommunications companies to block Internet access; they all complied, resulting in the shutdown of 93% of Egypt's Internet addresses and networks (Stepanova, 2011). Another hurdle is the lack of Internet access in places like Iraq (1.1% in 2010), Afghanistan (3.4%), Myanmar, and Somalia (Stepanova, 2011). Researchers at New York

University found that the elites used Twitter in attempt to manipulate public information and inhibit

coordination between citizens during the 2014 protests in Venezuela (Munger et al., 2015). They urged,

"Future research should take even more advantage of idiosyncratic social media use by elites to try and

better understand the unobservable inner workings of non-democratic regimes" (Munger et al., 2015, p.

24). While social movements are using social media and Internet technologies to build movements,

repressive state and private organizations are also turning toward communication technologies in the

repression of dissent.

The New Normal?

The state of exception in America emerges alongside procedural rights and selective civil liberties,

such as free elections, free speech protections, and a supposedly independent media system, which

provides legitimacy for emergency policies. In comparison to places such as Egypt, where an oppressive

state of emergency essentially existed from 1952 until the revolution of January 2011, emergency

measures in the U.S. operate within a purportedly democratic state. Instead of widespread violent

crackdowns and wholesale evictions of civil rights as was the case in Egypt; the U.S. emergency slowly

chips away at civil liberties, democratic media practices, workers' rights, and women's rights. A state of

exception is more easily detected and demeaned illegitimate by the populace when there is a central,

authoritative figure concentrating executive power and ruling by decree. This form of exception is

openly violent and oppressive; it rules by force. There exists another form of exception that operates in a

more decentralized fashion and appears more legitimate in its claims of temporality and exception. In

this context, the ideology of liberalism supports the idea that an exception is truly an exception.

Many of the Bush Administration state of exception policies have been challenged via legal means.

These challenges are capable of overturning specific policies resulting from emergency powers, but are

incapable of challenging the overall practice of exceptional rule. The Obama Administration has

continued to foster exceptional conditions despite promises to roll back abuses of the previous administration. For example, President Obama renewed the country's key anti-terrorism law, the US PATRIOT Act, he extended the national emergency declared by President Bush after 9/11, his administration continues Bush's policy of extraordinary renditions, and he is pursuing expansion of the state secrets privilege. Emergency rule is an enduring feature of American liberal democracy.

The militarization of policing protest was accelerated under laws justified by counter-terrorism and functioned to repress dissent and delegitimize protest as a form of political expression. Analyzing recent anti-neoliberal, anti-capitalist protests and protests against the racism of police killings, there emerges a pattern of control that involves pre-emptive arrests, pre-emptive raids, extensive surveillance, overestimation and overstatement of risk by police forces, mass arrests, erection of extensive fencing, establishment of a designated fenced "free speech zone," and illegal arrests. After the tear gas settles, millions of dollars are spent on lawyers' fees and cities and police departments pay out millions of dollars in settlement fees. For example, Washington D.C paid out a $13.7 million settlement for police abuses during the 2000 World Bank and International Monetary Fund protest and $8.2 million for violations during the 2002 World Bank protest. New York City paid $2 million for illegal arrests during an anti-war protest in 2003 (Dwyer, 2008; Gold, 2010; Wilber, 2009). This represents an intensification of previous trends, many exemplified by the 1999 WTO protests, which serve as the "worst-case scenario" and justification for suspension of the rule of law.

Police militarization at protests is part of larger police militarization trends that began in earnest in the 1980's during Ronald Reagan's War on Drugs. Police militarization in the context of protests came into its own during the 1999 World Trade Organization protests in Seattle, an event used by police and media to justify the need to for militarized police at future protest events. Seattle was a lesson. The 9/11 attacks and counter-terrorism provided the legitimacy and supplied the funding and legal framework.

While many of the processes of police militarization were not new to protests, the appeals to counter-terrorism, changes in surveillance law, increase in private involvement in policing and surveillance, and increased investment in gear, weaponry, and surveillance equipment were escalated.

In summary, the repression of dissent and protest is not an exception in American history, nor is the use of emergency law, legitimized to address a specific emergency but extended to govern other spheres, to intensify repression and oppression of dissidents and political groups. However, there are periods in which repression of dissent is more severe, as is the case in the post-9/11 period.   In the famous Abbie Hoffman quote, "You measure democracy by the freedom it gives its dissidents, not the freedom it gives its assimilated conformists" (cited in Patel, 2009, p. 177). By this measure, liberal democracy has failed to make good on its promises. A return to liberalism's ideals as a corrective to emergency rule is neither desirable, nor possible. To the degree that people do not internalize these forms of governing, exceptional politics, such as the suppression of protest and surveillance of dissent, clash with the public's democratic expectations and provide the grounds on which to challenge politics of the exception.

Challenging militarization and neoliberal capitalism

The dialectic of militarized police protesting occurs through the publicity of repression and the power of social movements in challenging injustice. The militarized repression of dissent strongly contradicts fundamental democratic ideals of freedom of expression, the freedom of political association, and the right to petition the government, however flawed and unequally produced in practice. These contradictions and the work of political activists and social movements are the sources of change.

Public opinion and civil liberties. There is growing evidence that public opinion is turning against the government's counter-terrorism surveillance programs. In a 2013 poll by Pew Research, weeks after the story broke on Snowden's leaked NSA documents, about half of the people surveyed

approved of the NSA's telephone and Internet data collection program as part of anti-terrorism efforts ("Few See Adequate Limits," 2013). This marked "the first time in Pew Research polling that more expressed concern over civil liberties than protection from terrorism since the question was first asked in 2004" ("Few See Adequate Limits," 2013, n.d.). Six months later, in January 2014, a public opinion survey by Pew Research and *USA Today* found that public support had continued to drop from the previous poll ("Obama's NSA Speech," 2014).   A Gallup poll found that in 2013, 57% of people polled believed it would not be right under any circumstances for the government to create a database of telephone and Internet communications ("Civil Liberties," 2015). While public sentiments were split over whether Snowden's leaks harmed or helped the public interest, younger people were more likely to view the leaks as helping the public interest (Desilver, 2014). Additionally, a majority of Americans of all age groups reported in 2014 that they "shouldn't have to give up privacy and freedom in order to be safe from terrorism" (Desilver, 2014, n.p.). In 2010, the Quinnipiac University Polling Institute found that 63% of those surveyed felt the government's national security policies didn't do enough, and only 25% disagree, making a "massive shift" from 2010 to 2013 ("U.S. voters," 2013). By 2013, 45% of respondents said the government's counterterrorism efforts went to far on limiting civil liberties ("U.S. voters," 2013). The same poll reported that 55% of respondents believed Edward Snowden to be a whistle-blower, not a traitor. A longitudinal measure by Gallup, charts a consistent decline in the percentage of people that believe the government should take all necessary steps to prevent acts of terrorism even if they violate civil liberties from 47% in 2001 to 25% in 2014.

These polls suggest that public opinion is shifting towards increased support for civil liberties in the face of anti-terrorism efforts. They also suggest that over time, Americans' perspectives of Snowden's leak of NSA documents has been viewed less as a threat to national security and more as a whistleblowing activity that has helped the public interest. The potential generational gap in attitudes

deserves further investigation. A limitation of these studies is that they do not control for race, ethnicity, religion, national origin, or personal experience with anti-terrorism laws, all of which have the potential to impact perspectives on the balance of civil liberties and national security. For example, during the months following the 9/11 attacks, federal agents detained hundreds, potentially thousands, of Arab, Muslim, and South Asian men in solitary confinement based primarily, or entirely, on their religion, ethnicity, or national origin (Offer, n.d.). The men were detained for an average of 80 days and all were eventually cleared of any terrorism charges (Offer, n.d.).   The detainees were denied legal counsel and prohibited from contacting their families for weeks, causing many to believe they had disappeared. Another example of the unequal implications of counter-terrorism policy is the National Security Entry-Exit Registration System (NSEERS), started in 2002 as part of WOT anti-terrorism policies. The award-winning news site *Color Lines* called the program "one of the most racist, underreported initiatives in post-9/11 America" (Kennedy, 2011). The law required non-U.S. citizen men between the ages of 16 to 45 and to "register" at Immigration and Naturalization Services (INS) (Sidel, 2006). Individuals who complied with the rules were fingerprinted, photographed and questioned. Of those who complied, 1,800 were detained and many were deported (Sidel, 2006).   No one registered under the NSEERS program was ever charged with terrorist activity (Sidel, 2006).

      Public support for protest. While support for protest events varies by movement, public opinion research shows that for even the most popular protests, public support does not break the halfway mark ("Going too Far," 2014). Levels of support for protests are lowest during wartime. Results from a 2003 Freedom Forum/*American Journalism Review* poll found 31% of people surveyed believed that people should not be allowed to protest during times of active combat (cited in "Going too Far," 2014). Additionally, the vast majority of Americans have never actually participated in a protest. According to a 2013 AP/Gfk Knowledge poll, only 10% of people surveyed claimed to have ever participated in a protest

(cited in "Going too Far," 2014). The same poll found that the most public sentiment towards protest ranges from skepticism to outright condemnation.

Taking specific movements into consideration, a United Technologies/*National Journal* Congressional Connection poll in 2011 found that an overwhelming majority of those surveyed supported the Occupy Wall Street protests (Cooper, 2011b). However, a Pew Research poll around the same time contradicted that finding, showing that 39% of people supported Occupy Wall Street movement, whereas 34% of people opposed it ("Public Divided," 2011). A few months later, a national survey from Public Policy Polling found that public opinion was turning against the movement with 45% opposed, up from 35% the previous month (Kleefled, 2011). The only polling measure consistently taken of support for Occupy Wall Street found support steadily dropping with the last measure in April 2012 showing initial levels of support halved, with only 16% saying they were a supporter (Enten, 2012). Accompanying diminishing public support for Occupy encampments, a growing message from businesses, politicians, and the media was that the camps were attracting homeless people who were creating problems for businesses and inviting a criminal element (Kingdale, Knafo & Miller, 2011). For example, Portland Mayor Sam Adams ordered the camp shut down because it had become unsanitary, unsafe, and a space for people not associated with the movement (Cooper, 2011a). Occupy protesters argued that they were provided food and space, addressing a failure of the city to provide these critical services (Cooper, 2011a). Protesters in cities such as Oakland, Nashville, and Los Angeles said that homeless people with mental illness, services also sorely lacking and in need of government funding, were distracting and impairing the ability of the movement to focus on their issues and demands, which would include services to support homeless populations (Nagourney, 2011). The issue of mental illness aside, it should not come as a surprise that homeless people came to the Occupy encampments for food and shelter. Occupy claimed to be a movement inclusive of homeless people—with Occupy's critique of

economic inequality; wealth distribution; the corruption of money in politics; the subprime housing crisis, which resulted from banks, lenders, and insurance companies preying on the working classes and disproportionately impacted people of color; and the 2008 financial crisis, caused by widespread crimes in the financial sector, de-regulation, and ineffective or nonexistent legal oversight —people who find themselves homeless are undeniably part of the 99% and their condition, in many ways, exemplifies the worst and most inhumane abuses and products of capitalism and neoliberalism.

A national poll by Paragon Insights in August 2014 asking about the explanations for the police killing of Brown in Ferguson, found that 47% of young voters and 55% of African American voters believe that the local police over-reacted to the protests ("A Look Back," 2014). The same poll found that a majority (61%) believed that the police were more militarized in order to prepare for future terrorist attacks; however, when accounting for race, only 42% of African Americans agreed with that reasoning, compared to 65% of white respondents ("A Look Back," 2014). A Pew Research Center survey also found a racial divide white and black respondents in whether race was a factor in the Ferguson shooting, whether local police went to far in the aftermath of the shooting, and their confidence in the investigations into the shooting ("Stark Racial Division," 2014).

Growing public skepticism about the expansion of executive power, privileging of national security over civil liberties, collection of communication data from world leaders and U.S. citizens, and secret surveillance programs is one way that the exception can be challenged. People who have been directly targeted by counter-terrorism policies, as well as people from working class communities or communities of color, more clearly recognize the anti-democratic and repressive side of exceptional power than those in dominant social groups. This is why black survey respondents, in contrast to their white counterparts, were more likely identify the issue of race as important in the death of Michael Brown. The reality of racism, police militarization, and discrimination is a part of the lived experience for

most people of color in the U.S. Organization of people in opposition to injustice, along with growing

publicity and public knowledge, can work to challenge the exception.

Contradictions within police ideology. Morgan (2014) and Vincent Kappeler (2014) argue that

it is not enough for social movements to wage a war of position against the state, they need to recognize

and exploit ideological tensions within the state and use them to the cripple state legitimacy and build

class-based alliances. Drawing on the work of Antonio Gramsci, they use "war of position" to describe the

means of challenging hegemonic rule through resistance to domination through culture and ideology

(Gramsci, 2007). Gramsci describes the war of position as "the only viable possibility in the West" for

challenging hegemony (Gramsci, 2007, p. 168). In his analysis of the Occupy Movement, Morgan (2014)

argues:

> Any social movement waging a war of position against the state has to realize a similar movement
> is transpiring inside the state and that such anxieties can be a source of leverage…Movements like
> Occupy must situate themselves in a fashion that challenges the constructions, conditions, and
> situations that make violence an acceptable intervention tactic and which contests the
> increasingly militaristic character of policing (p. 288).

Morgan claims that by "hailing" the police as members and protectors of the working and middle classes

and clearly connecting movement demands to the interests of the police defined as such, social

movements have the ability, according to Morgan (2014), to create "a closure of the moment of exception

discussed by Agamben and others, which envisions a suspension of law by the ruling class to achieve

political necessity" (p. 289). Morgan draws on the work of Louis Althusser (1971) on ideology in using

the term "hailing." In *Ideology and State Apparatuses,* Althusser (1971) uses the term hailing or

interpellation to describe the process through which individuals are "recruited" as subjects,

acknowledging, in an unconscious ways, their subjectivity within structural social and economic

relationships. The example he provides is when a police officer hails an individual calling, "Hey, you

there!" (Althusser, 1971). The individual, transformed into the subject she always was, turns around,

knowing it was she who was hailed (Althusser, 1971). This is the material existence of ideology. In

Morgan's (2014) analysis, the act of hailing is not just a unidirectional process through which the state

interpellates civil society and its social groups, but a way for civil society to draw on class divisions and

ideological contradictions in the state, specifically the police force. While such a proposition would shock

and offend many on the left, what Morgan and others like social justice professor Kappeler (2014) argue

is that police officers, especially in the middle and lower level ranks, have the *potential* to become organic

intellectuals, in the sense developed by Antonio Gramsci.

Kappeler (2014) draws on sociological and historical analyses of police to show that even though

the core function of the police is to distribute violence on behalf of the ruling bloc, the police are not a

monolithic force; they have their own hierarchical institutional divisions, culture, and ideology that are

driven by historical changes in the nature and relations of police work (Kappeler, 2014). During the late

nineteenth and early century, the reform movement divorced police work from party machines, bosses,

and individual politicians in exchange for professionalism, which included more occupational autonomy,

less systematic corruption, and an ideological commitment to the rule of law and legalistic behavior

(Kappeler, 2014). In the later part of the twentieth century, policing began a partial transformation

towards a "community policing" model in which police moved away from rule of law and towards

"community caretaking," which includes controlling disorder, reducing fear, and enhancing quality of life

(Kappeler, 2014). The move towards community policing creates two tensions within policing. First, the

neoliberal trend in community policing links police departments with the private sector and powerful

social elites as co-producers of community policing goals—this is captured by increased privatization

(Kappeler, 2014). This creates tension between upper and middle/lower level officers who see the

influence of power as the reintroduction of "politics" into their work and a threat to occupational

autonomy (Kappeler, 2014). Second, the language of community policing, which stresses "community

caretaking," produces tension when police leaders direct their subordinates to commit violence (Kappeler, 2014). Kappeler (2014) argues, "Hailing the police as 'caretaker,' members of the same class or potential beneficiaries of the political struggle waged in civil society can create a space or moment of exception in which the police refuse to act, or act in accordance with, the edicts of the ruling historic bloc" (p. 289). He believes that social movements that fail to exploit tensions within policing and do not align the goals of a movement alongside the needs of middle and working class police officers will be incapable of disarming the state's first line of repression. In the last line of his essay, he warns: "It is my contention that if the left does not hail the police, then other less democratic actors will be left to do so" (Kappeler, 2014, p. 290). The identification with the police with popular movements grants legitimacy to counter-hegemonic movements, de-legitimizes powerful interests police typically work to protect, and lessens the repressive arm of the state. This could contribute to greater consciousness of and outrage over the structural and institutionalized inequalities of class, race, gender, ethnicity, and religions that liberalism claims to absolve.

These critical and powerful analyses about ideological conflict within policing are problematized when the goal or aims of a movement go beyond a primary focus on labor and economic injustice. As the practices of Stop-and-Frisk, racial profiling, and police killings demonstrate, there are deep implicit racial biases within police departments, the criminal justice system, prison industrial complex, and society, that contribute to police discrimination, repression, and, in some cases, deadly violence against people of color (Mooney, 2014). In a study led by Carmit Tadmor (Tadmor et al., 2012), the researchers found that a 20-minute multi-media presentation on multiculturalism caused participants to be less likely to express stereotypes about African Americans, even when the presentation did not discuss African American culture. This research also demonstrates that media *can* function to reduce stereotyping and racial bias. Research like this is driving initiatives to provide implicit bias training, which draws on the research and

test developed by Anthony Greenwald and Mahzarin Banaji (1995) and helps people to identify the unconscious biases everyone has. While it is unlikely these programs would ameliorate the unequal distribution of state violence in communities of color, as structural and institutionalized racism pervades all aspects of society and culture, the programs have the potential to work to lessen the implicit racist beliefs of many police officers. The hailing of police by social movements, which could work to diffuse the state's monopoly over violence and the power of neoliberalism, would *require* an end to the oppression of the working class and people of color through police discrimination and violence, at the very least.

Neoliberalism, race and police militarization

Despite the optimism about the potential for social movements and popular resistance to the exception and police militarization, Wendy Brown (2006) is not as hopeful. She contends that the interrelated, yet distinct, political rationalities of neoliberalism and neo-conservatism are producing undemocratic citizens (Brown, 2006). Neoliberalism entails the imposition of a market rationality in all spheres, which defines government and law in terms of decision-making and defines citizens as entrepreneurs. In describing neo-conservatism, Brown argues that neoliberalism and neo-conservatism contain complimentary tendencies that are producing a new, highly undemocratic political form and an "abject, unemancipatory, and anti-egalitarian subjective orientation amongst a significant swathe of the American populace" (p. 703). In describing this production, Brown (2006) states, "This is the citizen who loves and wants neither freedom nor equality, even of a liberal sort; the citizen who expects neither truth nor accountability in governance and state actions; the citizen who is not distressed by exorbitant concentrations of political and economic power, routine abrogation of the rule of law, or distinctly undemocratic formulations of national purpose at home and abroad" (p. 692). Lost in this new configuration are the democratic ideals of egalitarianism, political liberty, public good, active citizenry, and a free press. Neo-conservatism, with its devaluation of reason, linking of wealth and nationalism,

belief in the law and state as guarantors of morality, authoritarianism, and theological structure, takes

root in a neoliberal cultural devoid of public institutions and values. The combined product is the

devaluation of political autonomy, transformation of political problems into individual problems and

market solutions, rise of the consumer against the setting consumer, and the legitimation of the state and

corporate power (Brown, 2006). Brown's critique does not mean there is no hope. Her message is a

warning about the anti-democratic forces of neoliberalism and neo-conservatism; forces that require

resistance if democracy and justice are to survive.

The type of neoliberal subjectivity Brown describes problematizes how the public responds to and

interprets examples of explicit racism. According to Angela Davis (2013), neoliberalism ideology claims

that history is not relevant in explaining the present and that the civil rights movement eradicated racism

in a victory for American democracy. This perspective results in the ideologies of color blindness and

post-racial society that perpetuate race and class-based inequality and discrimination (Davis, 2013).

When examples of explicit racism are publicized, the public, according to Davis (2013), drawing on

neoliberal ideology and interprets the incident as one person's outdated and individualized mistake.

Davis (2013) argues, "The inability to recognize the contemporary persistence of racisms within

institutions and other social structures results in the attribution of responsibility for the effects of

racisms to the individuals who are its casualties, thus further exacerbating the problem of failing to

identify the economic, social, and ideological work of racism" (n.p.) She continues, "The misreading of

these racist patterns replicates and reinforces the privatization that is at the core of neoliberalism,

whereby social activity is individualized and the enormous profits generated by the punishment industry

are legitimized" (n.p.). Compounding this problem, neoliberal policies have crippled the U.S. middle and

working classes, poor communities, and people of color through cuts to funding for welfare services, de-

regulated finance laws, the reduction and, in some cases, elimination, of private sector oversight and

accountability in a wide range of industries, the criminalization of poverty and homelessness, the misguided pursuit of a war on drugs, and the creation of historic gaps in economic and wealth inequality—not to mention the conditions of global inequality it has produced. Due to the racial inequalities exacerbated by neoliberalism and police management of social unrest, poverty, and crime, communities of color are sites of over-policing (Vitale, 2014).

In summary, the potential for resistance against the state of exception and the militarization of protest policing is a complex process that requires challenging powerful historic processes, creating breaks within neoliberal ideologies, building and strengthening alternative media sources, finding strategies for shaping traditional news, opposing deregulation of media ownership laws, working to expose government corruption and corporate crimes through FOIA requests, investigative journalism and whistleblower leaks, supporting broad-based, progressive and left-wing social movements, reversing and ending anti-terrorism policies, fighting attempts to disenfranchise voters of color, terminating all the programs that provide police departments with military equipment, providing bias training to police departments, and ending the violent war on drugs. The forces of resistance must simultaneously work on all fronts.

Future research

This dissertation investigated how national, local, and private police agencies and media frame anarchists as violent deviants, which de-legitimizes protest and legitimizes police militarization. There was diversity in the protesters that came to St. Paul to protest the RNC, neoliberalism, and capitalism. In St. Paul, people living in poverty with the Poor People's Economic Human Rights Campaign marched alongside members of the American Indian Movement. Labor unions marched alongside the Code Pink, a women's peace group. Veterans against the war marched with students. However, the majority of the protesters were white. The anarchists were majority white—the RNC 8, the eight activists arrested

before the convention, were all white. The fact that they are white does not discount the importance in understanding the ways in which counter-terrorism, police militarization, along with repressive uses of communication technologies work to marginalize and repress dissent. As stated earlier, like the black students at UC Riverside, the anarchists are *presumed* guilty.

However, the issue of race draws attention to the fact that people of color in America are disproportionally subjected to police violence and oppression as a result of police militarization. The implicit, structural, and historic racism in policing and other institutions is exacerbated by counter-terrorism and police militarization. Examples include stop-and-frisk policies, discussed in Chapter 3, which predominately target black and Latino men (Fagan, 2012), and the use of paramilitary SWAT teams in drug raids, which are used disproportionately when suspects are people of color—of cases in which the race of the SWAT targets is reported, 39% are black, 11% are Latino, and 20% are white ("War Comes Homes, 2014). Therefore, questions related to race, policing, counter-terrorism, surveillance, and media are of critical importance.

The recent nation-wide protests of the Black Lives Matter movement provide an opportunity to investigate the relationships between media coverage and racial politics. Potential questions include: How do the media frame Black Lives Matter protests? How do these frames change over time? How do the frames differ from media coverage of post 9/11 anti-war or global justice movement protests? Given that police-versus-protesters is a common, how do frames and coverage change when police militarization is the protest issue? What historical references do the media draw on? Research could also investigate government and private surveillance of Black Lives Matter, which would most likely require lengthy and expensive FOIA requests, legal appeals, and courtroom discovery requests.

The privatization of police and the use of private-public partnerships in surveillance emerged as one of the most urgent areas for future research. While the role of the private sector in security and

surveillance at the 2008 Republican National Convention was addressed in this dissertation, it is

deserving of its own analysis. The use of privatized polices, including off-duty police hired by private

policing and security agencies, to police dissent as well as lucrative private sector contracts for cyber

security, datamining, and surveillance is part of the larger social shift towards privatization. Privatization

of the state of exception is part of neoliberalism and critiquing its relationship to police violence, racism,

and repression can reveal some its worst abuses.

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