

MONITORING OF PROTESTS MARCH AND APRIL 2007



REPORT AND RECOMMENDATIONS OF THE POLICE COMPLAINTS BOARD

TO

**MAYOR ADRIAN M. FENTY,
THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND
CHIEF OF POLICE CATHY L. LANIER**

June 26, 2007

POLICE COMPLAINTS BOARD

**Kurt Vorndran, Chair
Commander Patrick A. Burke
Karl M. Fraser
Victor I. Prince**

**1400 I Street, NW, Suite 700
Washington, DC 20005
(202) 727-3838**

Website: www.policecomplaints.dc.gov

Table of Contents

I. Introduction and Overview	1
II. First Amendment Assemblies Act of 2004.....	3
A. General Information and Historical Background.....	3
B. Provisions Monitored.....	4
III. Protest Events.....	6
A. March 17, 2007, March on the Pentagon.....	7
B. April 14, 2007, Steps 4 Darfur March	7
C. April 14, 2007, World Bank March and Rally.....	8
IV. Monitoring Plan	8
A. Monitoring Effort.....	8
B. OPC Deployment.....	8
C. Coordination with MPD.....	9
D. OPC Complaints	9
V. Monitoring Observations	9
A. General Interactions with the Public.....	9
B. Police Contacts with Protest Groups.....	10
C. Spontaneous Marches, Protests, and Assemblies Without a Permit.....	11
D. Arrests and Orders to Disperse	11
E. Police Lines.....	12
F. Officer Identification	12
G. Media Access to Sites	12
H. Use of Riot Gear and Chemical Irritants.....	12
I. Other Monitoring Groups	12
J. Other Police Departments.....	12
K. Access for OPC Monitors	13
VI. Conclusions and Recommendations	13

I. INTRODUCTION AND OVERVIEW

The Police Complaints Board (PCB), the governing body of the Office of Police Complaints (OPC), is vested with the statutory authority to monitor and evaluate the Metropolitan Police Department's (MPD) handling of First Amendment assemblies,¹ and to make recommendations to the Mayor, the Council of the District of Columbia, and MPD's Chief of Police that, if implemented, may lower the occurrence of police misconduct.² It is pursuant to this authority that PCB submits the following report and recommendations.

In April 2005, the First Amendment Rights and Police Standards Act of 2004 took effect in the District. This new law was passed by the District Council after the Council's investigation into MPD's handling of antiwar and anti-globalization demonstrations found that MPD officers sometimes infringed upon the right of persons to assemble and protest peacefully in the District. The Act articulated the city's official policy on First Amendment assemblies. Among other things, the Act established specific standards of police conduct when handling protests or demonstrations. These standards of conduct prohibit MPD from employing crowd control tactics during protests that can deprive demonstrators of the right to assemble peaceably and express their views. The law also granted PCB the authority to monitor MPD's handling of protests and demonstrations.

OPC conducted its first monitoring effort under the new law in September 2005.³ At that time, an estimated 150,000 people from across the nation participated in antiwar and anti-globalization protests in the District of Columbia. OPC's staff monitored the main protest and march events, as well as several unpermitted marches that broke off from the main march. Overall, OPC's monitors were impressed with MPD's handling of the various events and believed that the department acted in accordance with the provisions of the Act, which allowed the different events to occur with little trouble or conflict.

In March and April of 2007, three noteworthy protest events occurred in the District. First, on Saturday, March 17, 2007, an estimated crowd of 15,000 to 30,000 assembled and participated in antiwar demonstrations and counter-protests near the Lincoln Memorial, and then marched to the Pentagon in Virginia.⁴ Second, during the morning of Saturday, April 14, 2007, approximately 150 demonstrators marched from the Sudanese Embassy to the Washington

¹ PCB "may, where appropriate, monitor and evaluate MPD's handling of, and response to, First Amendment assemblies . . . held on District streets, sidewalks, or other public ways, or in District parks." D.C. Official Code § 5-1104(d-1).

² PCB "shall, where appropriate, make recommendations to [The Mayor, the Council, and the Chief of Police] concerning those elements of management of the MPD affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers." D.C. Official Code § 5-1104(d).

³ See PCB's report and recommendations, *Monitoring of Antiwar and Anti-Globalization Protest September 2005*, available at http://dcpc.dc.gov/occr/frames.asp?doc=/occr/lib/occr/pdf/Protest_Monitoring-September_2005_Report_Final.pdf.

⁴ Steve Vogel and Michael Allison Chandler, *Anger Reigns on War's 4th Anniversary*, Washington Post, March 18, 2007, available at 2007 WLNR 5088629.

Monument to raise awareness of and speak out against the killings in Darfur, which is located in the western region of the Sudan. Finally, during the afternoon of Saturday, April 14, 2007, approximately 45 demonstrators rallied in North Murrow Park on Pennsylvania Avenue, N.W., across from the World Bank to protest the World Bank's funding of multinational mining corporations in the Congo and the actions of the World Bank's president, Paul Wolfowitz.

Pursuant to the agency's statutory authority, OPC deployed 13 staff members on March 17 and six staff members on April 14 to monitor MPD's interactions with demonstrators and others present and observe whether MPD officers were complying with specific provisions of the Act.⁵ In particular, OPC staff members focused on Title I of the Act, and monitored whether MPD officers were permitting people to engage in First Amendment demonstrations even if they had not given notice to the District or obtained approval, limiting arrests and citations to specific non-compliant demonstrators for whom there was probable cause, and refraining from dispersing demonstrators unless there was widespread unlawful conduct. OPC staff members also monitored whether MPD officers provided demonstrators with audible warnings and sufficient time to disperse when dispersal was deemed necessary, refrained from using police lines to surround demonstrators unless there was widespread unlawful conduct, had their names and badge numbers fully visible at all times, and refrained from using riot gear unless there was a danger of violence. Finally, OPC staff members monitored whether MPD officers used caution and restraint in using chemical irritants to disperse demonstrators, and whether the officers granted the media full access to the areas where the demonstrations took place.⁶

Although the demonstrations held in March and April took place on federal and District land, and officers from the U.S. Park Police and U.S. Secret Service Uniformed Division were present in addition to MPD officers, because the Act applies only to the District's police officers, OPC largely concentrated on observing the actions of MPD officers. Nevertheless, OPC did take note of the actions of the other officers where possible and found a noticeable difference between MPD's and the other departments' handling of and interactions with demonstrators.

As detailed further in this report, OPC's overall impression is that MPD performed in a professional and commendable manner and effectively balanced the interests of public safety

⁵ PCB would like to acknowledge the assistance of OPC's staff in conducting the protest monitoring on March 17, 2007, and April 14, 2007, and with preparing this report and recommendations. The agency's work was coordinated and supervised by OPC's executive director, Philip K. Eure, deputy director, Thomas E. Sharp, chief investigator, Kesha Taylor, and special assistant, Nicole Porter. In addition, the following OPC staff members served as monitors: lead investigators Natasha Bryan and Mona Andrews, senior investigator Anthony Lawrence, investigators John Brunza, David Curcio, Andrea Del Pinal, Alpha Griffin, Kevin Smith, and Jamie Rudert, and public affairs specialist Melanie Deggins.

We are also grateful to Captain Jeffrey Herold, then of MPD's Special Operations Division, for providing crucial information and assistance to OPC as it planned and carried out its monitoring effort.

Lastly, we would like to thank Chief Cathy L. Lanier for her cooperation and assistance.

⁶ OPC was also prepared to monitor provisions governing the restraint and processing of demonstrators who were arrested; however, since MPD did not conduct mass arrests on March 17, 2007, or April 14, 2007, OPC did not have occasion to observe MPD's adherence to those provisions.

with the right to free expression. MPD's general interaction with the public appeared cordial, helpful, and respectful, and the officers appeared to be in compliance with the standards of conduct set forth in Title I of the Act.

Based on OPC's observations, PCB commends MPD for the manner in which it worked with groups and individuals to facilitate their exercise of First Amendment rights, and recommends that MPD continue the approach that it employed in preparing its officers for the March and April protests to ensure that officers are continuing to allow demonstrators to peacefully engage in First Amendment activities with minimal interference from the department. PCB also recommends that MPD conduct outreach to those federal law enforcement agencies typically involved in the monitoring of protests on federal land, such as the U.S. Park Police and the U.S. Secret Service Uniformed Division, and become a resource to those agencies on how to successfully handle First Amendment assemblies and demonstrations. MPD's officers appeared to be better prepared to handle protests and interact with protesters in ways that allowed people to demonstrate freely and that did not escalate tensions during events, and sharing this information seems like it would benefit those agencies. Finally, PCB recommends that MPD continue to make sure that all of its officers, particularly non-supervisory officers, are informed of OPC's presence and role so that OPC's monitors will be able to freely observe future protest events.

II. FIRST AMENDMENT ASSEMBLIES ACT OF 2004

A. General Information and Historical Background

The First Amendment Rights and Police Standards Act of 2004 took effect in the District on April 13, 2005. The Act established and declared the District's official policy on First Amendment protests. In the District, persons and groups have a right to engage in peaceful First Amendment demonstrations in or on public space controlled by the District – particularly places near the object of the demonstrators' protest so they can be seen and heard – subject solely to reasonable restrictions designed to protect public safety and to accommodate competing rights of non-demonstrators.⁷ The Act requires MPD to recognize and implement this official policy by adhering to specific standards of conduct in interacting with persons and organizations engaged in exercising First Amendment rights.⁸

The District Council enacted the law in direct response to an investigation it conducted into MPD's handling of antiwar and anti-globalization demonstrations that took place between 2000 and 2002, including a demonstration that took place during the Presidential inauguration of 2001 and an IMF/World Bank protest held in Pershing Park in September 2002. The Council found that MPD had used undercover officers to infiltrate and surveil political organizations in the absence of criminal activity. The Council also found that MPD officers employed aggressive crowd control tactics to handle protesters, such as the use of police lines, the indiscriminate use

⁷ D.C. Official Code § 5-331.01, *et seq.*

⁸ D.C. Official Code §§ 5-331.05 through 5-331.17.

of pepper spray,⁹ the giving of dispersal orders without warning or a means for the demonstrators to obtain compliance, and the arrest of peaceful demonstrators without probable cause. Finally, the Council found that MPD subjected demonstrators who were arrested to prolonged post-arrest processing and wrist-to-ankle restraints that unduly restricted the demonstrators' ability to move.¹⁰ The Council concluded that MPD overzealously sought to preempt criminal activity and in so doing infringed the right of persons to assemble and protest peacefully in the District of Columbia.¹¹ The Council recommended extensive changes in police handling of mass demonstrations.¹² Those recommendations largely were adopted in the Act.

The Act has four titles. Title I of the Act contains the official statement of the District's policy on First Amendment demonstrations and contains the provisions that govern conduct of MPD officers during protests, including procedures for handling protesters who are arrested during demonstrations, and identifying MPD officers who are policing the demonstrations.¹³ Title II limits MPD investigations of First Amendment activities to circumstances where there is reasonable suspicion of criminal activity, and it expressly prohibits investigatory tactics that infringe upon First Amendment rights in the absence of a clearly justified law enforcement purpose.¹⁴ Title III requires MPD to adopt procedures for handling post-and-forfeit misdemeanor offenses – the most common category of offenses charged during mass arrests of First Amendment protesters – that clearly and accurately inform arrestees of the meaning and consequences of post-and-forfeit procedures.¹⁵ Title VI explicitly prohibits MPD officers from covering up any identifying information on their uniform or hindering a member of the public from reading the information.¹⁶

B. Provisions Monitored

OPC's monitoring focused on those provisions of Title I, which govern police conduct during demonstrations and that permit persons to gather and demonstrate without notice and approval of an assembly plan. Specifically, OPC monitored Sections 105, 107, 108, 109, 114, and 116 of Title I.¹⁷

⁹ Specifically, MPD uses oleoresin capicum (OC) spray.

¹⁰ See Council of the District of Columbia Committee on the Judiciary, Report on Investigation of Metropolitan Police Department's Policy and Practice in Handling Demonstrations in the District of Columbia, March 24, 2004. See also Mary M. Cheh, *Legislative Oversight of Police: Lessons Learned from an Investigation of Police Handling of Demonstrations in Washington*, 32 NOTRE DAME J. LEGIS. 1 (2005), available at <http://ssrn.com/abstract=852765>.

¹¹ *Id.*

¹² *Id.*

¹³ D.C. Official Code §§ 5-331.01 through 5-331.17.

¹⁴ D.C. Official Code §§ 5-333.01 through 5-333.13.

¹⁵ D.C. Official Code §§ 5-335.01.

¹⁶ D.C. Official Code §§ 5-337.01.

¹⁷ D.C. Official Code §§ 5-331.05; 5-331.07 through 331.09; 5-331.14; 5-331.16. OPC did not review whether the ANSWER and World Bank demonstrators observed and complied with the notice and plan approval

Section 105 states that that it is not an offense to engage in a First Amendment demonstration without notice or an approved assembly plan. The section also specifically states that the following protests shall be exempt from the notice and plan approval requirement:

- Protests attended by fewer than 50 people held in a place other than a District street,
- Protests that occur entirely on sidewalks and crosswalks without impeding pedestrian traffic, and
- Spontaneous protests that develop as an immediate response to a public event.

Section 107 requires MPD officers to, for all First Amendment demonstrations:

- Seek demonstrators' voluntary compliance with reasonable time, place, and manner restrictions;
- Refrain from making arrests or issuing citations unless there is probable cause;
- Limit arrests and citations to specific individuals who fail to comply with reasonable time, place, and manner restrictions;
- Refrain from ordering demonstrators to disperse in response to unlawful conduct where it is possible to disperse, control, or arrest the specific persons engaged in the unlawful conduct;

Section 107 permits MPD officers to issue a general order to disperse only where:

- A significant number or percentage of demonstrators fails to comply with reasonable time, place, and manner restrictions, and seeking voluntary compliance and targeting specific non-compliant persons are not reasonably likely to work;
- A significant number or percentage of the demonstrators are engaging in or are about to engage in unlawful disorderly conduct or violence toward persons or property; or
- A public safety emergency (based on events other than the mere occurrence of the assembly) has been declared by the Mayor, and the Chief of Police determines that the emergency necessitates dispersal of the assembly.

If MPD determines that the criteria for issuing a general dispersal order have been met, officers must:

- Issue a clearly audible and understandable dispersal order using an amplification system or devise;

process because these groups did not apply for or receive from the District a permit to demonstrate. OPC also did not review MPD's procedures relating to the processing of demonstrators who are arrested because no mass arrests occurred during the March and April events.

- Give demonstrators a reasonable and adequate time to disperse; and
- Give the demonstrators a clear and safe route for dispersal.

Section 107 also:

- Requires MPD to handle assemblies that occur without notice and plan approval in the same manner as assemblies that have provided notice.
- Forbids ordering demonstrators to disperse based solely on the fact that notice of the assembly was not given.

Section 108 forbids, for all First Amendment demonstrations, the use of police lines to encircle or entrap demonstrators unless:

- There is probable cause to believe that a significant number of people have committed unlawful acts, and
- The police have the ability to identify specific violators and have decided to arrest them, or
- Using a police line is necessary to protect the safety of the demonstrators.

Section 109 requires MPD officers policing a First Amendment demonstration to display their names and badge numbers with enhanced visibility at all times, even if they are wearing riot gear.

Section 114 requires MPD to allow media representatives reasonable access to all areas where a First Amendment demonstration is occurring, at a minimum allowing the same access as the general public; to honor media credentials issued by or officially recognized by the MPD; and to make reasonable accommodations to allow media representatives to use photographic, video, or other reporting equipment.

Section 116 prohibits the use of riot gear during all First Amendment demonstrations except when there is a danger of violence, and prohibits the use of chemical irritants to disperse an assembly unless participants are endangering public safety.

III. PROTEST EVENTS

On Saturday, March 17, 2007, and Saturday, April 14, 2007, OPC monitored three First Amendment assemblies that took place in the District. On March 17, antiwar demonstrators assembled near the Lincoln Memorial in the District and marched to the Pentagon in Arlington, Virginia, where they held a rally to protest the U.S. war in Iraq and demand the withdrawal of U.S. troops from Iraq. On April 14, demonstrators assembled and marched from the Sudanese Embassy to the Washington Monument, where they rallied and spoke out against the ongoing genocide in Darfur, Sudan. Finally, on April 14, demonstrators marched from McPherson Square to North Murrow Park across Pennsylvania Avenue, N.W., from the World Bank where they rallied to protest the World Bank's funding of multinational mining corporations in the Congo and the actions of the World Bank's president, Paul Wolfowitz.

It is worth noting to that the weather on March 17 and April 14 was unseasonably cold, and that Washington and cities to the north had some snow accumulation overnight from March 16 to March 17. March 17 had a high temperature of 36 degrees F, which was approximately 20 degrees colder than the average for that time of year. April 14 had a high temperature of 56 degrees F, which was approximately 10 degrees colder than the average for that time of year. The organizers of the March 17 event were expecting a larger number of protesters, but the combination of the temperature and the storms seems to have limited the number of people who participated. Weather also may have influenced the number of people who participated in the April 14 events.

A. March 17, 2007, March on the Pentagon

The March on the Pentagon, which consisted of an assembly near the Lincoln Memorial, a march across the Arlington Memorial Bridge to the Pentagon, and a rally at the Pentagon, was held on the 40th anniversary of the march on the Pentagon against the Vietnam War, and on the fourth anniversary of the U.S. invasion of Iraq. A broad array of antiwar demonstrators, organized and led by a network of civil rights and peace groups called the ANSWER Coalition, sponsored the rally to protest the current Bush Administration's policies regarding the U.S. war in and occupation of Iraq. The ANSWER Coalition obtained permits from the U.S. Park Service and the Department of Defense for the event, and the U.S. Park Service handled most of the law enforcement planning and logistical coordination for the event. MPD did have significant contact with the protest organizers, however, in order to ensure that there would be enough officers on hand to sufficiently respond to unforeseen events. The antiwar demonstrators assembled at the Henry Bacon Field, near the corner of 23rd Street and Constitution Avenue, N.W., and in surrounding areas to prepare for the march to the Pentagon. Antiwar demonstrators were informed by the organizers of the event that the Foggy Bottom Metro station, located near 23rd and I Streets, N.W., was the closest station to the assembly site. At approximately 12:30 p.m., the demonstrators began marching from the Henry Bacon Field to the Pentagon, proceeding through the Lincoln Memorial Circle and across the Memorial Bridge. After crossing the Memorial Bridge, the demonstrators followed Route 27 until they reached the Pentagon, where they conducted a rally in the Pentagon's north parking lot.

According to newspaper reports, 15,000 to 30,000 antiwar demonstrators assembled at the Henry Bacon Field to prepare for the Pentagon March.¹⁸ Thousands of counter-protesters, including veteran groups such as Rolling Thunder, were reportedly present as well because of rumors that the antiwar demonstrators would deface the nearby Vietnam War Memorial.¹⁹

B. April 14, 2007, Steps 4 Darfur March

The Steps 4 Darfur march was organized by high school students from Northwest High School in Germantown, Maryland. The student group, Students for Change in Darfur, planned the march to draw attention to and protest against the ongoing genocide in Darfur, Sudan. The march began at the Sudanese Embassy on Massachusetts Avenue, N.W., at approximately

¹⁸ Steve Vogel, *supra*, note 3.

¹⁹ Steve Vogel, *supra*, note 3.

11:00 a.m. The protesters marched down Massachusetts Avenue to Connecticut Avenue via Dupont Circle. They continued onto 17th Street, N.W., turned onto H Street, N.W., and turned onto 15th Street, N.W., marching around the White House to the Ellipse. The protesters eventually continued on to the grounds of the Washington Monument where they staged a rally at the Sylvan Theater calling for the U.S. Government to put an end to the killing in Darfur. Other than one newspaper report that estimated the crowd to be in the “hundreds,”²⁰ there were no media accounts of the number of people who attended the event. OPC monitors estimated that the march and rally consisted of approximately 150 demonstrators at its largest point, most of who appeared to be high school students.

C. April 14, 2007, World Bank March and Rally

The World Bank march and rally, which was organized by the Mobilization for Global Justice, Friends of the Congo, and other interested groups, protested the World Bank’s funding of multinational mining corporations in the Congo. Protest organizers applied for and received a permit from the U.S. Park Police to hold the event. The march reportedly began at McPherson Square,²¹ and ended at North Murrow Park, which is across Pennsylvania Avenue, N.W., from the World Bank, where they began their rally. There was no local television or newspaper coverage of the event, but OPC monitors estimated that the rally consisted of approximately 45 protesters.

IV. MONITORING PLAN

A. Monitoring Effort

Because OPC is a small agency with limited staff and resources, and because OPC’s jurisdiction in this matter is limited to the review and evaluation of MPD’s handling of First Amendment assemblies, its monitoring effort was focused on monitoring the protest events in the District and those that were handled by MPD officers. OPC’s purpose in monitoring these events was to observe MPD’s interactions with demonstrators and counter-protesters, and to report on those observations in order to determine the extent to which MPD complied with the Act. Therefore, OPC monitors did not observe the March on the Pentagon after the marchers crossed the Arlington Memorial Bridge or when they held their rally at the Pentagon in Arlington, Virginia, nor did the monitors observe the Darfur rally that took place near the Washington Monument, because MPD officers were not involved in those events.

B. OPC Deployment

For the March 17, 2007, event, OPC used 13 staff members as observers. The staff members were divided into six foot patrol teams and one MPD command observer who accompanied MPD’s Special Operations Division (SOD) Captain Jeffrey Herold. The command observer was notified about events as they occurred and had the opportunity to monitor decisions

²⁰ Steve Vogel, *Hundreds of Teens March to Demand Intervention in Darfur*, Washington Post, April 15, 2007, at C1.

²¹ OPC observers did not monitor the demonstrators’ march.

being made and communicated back and forth to officers in the field. The objective of this arrangement was to view as much as possible from the vantage points of the antiwar demonstrators, counter-protesters, and police.

OPC's six foot patrol teams were assigned to four major zones where First Amendment activity was expected to take place. Zone 1 covered the area of Dupont Circle, which was the expected gathering place of various antiwar demonstration groups. Zone 2 included Lafayette Park, which was the site of a smaller antiwar demonstration held on March 16, 2007, and the White House. Zone 3 covered the Henry Bacon Field – the site of the District assembly – and the area surrounding the Foggy Bottom Metro station. Zone 4 covered the area surrounding the Washington Monument, the Vietnam War Memorial, the Sylvan Theater, the Lincoln Memorial, and the Lincoln Memorial Reflecting Pool. These were areas where antiwar demonstrators, as well as counter-protesters, were expected to gather.

For the April 14, 2007, morning and afternoon events, OPC used six staff members as observers. Five staff members patrolled the events on foot, and one staff member acted as a liaison to MPD's SOD. The liaison was notified by SOD of events as they occurred. As with the March 17 event, the objective of this arrangement was to view as much as possible from the vantage points of the demonstrators and police.

For all three events, OPC monitors carried their District of Columbia employee identification and their OPC agency credentials for identification purposes. OPC monitors were also equipped with note pads, handheld digital recorders, and digital cameras. Monitors also carried small OPC information cards to hand out if any of the demonstrators requested information about filing a police misconduct complaint, although the teams' primary purpose was to observe the protest events.

C. Coordination with MPD

OPC coordinated extensively with MPD before and during the protest events. On March 15, 2007, and April 12, 2007, OPC's chief investigator and special assistant attended a meeting held for SOD officers to obtain information about the events and MPD's plans and preparations for the events. OPC also conferred regularly with Captain Herold to receive updated information about the protest events that were expected to take place.

D. OPC Complaints

To date, OPC has not received any complaints alleging police misconduct in connection with the March 17, 2007, or April 14, 2007, events.

V. MONITORING OBSERVATIONS

A. General Interactions with the Public

OPC's monitors observed positive interactions between MPD and the public during the March 17 assembly and April 14 march and rally. Because the March on the Pentagon assembly mostly took place on federal park grounds, the U.S. Park Police were present and primarily

interacted with the antiwar demonstrators and counter-protesters at the Henry Bacon Field, the Lincoln Memorial, the Vietnam War Memorial, and other federal park sites. However, there were MPD officers present at Dupont Circle, the Foggy Bottom Metro station, the area surrounding the intersection of 23rd and Constitution Avenue, and the intersection of 19th Street and Pennsylvania Avenue. OPC monitors witnessed these officers at times directing traffic so that antiwar demonstrators and counter-protesters could cross intersections safely, at times milling around the antiwar demonstrators and counter-protesters present and helping to resolve disputes, and at other times simply standing back and observing the demonstrators' and counter-protesters' behavior. In one instance, an OPC monitor observed an MPD officer providing first aid to a protester who injured her foot. At all times, MPD officers were calm, non-threatening, and respectful, had their badge numbers and names visibly displayed, and did not interfere with the free passage, assemblies, or demonstrations of those present.

With respect to the Darfur march, U.S. Secret Service officers were primarily present while the protesters assembled on the sidewalk in front of the Sudanese Embassy. However, shortly before the march began, MPD officers arrived, spoke to the demonstrators, and appeared to be talking with protesters about their march. OPC monitors witnessed MPD officers restricting traffic for the protesters so that they could march down public streets in the District. MPD officers were especially helpful and cooperative with the protesters, and at all times, the officers were calm, non-threatening, had their badge numbers and names visibly displayed, and did not interfere with the free passage, assemblies, or demonstrations of those present.

The World Bank rally was also very orderly. Although there were a number of unmarked MPD units and plain clothes officers at the park where the protesters were located, the officers stood back and watched the rally from a distance, and did not interfere with the demonstrators.

B. Police Contacts with Protest Groups

As stated earlier, for the March 17 assembly, MPD police presence was primarily centered around Dupont Circle, the Foggy Bottom Metro station, the area surrounding the intersection of 23rd Street and Constitution Avenue, and the intersection of 19th Street and Pennsylvania Avenue. At Dupont Circle, police presence was minimal because there were very few antiwar demonstrators and counter-protesters present. From 9:00 a.m. to 11:00 a.m., the monitors observed very little MPD presence at the Foggy Bottom Metro station, although there were three Washington Metropolitan Transit Authority police officers standing close to the station's entrance. There were large numbers of MPD officers at the 23rd Street and Constitution Avenue intersection. The MPD officers were on foot, on MPD scooters and bicycles, and in MPD police cruisers. The officers present were either directing traffic or standing at the intersection in a non-threatening manner observing the antiwar demonstrators and counter-protesters present. At the intersection of Henry Bacon Drive and 23rd Street, several MPD officers traveling on foot quickly and calmly helped to resolve a dispute between a group of antiwar demonstrators and counter-protesters. Finally, at the intersection of 19th Street and Constitution Avenue, there were approximately 15 MPD officers stationed by their motorcycles. Although antiwar demonstrators were present, there was no interaction between the officers and the demonstrators.

With respect to the Darfur march, MPD officers were not continuously present while the demonstrators peacefully assembled on the sidewalk in front of the Sudanese Embassy, but the officers regularly patrolled the area. Before the march began, two MPD officers spoke to the demonstrators and appeared to be discussing the impending march. At approximately 11:00 a.m., the march got under way, with three MPD escorts (two on motorcycles, one in a police cruiser) leading the way. Three other MPD cruisers followed the demonstrators. The motorcycles and cruisers started a rolling roadblock, restricting traffic and allowing the demonstrators to march down District streets unencumbered. When the march arrived at Lafayette Park near the White House, the demonstrators headed onto the sidewalk near the park. An MPD sergeant redirected the group to H Street, N.W. MPD continued to restrict traffic until the demonstrators arrived at 15th Street and Pennsylvania Avenue. The District's Cherry Blossom Parade was traveling down Constitution Avenue, blocking the demonstrators from reaching their destination at the Washington Monument. Consequently, MPD directed the demonstrators into the Ellipse, where they waited until the parade passed. MPD officers were especially helpful and cooperative with the demonstrators, and at all times, the officers were calm, non-threatening, had their badge numbers and names visibly displayed, and did not interfere with the free passage, assemblies, or demonstrations of those present.

Regarding the World Bank rally, at approximately 3:00 p.m., OPC monitors observed demonstrators marching down the sidewalk of H Street, N.W., toward the World Bank. MPD officers escorted the group down H Street to North Murrow Park between H Street and Pennsylvania Avenue, across from the World Bank. Four mounted U.S. Park Police officers were in the park as well, and the officers stood in close proximity to the demonstrators. The group demonstrated peacefully at the park. Although there were several plain-clothes and uniformed officers at the park where the demonstrators were located, the officers stood back and watched the rally from a distance, and did not interfere with the free passage, assemblies, or demonstrations of those present.

C. Spontaneous Marches, Protests, and Assemblies Without a Permit

OPC did not observe any spontaneous marches (also known as "snake marches") during the March 17 or April 14 events. At the March on the Pentagon rally, OPC monitors observed what appeared to be a spontaneous assembly by an antiwar group at the corner of 17th Street and Constitution Avenue.²² The group demonstrated peacefully without any MPD police presence or interference.

D. Arrests and Orders to Disperse

OPC monitors did not observe any arrests or orders to disperse by MPD officers. The monitors also did not observe any illegal activity or property damage by the antiwar demonstrators or counter-protesters on March 17, or the demonstrators on April 14, which could have possibly warranted any arrests. During the World Bank demonstration, however, OPC monitors did observe U.S. Park Police officers order a homeless man to move out of the park that

²² This is categorized as a spontaneous assembly because it is unclear whether the group demonstrating actually applied for and received a permit to demonstrate.

the demonstrators were rallying in. The man did not appear to be disrupting the rally, and OPC monitors did not observe the demonstrators requesting that the man be asked to leave.

E. Police Lines

OPC did not observe any MPD officers use a police line to encircle or entrap demonstrators at any of the March and April events.

F. Officer Identification

Several OPC monitors observed officers wearing their nameplates and badges. A number of OPC monitors also noted that MPD officers who were wearing their helmets had their badges visibly displayed on their helmets. The plain-clothes officers who were present at the April 14 World Bank rally were not identifiable.

G. Media Access to Sites

OPC monitors did not notice the presence of media at the March demonstration; therefore, the monitors could not assess whether MPD officers allowed the media access to the assembly site. OPC monitors did observe someone taking pictures at the April World Bank rally. It is unclear whether this person was part of the media; however, he was allowed to take pictures with no interference by MPD officers.

H. Use of Riot Gear and Chemical Irritants

OPC's monitors did not observe any MPD officers wearing riot gear or using chemical irritants during the March and April protests.

I. Other Monitoring Groups

OPC is unaware of any other groups that monitored the assemblies held on March 17 or April 14.

J. Other Police Departments

In addition to MPD officers, OPC monitors observed U.S. Park Police officers interacting with demonstrators and counter-protesters. For the most part, U.S. Park Police officers performed admirably, quickly resolving tensions between antiwar demonstrators and counter-protesters, and ordering antiwar demonstrators and counter-protesters to move out of the street in a firm but professional manner. However, OPC monitors did note a few concerns while observing U.S. Park Police and the interactions between demonstrators and counter-protesters.

With respect to the March 17 assembly, one team of observers noticed that the U.S. Park Police officers stationed at Henry Bacon Drive near the Lincoln Memorial wore riot gear. According to the team of observers, the officers held their batons and swung them from side to side. Although the Park Police officers are federal law enforcement officers and are not subject to the Act's requirements, it is important to note that the wearing of riot gear and swinging of batons may be intimidating or threatening to some demonstrators, and may chill First

Amendment expression or unnecessarily escalate any existing tension between officers and demonstrators. In addition, although U.S. Park Police successfully de-escalated a number of disturbances between antiwar demonstrators and counter-protesters, two OPC monitors noted that a U.S. Park Police officer failed to take action when the monitors informed them that counter-protesters were denying citizens access to the Lincoln Memorial.

Furthermore, during the April 14 Darfur march and World Bank rally, OPC monitors observed U.S. Park Police officers standing very close to the demonstrators, possibly intimidating some of them. OPC monitors also observed a U.S. Park Police officer ordering a homeless person to move out of the park, even though the person did not appear to be interfering with the rally or causing a disturbance in any way. The interactions between the officers and the homeless person seemed unnecessary when they occurred and was a minor disturbance to the rally.

K. Access for OPC Monitors

During our first monitoring effort in September 2005, OPC monitors had some difficulty gaining access to certain areas and with passing behind police lines to observe interactions between the police and demonstrators. OPC encountered no such problems during this year's monitoring effort. There were no restricted areas for the March 17 event, but there were police lines around the World Bank complex on April 14. Although OPC monitors were stopped on at least three occasions and asked for identification, they were allowed to pass without incident after showing identification. Through the meetings that OPC staff attended prior to March 17 and April 14, and by conveying the information through other means, MPD clearly made its officers more aware of the presence of OPC monitors, which allowed them to observe the relevant events unimpeded.

VI. CONCLUSIONS AND RECOMMENDATIONS

With the March 17 assembly and the April 14 march and rally, MPD again successfully demonstrated that the interests of public safety and the right to free expression can be effectively balanced. MPD did a thorough job of preparing for antiwar demonstrators and counter-protesters, and MPD officers conducted themselves in a calm and professional manner during the assembly, acting in accordance with the standards of conduct set forth by the Act. No arrests, orders to disperse, or use of chemical irritants were noted by OPC monitors during the event, and MPD officers had their names and badge numbers visibly displayed for prompt identification by the public. The demonstrators and counter-protesters must be praised as well. Other than a few small exceptions, the demonstrators and counter-protesters conducted themselves in a peaceful and orderly manner, which made MPD's job in handling the event far less difficult than it could have been. Thus, based on the observations of OPC's protest monitors, PCB commends MPD on its policing of the March 17, 2007, and April 14, 2007, events, and further recommends the following:

1. MPD should continue to emphasize compliance with the First Amendment Rights and Police Standards Act of 2004 among its officers, and ensure that officers are continuing to allow demonstrators to peacefully engage in First Amendment activities with minimal inference from police officers or other protesters.

2. MPD should make itself available as a resource to federal agencies that routinely handle First Amendment assemblies. MPD's officers appear to be better prepared to handle protests and interact with protesters in ways that allow people to demonstrate freely and that do not escalate tensions during events. In addition, protesters that are not residents of or frequent visitors to the District may mistakenly believe that federal law enforcement officers handling the event are MPD officers, and, if problems were to arise during the assembly, would leave the event with misperceptions about MPD officers. If the federal agencies are receptive, PCB believes that it would be to their benefit, as well as to the public's benefit, to have MPD offer ideas about how to best police First Amendment demonstrations, and discuss lessons learned.
3. MPD should continue to make sure that all of its officers, particularly non-supervisory officers, are informed of OPC's presence and role so that OPC's monitors will be able to freely observe future protest events.