

69 F.3d 1002 (1995)

Christopher MACKINNEY, Plaintiff-Appellant,

v.

Garon NIELSEN, Dash Butler, Al Littles, and City of Berkeley, Defendants-Appellees.

No. 94-15438.

United States Court of Appeals, Ninth Circuit.

Argued and Submitted March 9, 1995.

Decided November 6, 1995.

1004 *1003 *1004 Maureen Laffin, Supervising Attorney, Sheryle Musgrove, and Arthur Bistline, University of Idaho Legal Aid Clinic, Moscow, Idaho, for plaintiff-appellant.

Matthew J. Orebic, Deputy City Attorney, Berkeley, California, for defendants-appellees.

Before: PREGERSON, KOZINSKI and LEAVY, Circuit Judges.

PREGERSON, Circuit Judge:

OVERVIEW

Christopher Mackinney appeals the district court's grant of summary judgment in favor of defendants Garon Nielsen, Dash Butler, Al Littles, and the City of Berkeley in his 42 U.S.C. § 1983 action. Mackinney alleges that his constitutional rights were violated when he was arrested and detained for writing on a sidewalk with chalk. We have jurisdiction under 28 U.S.C. § 1291. We affirm in part and reverse in part.

FACTS

Mackinney is a resident of Berkeley, California. On September 17, 1992, Mackinney and a friend wrote on a public sidewalk in Berkeley with "sidewalk chalk," an allegedly washable, non-permanent material. Mackinney wrote: "A police state is more expensive than a welfare state — we guarantee it." As he was finishing writing this message, Berkeley police officers Davis and Tejada, driving in an unmarked car on their way to serve a search warrant, saw Mackinney and ordered him to stop writing. Before complying with this order, Mackinney underlined the last phrase of his message.

The officers pulled their car up to the sidewalk. Officer Davis stepped out of the car and told Mackinney that if he did not stop writing on the sidewalk he would be arrested. Mackinney, though he had already stopped writing, refused to *agree* to stop writing, asserting that his actions were legal. During this exchange, Berkeley Police Sergeant Nielsen arrived. Nielsen rushed to the scene and asked what Mackinney had said. Mackinney said that he told officer Davis that he was violating Mackinney's civil rights. Nielsen responded by grabbing the chalk from Mackinney's hand and throwing it behind him. He allegedly said to Mackinney, "I don't give a f—k about your civil rights."

Sergeant Nielsen ordered the officers to arrest Mackinney. Officer Davis arrested Mackinney and charged him with violating California Penal Code § 594, which prohibits defacing "with paint or any other liquid" or damaging property that is not one's own. The officers took Mackinney to the Berkeley jail and kept him there for three to four hours. He was then released on bail. He was not prosecuted for violating § 594 or any other statute.

Mackinney filed this suit under 42 U.S.C. § 1983 in the United States District Court for the Northern District of California.^[1]

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Mackinney alleged that his constitutional rights were violated because he was arrested without probable cause, and because he was arrested for exercising his First Amendment right to free speech. The district court granted summary judgment in favor of the defendants. Mackinney now appeals.

ANALYSIS

A. Standard of Review.

We review a grant of summary judgment de novo. Jesinger v. Nevada Fed. Credit Union, 24 F.3d 1127, 1130 (9th Cir. 1994).
1005 We must determine whether the evidence viewed in a light most favorable to the *1005 non-moving party presents any genuine issues of material fact and whether the district court correctly applied the law. *Id.* We review the district court's order granting qualified immunity de novo. Baker v. Racansky, 887 F.2d 183, 185 (9th Cir.1989).

B. Qualified Immunity for Defendant Nielsen.

The district court found that Sergeant Nielsen is entitled to qualified immunity. Qualified immunity protects law enforcement officials who reasonably believe they are acting lawfully in carrying out their duties. Act Up! Portland v. Bagley, 988 F.2d 868, 871 (9th Cir.1993). Whether a defendant is entitled to qualified immunity turns on a two part inquiry: "(1) Was the law governing the official's conduct clearly established? (2) Under that law, could a reasonable officer have believed the conduct was lawful?" *Id.* The analysis under these two prongs will necessarily involve an inquiry into the substantive issue of whether Nielsen violated Mackinney's Fourth Amendment rights by arresting him without probable cause.

On the merits, the district court found that Nielsen did not have probable cause to arrest Mackinney under California Penal Code § 594, which prohibits damaging property. Instead the district court found that Nielsen did have probable cause to arrest Mackinney under California Penal Code § 148 for obstructing the officers in their line of duty. As to qualified immunity, the district court found Nielsen to be immune from suit because he "reasonably believed" his conduct to be lawful when he ordered Mackinney's arrest. We disagree and find that Nielsen is not entitled to qualified immunity and that he did not have probable cause to arrest Mackinney for violating either § 594 or § 148 of the California Penal Code.

1. California Penal Code § 594.

It is undisputed that the Fourth Amendment, applicable to the states through the Fourteenth Amendment, prohibits an officer from making an arrest without probable cause. McKenzie v. Lamb, 738 F.2d 1005, 1007 (9th Cir.1984). Probable cause exists when "the facts and circumstances within the arresting officer's knowledge are sufficient to warrant a prudent person to believe that a suspect has committed, is committing, or is about to commit a crime." United States v. Hoyos, 892 F.2d 1387, 1392 (9th Cir.1989), *cert. denied*, 498 U.S. 825, 111 S.Ct. 80, 112 L.Ed.2d 52 (1990) (citing United States v. Greene, 783 F.2d 1364, 1367 (9th Cir.1986), *cert. denied*, 476 U.S. 1185, 106 S.Ct. 2923, 91 L.Ed.2d 551 (1986)).

Section 594, as it was worded in 1992, made it illegal to (1) deface "with paint or any other liquid," (2) damage or (3) destroy any real or personal property that is not one's own. It was not reasonable for Sergeant Nielsen to arrest Mackinney for a violation of § 594. Mackinney wrote on the sidewalk with chalk. Chalk is not "liquid," and there is no evidence that the sidewalk was "damaged." No reasonable person could think that writing with chalk would damage a sidewalk. In addition, if writing with chalk constitutes "damage," it is hard to imagine any defacement "with paint or other liquid" that would not also constitute damage. This reading would collapse the "defacement" provision of § 594 into the "damage" provision, violating the prohibition against construing statutes so as to render any of their provisions superfluous. See Boise Cascade Corp. v. EPA, 942 F.2d 1427, 1432 (9th Cir.1991).

2. California Penal Code § 148.

Section 148 provides that: "Every person who willfully resists, delays, or obstructs any public officer ... in the discharge or attempt to discharge any duty of his or her office or employment" is criminally punishable.

a. The act of underlining.

1006 A reasonable officer could not have believed that he or she had probable cause to arrest Mackinney under § 148 because he underlined the last part of his chalk message before complying with the police order to stop. Ruling on the merits, the district court found that the act of underlining the last word of his message "obstructed" the officers in the course of their duties because it interfered *1006 with their order that Mackinney stop committing an act made illegal by an antigraffiti statute, California Penal Code § 640.5(a).^[2] The district court stated, "defendant Nielsen possessed the requisite probable cause to order the arrest of plaintiff for Penal Code § 148 when plaintiff refused to stop defacing the sidewalk." We disagree.

Mackinney's act does not establish probable cause for an arrest under § 148, and no reasonable officer could have thought otherwise. First, when the officers yelled to Mackinney to stop writing, they were still in their unmarked car. Mackinney makes the plausible claim that he did not know that it was the police who gave the order; because we are reviewing a grant of summary judgment against Mackinney, we must resolve any doubt about this issue in his favor. Jesinger, 24 F.3d at 1130. In People v. Lopez, the California Court of Appeals found that "[b]efore one can be found culpable [for resisting arrest under § 148] ... he or she must know, or through the exercise of reasonable care should have known, that the person attempting to make the arrest is an officer." 188 Cal.App.3d 592, 599, 233 Cal.Rptr. 207 (1986). The same reasoning applies to obstructing justice under § 148. No reasonable officer could have thought that he or she had probable cause to arrest Mackinney when it was apparent that Mackinney probably did not realize that the order he was failing to obey came from the police.

Second, when he was ordered to stop writing on the sidewalk, Mackinney refused to comply for only a few seconds. He finished underlining then immediately turned around. No reasonable officer could have thought that complying with a police order slowly could be a violation of § 148. It is well established under California law that even "an outright refusal to cooperate with police officers cannot create adequate grounds for [police] intrusion" without more. People v. Bower, 24 Cal.3d 638, 649, 156 Cal.Rptr. 856, 597 P.2d 115 (1979). Here the officers had no grounds on which to arrest Mackinney other than his disobedience, which is insufficient under Bower.

Furthermore, in People v. Cressey, 2 Cal.3d 836, 841 n. 6, 87 Cal.Rptr. 699, 471 P.2d 19 (1970), the California Supreme Court stated that the refusal to open a door upon a *proper* police request, was not a violation of § 148. And in Cressey, the defendant never did capitulate. In contrast, Mackinney did ultimately comply with the police order to stop writing. Any reasonable officer would have known that they needed more than Mackinney's hesitation to arrest him. Cf. People v. Wetzel, 11 Cal.3d 104, 107-109, 113 Cal.Rptr. 32, 520 P.2d 416 (1974) (defendant who stood in doorway of apartment and refused to allow officers to enter did not violate § 148).

A reasonable person would not have thought that Mackinney was obstructing the officers by not immediately putting down his chalk. Of course, people must obey the police in most situations. But here, the police overreacted to Mackinney's momentary disobedience.

b. The verbal protest.

The district court stated that "plaintiff's refusal to agree to stop defacing the sidewalk in violation of Penal Code § 640.5(a) effectively obstructed the officers in the course of their duties." Therefore, the court concluded, Nielsen reasonably believed that he had probable cause to arrest Mackinney and is entitled to qualified immunity. We disagree. We do not think that a reasonable officer could have thought that he or she had probable cause to arrest Mackinney for a violation of § 148 on the basis of the verbal exchange that occurred after Mackinney had stopped writing.

1007 In Anderson v. Creighton, 483 U.S. 635, 640, 107 S.Ct. 3034, 3039, 97 L.Ed.2d 523 (1987), the Supreme Court instructed

courts ruling on qualified immunity to examine *1007 whether the "contours of the right" at stake in the action are sufficiently clear so that a reasonable official could understand that he or she is violating the right. Several cases have outlined the "contours" of the First Amendment right to challenge the police. The Supreme Court in City of Houston, Texas v. Hill, 482 U.S. 451, 107 S.Ct. 2502, 96 L.Ed.2d 398 (1987), invalidated a Texas county's ordinance which made verbally challenging an officer in the line of duty unlawful. The Court stated that "the First Amendment protects a significant amount of verbal criticism and challenge directed at police officers." *Id.* at 461, 107 S.Ct. at 2509. Unless the speech is likely to produce "a clear and present danger of a serious substantive evil," the Court stated, it is protected. *Id.* Indeed, the Court continued, "[t]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state." *Id.* at 462-63, 107 S.Ct. at 2510.

Ninth Circuit law also clearly establishes the right verbally to challenge the police. In Duran v. City of Douglas, 904 F.2d 1372, 1378 (9th Cir.1990), we stated that police may not exercise "the awesome power at their disposal to punish individuals for conduct that is not merely lawful, but protected by the First Amendment." We held in *Duran* that a police officer did not have probable cause to stop an individual for the obscene gestures and words he directed from his car towards the police officer and that the officer was not entitled to qualified immunity. "[C]riticism of the police is not a crime." *Id.* at 1377.

California law also gives citizens considerable latitude in confronting the police. In Wetzel, 11 Cal.3d at 107-109, 113 Cal.Rptr. 32, 520 P.2d 416, the California Supreme Court found that a defendant who stood in the doorway of an apartment and refused to allow officers to enter did not violate § 148.

These cases clearly establish a First Amendment right to challenge the police. Even when crass and inarticulate, verbal challenges to the police are protected. Duran, 904 F.2d at 1378. Officer Nielsen should have known that Mackinney's verbal protests could not support an arrest under § 148. It was unreasonable of him to think otherwise.

Police officers have a difficult job, and they deserve the respect of their community. But they in turn must respect the right of individuals in that community to question their government and the role of the police. A reasonable officer should have known that Mackinney simply was exercising that right.

C. Fourth Amendment Claim — Probable Cause for Arrest.

Because Nielsen is not entitled to qualified immunity, we proceed to review the district court's discussion of the merits of Mackinney's case.

1. California Penal Code § 594.

As we stated above in the discussion of qualified immunity, Nielsen did not have probable cause to arrest Mackinney for a violation of § 594 because his actions did not "damage" the sidewalk.

2. California Penal Code § 148.

Mackinney's gesture of underlining the last part of his message did not "obstruct" the officers. In People v. Quiroga, 16 Cal. App.4th 961, 964, 20 Cal.Rptr.2d 446 (1993), *review denied*, Sept. 30, 1993, the police, responding to complaints of a noisy party, found the defendant in an apartment with several other people. When the defendant stood up from the couch, an officer ordered him to sit back down. The defendant *did not comply immediately*. He argued with the officer, refusing to sit down. Finally, according to the officer, he sat down again. Soon after, the officer ordered the defendant, who was allegedly reaching into the cushions of the couch, to keep his hands on his lap. Again the defendant initially refused to cooperate. When the officer later ordered the defendant to stand up, he refused "several times" until the officer pulled on his arm. *Id.*

1008 The court in *Quiroga* found that these three instances of disobedience did not amount to a § 148 violation: "[I]t surely cannot

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be supposed that Penal Code section *1008 148 criminalizes a person's failure to respond with alacrity to police orders." *Id.* at 966, 20 Cal.Rptr.2d 446. The instant case presents even less convincing evidence of a § 148 violation. When he was ordered to stop writing on the sidewalk, Mackinney refused to comply for a matter of seconds. During that time, the officers were still in their unmarked car, and Mackinney claims that he did not know that a police officer had given the order. Unlike the defendant in *Quiroga*, Mackinney stopped his offensive behavior shortly after the order and then addressed the officers. Also unlike the *Quiroga* defendant, he was not repeatedly defiant.

The district court relied on *Foster v. Metropolitan Airports Comm'n*, 914 F.2d 1076 (8th Cir.1990), to support its conclusion that the officers had probable cause to believe that Mackinney was obstructing them. In *Foster*, the plaintiff was arrested because he did not move his car from an airport loading zone when asked three times to do so. The plaintiff tore up the parking ticket he was issued and resisted arrest by rolling up his windows and locking his doors. The court concluded that the officer had probable cause to arrest Foster for interfering with the officer's duty to keep traffic flowing. *Id.* at 1081.

But the holding in *Foster* is based explicitly on the plaintiff's refusal to move his car, which was in continuous violation of parking regulations, not on the plaintiff's verbal protests or his tearing up the parking ticket. Moreover, in *Foster*, 914 F.2d at 1081, the plaintiff disobeyed the officer for a lengthy period of time by keeping his car in a loading zone. Mackinney, in contrast, spent seconds finishing his writing before he complied with the officers. As we discussed above, the failure to comply immediately with an officer's requests is not a violation of § 148 under *Quiroga*, 16 Cal.App.4th at 966, 20 Cal.Rptr.2d 446.

Second, defendants would have us decide that Mackinney's refusal to verbally agree to stop writing on the sidewalk "obstructed" the officers. However, as is clear from our discussion above, verbally confronting the police is a right all Americans have under the First Amendment. See *Hill*, 482 U.S. at 461, 107 S.Ct. at 2509; see also *Quiroga*, 16 Cal.App.4th at 966, 20 Cal.Rptr.2d 446.

D. Supervisory Liability.

Mackinney claims that police chief Butler is also liable for violating his constitutional rights because Butler had been advised of similar, past incidents where Mackinney's rights were violated by the police, and Butler took no steps to prevent the incident at issue here. Under § 1983, a supervisor may be liable if there exists either "(1) his or her personal involvement in the constitutional deprivation or (2) a sufficient causal connection between the supervisor's wrongful conduct and the constitutional violation." *Redman v. County of San Diego*, 942 F.2d 1435, 1446 (9th Cir.1991) (en banc), cert. denied, 502 U.S. 1074, 112 S.Ct. 972, 117 L.Ed.2d 137 (1992) (quoting *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir.1989)).^[3]

There is no evidence that Butler was personally involved in the incident at issue, so we must examine whether there was a causal connection between Butler's conduct and the alleged violation of constitutional rights. Supervisory liability can exist if Butler implemented "a policy so deficient that the policy itself is a repudiation of constitutional rights and is the moving force of the constitutional violation." *Id.* (quotations and citations omitted).

At most, we can draw an inference from the record that Butler knew that Mackinney had complained about past treatment he had received from the police as a result of writing with chalk on the sidewalk. But we are hard pressed to find any evidence of a policy that "repudiates" constitutional rights.

E. Claim against Defendant Littles.

Mackinney claims that Police Special Assistant Littles violated his constitutional rights by refusing to give Mackinney the benefit of a citation release from jail. While Mackinney was in jail, Littles told him that if he agreed to refrain from going out and marking the sidewalk, he would be given a *1009 citation release, that is, he would be released on his written promise to appear pursuant to Cal.Penal Code § 853.6. Mackinney states that he agreed, but that Littles then refused to issue a citation release because, Littles said, Mackinney's "attitude" had not improved. Littles, in contrast, claims that he did not

issue the citation release because Mackinney would not agree to refrain from drawing on the sidewalk. When Mackinney posted bail he was released, after spending between three and four hours in jail.^[4]

Mackinney claims that he was improperly held in custody for three to four hours. We can examine such claims of improper confinement or false imprisonment using either a due process, United States v. Salerno, 481 U.S. 739, 746, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987), or a Fourth Amendment analysis. Hallstrom v. City of Garden City, 991 F.2d 1473, 1479 (9th Cir.1993), cert. denied sub nom, Killeen v. Hallstrom, U.S. , 114 S.Ct. 549, 126 L.Ed.2d 450 (1993); Kanekoa v. City and County of Honolulu, 879 F.2d 607, 609 (9th Cir.1989), cert. denied, 500 U.S. 933, 111 S.Ct. 2055, 114 L.Ed.2d 460 (1991). Here, as in other cases where a plaintiff has challenged the lawfulness of his or her confinement prior to a judicial determination of probable cause for his or her warrantless arrest, we will use a Fourth Amendment analysis. Gerstein v. Pugh, 420 U.S. 103, 111-14, 95 S.Ct. 854, 861-63, 43 L.Ed.2d 54 (1975); Hallstrom, 991 F.2d at 1480, 1484; see also Villanova v. Abrams, 972 F.2d 792, 797 (7th Cir.1992).^[5]

Defendant Littles asserts that he is entitled to qualified immunity, and the district court so found. California Penal Code § 853.6 outlines the procedures for handling misdemeanor arrestees. It specifies that misdemeanor arrestees should be released without bail upon signing a written promise to appear. One exception to this rule occurs when there is a "reasonable likelihood" that the offense will continue. In a qualified immunity analysis, we must ask whether a reasonable officer in Littles's circumstances could have believed that it was lawful to deny Mackinney a citation release. California law was clearly established — misdemeanor arrestees were to be released upon signing a written promise to appear if they posed little risk of continuing their offense. If we accept Mackinney's version of the facts, as we must when we review a summary judgment order, then a reasonable officer would have released Mackinney because he agreed to not write on the sidewalk. As discussed below, Supreme Court precedent regarding the Fourth Amendment prohibition against unnecessary detention was also clearly established. Littles was not reasonable in thinking his detention of Mackinney until Mackinney's "attitude" improved was lawful. Therefore, Littles is not entitled to qualified immunity.

We apply a Fourth Amendment analysis in determining the validity of a warrantless arrestee's detention prior to a magistrate's determination of probable cause to arrest. County of Riverside v. McLaughlin, 500 U.S. 44, 55-56, 111 S.Ct. 1661, 1669-70, 114 L.Ed.2d 49 (1991). In Hallstrom, 991 F.2d at 1479, we analyzed a claim of unreasonable detention. We noted that, under McLaughlin, when a plaintiff contests a detention that lasted under 48 hours, she bears the burden of proving that "her probable cause determination was delayed unreasonably." *Id.* (quoting McLaughlin, 500 U.S. at 56, 111 S.Ct. at 1670). We further noted that one example the Supreme Court gave of an "unreasonable delay" is "delay motivated by ill will against the arrested individual." *Id.* at 1480 (quoting McLaughlin, 500 U.S. at 56, 111 S.Ct. at 1670).

- 1010 Viewing the evidence in the light most favorable to Mackinney, there is a genuine *1010 issue of material fact as to whether the hours he spent in jail were motivated by Littles's hostility toward him. Littles allegedly said that he would not issue a citation release because Mackinney's "attitude" had not improved. This statement is evidence of Littles's ill will toward Mackinney. Therefore, we remand for a determination as to whether Mackinney's Fourth Amendment rights were violated by Littles's refusal to release him on his written promise to appear.

F. Claim Against City of Berkeley.

Mackinney claims that the City of Berkeley was deliberately indifferent to violations of his constitutional rights. A municipality can be held liable under 42 U.S.C. § 1983 when the execution of its policies, express or implied, has directly caused the alleged constitutional violation. See Monell v. New York City Dep't of Social Services, 436 U.S. 658, 694, 98 S.Ct. 2018, 2037, 56 L.Ed.2d 611 (1978). The district court found that Mackinney had not shown any evidence that the city had a policy which resulted in violations of Mackinney's rights.

To succeed, a § 1983 plaintiff must show that there is a direct link between the city policy and the constitutional violation. Canton v. Harris, 489 U.S. 378, 385, 109 S.Ct. 1197, 1202-03, 103 L.Ed.2d 412 (1989). The plaintiff can show this link by proving that the policy itself is unconstitutional or that the city made a "deliberate" or "conscious" choice to fail to train its employees adequately. *Id.* at 389, 109 S.Ct. at 1205.

Mackinney provides no evidence that Berkeley had a policy of arresting people for writing on the sidewalk. But Mackinney points out that the incident at issue here was not the first time the city's and the police department's conduct regarding First Amendment rights was questioned. Thus there appears to be a genuine issue of material fact as to whether the city made a "deliberate" choice not to train its officers to be sensitive to the First Amendment rights of Berkeley citizens, thereby infringing on Mackinney's constitutional rights. We reverse and remand for a consideration of this claim.

G. First Amendment Claim.

Mackinney also asserts that California Penal Code § 640.5 is facially unconstitutional. He asserts that the statute is overbroad, vague, and directed solely at speech because physical damage to property is already prohibited by § 594. The district court failed to address this argument. We remand for a consideration of this claim.

CONCLUSION

We find that the district court erred in holding that Mackinney's Fourth Amendment rights were not violated when he was arrested for writing on the sidewalk in chalk, and that Sergeant Nielsen is entitled to qualified immunity as to the arrest. Police Chief Butler is not liable for these violations, but the City of Berkeley may be. Affirmed in part, reversed in part, and remanded for further proceedings consistent with the views herein expressed.

[1] Title 42 U.S.C. § 1983 provides that "Every person who, under color of [state law] ... subjects ... any citizen of the United States ... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law...."

[2] California Penal Code § 640.5(a) provides that "[a]ny person who writes, sprays, scratches, or otherwise affixes graffiti on or in the facilities or vehicles of a government entity" is guilty of an infraction. The defendants cannot argue that the officers had probable cause to arrest Mackinney under § 640.5(a) itself because California Penal Code § 853.5 only allows custodial arrests for infractions when the arrestee refuses to present identification or refuses to sign a promise to appear.

[3] The defendants' brief does not assert a qualified immunity defense on behalf of Butler.

[4] Mackinney does not challenge the constitutionality of California's booking procedures. Thus, his claim is different from the issue we examined in *Higbee v. City of San Diego*, 911 F.2d 377, 379-80 (9th Cir.1990). Rather Mackinney asserts that he would have been released had Littles followed those procedures correctly.

[5] Although Mackinney does not make a Fourth Amendment argument against Littles, we construe his complaint to include one. Cases analyzing improper confinement have used both due process and Fourth Amendment analyses, see *Villanova*, 972 F.2d at 797, and we generally construe pro se complaints broadly. *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972).

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OCCUPY LOS ANGELES

PRESS RELEASE

PRESS ADVISORY

WHO: Occupy Los Angeles

WHAT: Chalk Walk "Free Chalk for Free Speech"

WHEN: Thursday, July 12 from 7-9pm

WHERE: Downtown Los Angeles Art Walk [Spring Street near 5th & 6th]

WHY: LAPD has made 12 Occupy arrests for chalking this month. Ninth Circuit of Appeals ruled chalking is a constitutionally protected form of expression.

PRESS RELEASE

OCCUPY LA'S CHALK WALK AGAINST CHALKING ARRESTS Members of Occupy LA Chalk Up Art Walk in Protest of a Dozen Arrests for Chalk

LOS ANGELES – Members of Occupy Los Angeles plan to occupy this week's Downtown LA Art Walk with "Free Chalk for Free Speech" after 12 LAPD arrests of Occupiers for water-soluble chalking on the public sidewalks in the last month.

Over six months after Envoys of the United Nations wrote a letter to the Obama Administration, the U.S. government has yet to respond to requests regarding local repression of the Occupy movement. Members of Occupy LA plan to push the issue with local and federal governments after alleged increase of Rights violations by LAPD.

Occupiers feel LAPD has targeted them in attempt to silence their dissent and stop their actions. Courtroom witnesses have been threatened with arrest; Occupiers have been arrested for chalk art; and they say they are victims of police misconduct.

Occupiers claim the LAPD have made 12 Occupy arrests in four weeks for chalking.

In a letter dated June 4, Carol Sobel, a Civil Rights lawyer with the National Lawyers Guild, explained to the Special Assistant for Constitutional Policing for the LAPD that the 9th Circuit unanimously held that "no chalk would damage a sidewalk" in *MacKinney v. Nielsen* from 1995.

"Given that this decision is now 18 years old, there is no excuse for these arrests," states Sobel in the letter.

Occupiers say LA's current graffiti laws do not reflect the Constitutional ruling yet. Activist point out that elected officials and police officers are sworn to uphold and protect the Constitution. However, many Occupiers feel individuals of these entities systematically repress their Rights.

The City of Orlando recently spent \$200,000 defending a chalk-art arrest of an Occupier in Florida. The city lost that case and activists say that the City of Los Angeles could waste over \$2.5 million dollars defending the 12 chalking arrests this month.

Occupiers believe the LAPD selectively enforces the graffiti laws against them while the City's own Parking Enforcement officers use chalk on the tires of vehicles they wish to monitor for time restrictions.

The activist also say, that the police did not arrest any activists at an anti-Walmart protest, two weeks ago, in downtown organized by Labor unions and other community groups. From photos of the event, it clearly had plenty of chalk art written on the pavement surrounding the activities.

Activists argue the chalk comes in packaging marketed for sidewalk use and that the water-soluble chalk does not cause damage.

Members of Occupy LA allege that City Officials violate Title 42 Chapter 21, subsection 1, section 1983 for Federal law and California Civil Code 52.1. They say LAPD officers— under the color of law— interfere with their exercise and enjoyment of their Rights by threats, intimidation, and coercion and subjects them to deprivation of their rights.

To avoid prosecution, the City required dozens of Occupy LA arrestees to take a First-Amendment-Rights class administered through the City Attorney's office. Now, Occupy LA says it is the City that needs a lesson in the First Amendment.

Please add to CF 09-0234-S1

CHALK WALK

- Goals: Have fun, stay safe, speak out, stand up, reach out, make friends, and chalk!
- We're hoping this is a kid friendly event. If kids are around, keep it friendly, please.
- Some people will be remaining in the area on Spring Street near 5th & 6th Street.
- Some people will roam the Downtown LA Artwalk.
- The Artwalk has happened for years and is every ^{second} ~~first~~ Thursday of the month.
- This is the first **CHALK WALK** we know of.
- We are not lawyers we cannot give legal advice.
- Seek professional legal advice before attempting anything that may be considered unlawful.
- If you forgo legal advice please take responsibility for your actions.
- Know your Rights!
- We hope to have no arrests.
- We ask that people to ignore the police and avoid provoking them.
- We are unable to bail anyone out if they do get arrested.
- We have no lawyers who have offered to take any more chalk cases yet.
- Being arrested on Thursday night may lead to a detainment until Monday or Tuesday.
- LAPD seems to think chalking is illegal.
- "No reasonable person could think that writing with chalk could damage a sidewalk."
Mackinney v. Nielsen 69 F.3d 1002 (Ninth Circuit Court of Appeals 1995)
- "The Fourth Amendment prohibits an officer from making an arrest without probable cause."
~ McKenzie v Lamb 738 F. 2d 1005 1007 (Ninth Circuit Court of Appeals 1984)
- Both (Federal) Title 42 U.S.C Section 1983 and California Civil Code imply an officer cannot violate someone's Rights without risking liability to the victim.
- If you have a camera and see a police interaction with a chalker, please film it the best you can while staying safe.
- The United Nations told the U.S. Government that Occupiers' Rights must be protected.
- The U.S. State Government has not responded to the U.N. in over 6 months.
- Occupy LA members believe LAPD's actions violate their Rights.
- Occupy LA members feels LAPD uses political repressive tactics against them.
- Occupy LA members feel the 12 chalking arrests are politically motivated stemming from their protests outside the offices of the Central City Association (CCA).
- Occupy LA members believes CCA & LAPD have been politically repression the houseless, low-income, small businesses, and activists for years. They fight to end such repression.

MEET US AT JALISCO S NEAR 2ND AND MAIN STREETS

AFTER ARTWALK FOR A FUNDRAISER

LAPD PUSH, SHOOT, KICK MAN IN FACE, ARREST HIM AT ARTWALK
LAPD Arrest and Harm More Artwalkers than Occupiers at "Chalk Walk"

LOS ANGELES – Early Sunday morning videos and images surface online of LAPD violence at Thursday's Downtown LA Art Walk. LAPD pushed at least one unknown man, shot him in the chest at close range, kicked him in the face while Occupiers were trying to help, the cops squish his face into the ground, then the cops arrested him.

As seen in a [youtube video](#) recorded from above, the man was clearly backing up from a line of at least 30 police officers. He turns and walks onto the sidewalk when a police officer pushes him into the street and another officer shoots him in the torso at close range.

After the man stumbles to the ground, two Occupiers come to his aid but police move in, chase the occupiers off, 14 officers surround the man, while one officers kicks the man in the face, then another officers smash his face into the pavement, and violently arrested him. [Another youtube video](#), shows the incident from on the ground.

Occupy activists say at least 4 people were injured with police projectiles.

One young man admitted himself to the hospital Friday after complaining of pain and numbness in his face where he said a bean bag hit him as he was walking into a 7/11 store. [Pictures](#) from the Thursday night show his face swollen, bruised, and bleeding.

Reportedly, occupiers took him to a safer place further from the police and called an ambulance for him but the paramedics told him it would cost over \$1,000.00 to take him to the hospital and if he could not afford it he could walk or take the bus (which were mostly likely not running because of the police violence downtown).

Allegedly, after this young man got out of the ambulance, the police arrive, hand cuff him tightly, stick him in the back of a squad car and interrogate him.

Another [online video](#) shows LAPD shooting three shots into the crowd in three different directions within seconds of each other. The video also features one of the victim's bleeding wound.

Members of Occupy LA say that 100% of the people that the LAPD injured with 'less-than-lethal' weapons are not active members of their group and nearly 90% of the people arrested by LAPD Thursday night were non-occupiers.

[Amateur video](#) shows police wrestling a small woman to the ground and body slamming a man that was with her. [Another amateur video](#) shows parts of three different arrests including a female that two LAPD officers pushed repeated before slamming her to the ground and arresting her.

please add to council file 09-0234-51

Occupiers claim that only two of the 17 or more arrests made by LAPD were of occupiers and the rest were downtown artwalkers. In addition, members of Occupy LA say that at least 7 of the 9 vandalism arrests were made before 9pm, long before police in riot gear made it to the scene.

Occupiers claim LAPD provoked the crowd, so they could escalate their force against them.

The first arrest took place shortly after 7pm and moments after the group walked onto Spring Street from 5th Street. Witnesses report seeing at least 3 motor cycle cops, 5 patrol cars, 12 cops, and 4 private security guards.

Shortly after that arrest, LAPD officer #19855 and another officer used their batons to push Occupiers into a bolted-down garage can, a parked van, and into the streets.

According to Lt. Peter Casey, police are applying penal code 594, an anti-vandalism State law, as reported by Dan Bluemel for L.A. Activist. Demonstrators say LAPD and prosecutors would have to prove "malicious intent" to get any convictions.

Occupiers claim water-soluble chalk on sidewalks does not warrant probable cause for malice.

One arrestee wrote "I love the world" and then LAPD promptly arrested him.

"There's nothing malicious about chalk on a sidewalk," said the occupier, "and besides, sprinkles of light rain had washed away most of what had been written before riot police showed up."

As seen in yet [another amateur video](#), one male artwalker draws a heart with the words 'the police' next to the heart on the sidewalk as Occupiers read off California Civil Code 52.1, "The Bane Act", to at least 10 LAPD officers standing by.

The Bane Act provides protection from interference by threats, intimidation, or coercion or for attempts to interfere with someone's state or federal statutory or constitutional rights.

Four LAPD officers quickly detained the [unknown man](#) who drew a heart for the police, forcing him into the street. Video of the arrest shows Lt. Casey pushing on the back the unknown man's neck forcing his head down while 3 other officers push the man for behind.

"The man was freely expressing love toward law enforcement," says another Occupier, "How could that be malicious, evil, or immoral? LAPD was the only malicious ones at Artwalk. "

Occupiers say the LAPD are trying to threaten them with intimidation and coercion. Occupiers maintain that LAPD over reacted, used excessive force, and began the violence with arresting peaceful people without warning.

"Using chalk to deface public or private property is against the law. When a police officer tells you to stop doing something that is against the law, you need to stop." Chief Beck told news reporters.

Occupy activists say the LAPD personnel cannot even seem to agree on whether washable chalk constitutes a crime of vandalism.

LAPD Officer Karen Rayner told the Huffington Post “it’s not vandalism because it’s not permanent.” She went on to say that she really did not know though.

Timothy Paul Adams, from Orlando, was the fourth person arrested Thursday night. As LAPD arrested him, Adams told the arresting officers about his friend, Timothy Osmar, an occupier that Orlando PD arrested for chalk earlier in the year.

The city of Orlando spent \$200,000 defending the Osmar’s arrest, yet the courts sided with the occupier’s Constitutional Rights.

The Occupiers planned the evening with the goal of “having fun, staying safe, and reaching out”. In a briefing before what they call “Chalk Walk”, activists announced they were hoping there would be no arrests during Artwalk.

Occupiers remained peaceful while continuing their outreach efforts even after the first arrests, then riot cops showed up nearly three hours – and half a dozen arrests— later. Occupiers remained peaceful throughout the night.

Occupy LA has taken part in the monthly Artwalk each month since their encampment began on City Hall lawn last October. There had been other Occupy arrests at previous Artwalks, however, activists say this is the first time cops responded with riot gear and projectiles and violence on Artwalkers.

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RIOT POLICE DISPATCHED FOR CHALKING ARRESTS AT ARTWALK
Occupiers and Artwalk Attendees Blame LAPD for Excessive Force

LOS ANGELES – Thursday night, Members of Occupy Los Angeles say LAPD used excessive force and caused the most damage of what the media have dubbed Artwalk Melee. The Occupiers planned an event with the goal of “having fun, staying safe, and reaching out”. In a briefing before what they call “Chalk Walk”, activists announced they were hoping there would be no arrests during Artwalk.

Within minutes of Occupiers turning onto Spring Street from 5th Street, LAPD made their first arrest of the evening, Taylor Harrison, one of the only known occupy activists arrested amongst over a dozen arrests.

Shortly after LAPD detained Harrison, LAPD began pushing Occupiers who were standing on the sidewalk. Police pushed activists into garbage cans, parked cars, and into the street, then yelled at them for being in the streets.

Occupiers planned to hand out “Free Chalk for Free Speech”. Demonstrators came up with this plan in response to 12 prior arrests of Occupiers for chalking in the last 6 weeks.

The first chalk Occupy chalk arrests happened in conjunction to protests outside of the Central City Association (CCA), a downtown lobby groups, that lobbies against an LA City Council Resolution called “First Amendment Rights / Occupy Los Angeles / Responsible Banking Ordinance” back on October 12, 2011.

Carol Schatz, the CEO of CCA was 1 of 4 speakers who spoke out against the non-binding resolution. All four people who spoke against the resolution were paid lobbyists. While dozen spoke in favor of it who were not paid to speak.

The Responsible Banking Ordinance had sat in committee for over 2 years with no movement. The Occupy LA Resolution was the catalyst for jump starting the dying ordinance. The City Council eventually passed the Responsible Banking ordinance that just we into effect July 1st.

CCA members had lobbied against it up until it passed through council with an unanimous vote.

Occupiers feel the business lobbying group is using private and public law enforcement to repress their dissent against the way local lobbyists influence politics in Los Angeles and California.

Member of Occupy LA have a nightly encampment outside of Central City Association’s office at 626 Wilshire Blvd in protest of CCA’s lobbying efforts against small businesses, employees, low-income and families of color, along with the homeless downtown.

Occupiers say police went too far this time.

RIOT POLICE DISPATCHED FOR CHALKING ARRESTS AT ARTWALK

Please add to council file 09-0234-S1

Most of the arrests were people attending the artwalk and not associated with Occupy LA. In addition, most of the arrests were for chalking which the LAPD call vandalism.

Occupiers claim the LAPD started the violence and say if they were allowed to chalk, that none of the subsequent actions would have happened.

“The police provoked us,” said an unnamed Occupier, “We were all being peaceful and the police started the violence by using excessive force on arrestees and attendees”.

Before the cops in riot gear came out, there was a group of people including children playing hopscotch on the sidewalk on Spring Street between 5th and 6th Streets. There are reports that police were violent with some of the chalk arrests, shortly after 9pm.

“They arrested a woman for chalking,” Karolina Szymanska, an occupy activist, “They took her from the back and as they were handcuffing her they slammed her to the ground face first. She was a small woman there was no reason to use such force.”

LAPD had made at least 7 arrests by 9pm. By 10pm there were hundreds of LAPD officers in riot gear. They had to call in officers from the Olympic Division.

At least three people were shot with “stinger balls”. Two young men were shot in the torso and bleeding from the impact. Another young guy was shot in the face as he was walking into a 7/11 store.

“The LAPD shot indiscriminately into the crowd at close range,” said Szymanska, “I was trying to talk to the media and as we were talking a projectile was shot in between us”.

In a letter dated June 4, Carol Sobel, a Civil Rights lawyer with the National Lawyers Guild, explained to the Special Assistant for Constitutional Policing for the LAPD that the 9th Circuit unanimously held that “no chalk would damage a sidewalk” in *MacKinney v. Nielsen* from 1995.

“Given that this decision is now 18 years old, there is no excuse for these arrests,” states Sobel in the letter.

Occupiers say LA’s current graffiti laws do not reflect the Constitutional ruling yet. Activists point out that elected officials and police officers are sworn to uphold and protect the Constitution. However, many Occupiers feel individuals of these entities systematically repress their Rights.

Occupiers say that personnel within LAPD do not even seem to understand the law the same. Huffington Post reported that LAPD Officer Karen Rayner said chalking is not vandalism because it’s not permanent, but I don’t really know.

Occupiers say LAPD have made criminals out of peaceful people with such petty arrests.

To avoid prosecution, the City required dozens of Occupy LA arrestees to take a First-Amendment-Rights class administered through the City Attorney's office. Now, Occupy LA says it is the City that needs a lesson in the First Amendment.

The City of Orlando recently spent \$200,000 defending one chalk-art arrest of an Occupier in Florida. The city lost that case and activists say that the City of Los Angeles could waste millions of dollars defending the chalking arrests of a dozen peaceful people.

Occupiers believe the LAPD selectively enforces the graffiti laws against them while the City's own Parking Enforcement officers use chalk on the tires of vehicles they wish to monitor for time restrictions.

The activists also say that the police did not arrest any protesters at an anti-Walmart demonstration, two weeks ago, in downtown organized by Labor unions and other community groups. From photos of the event, it clearly had plenty of chalk art written on the pavement surrounding the activities.

Activists argue the chalk comes in packaging marketed for sidewalk use and that the water-soluble chalk does not cause damage.

Members of Occupy LA allege that City Officials violate Title 42 Chapter 21, subsection 1, section 1983 for Federal law and California Civil Code 52.1. They say LAPD officers— under the color of law— interfere with their exercise and enjoyment of their Rights by threats, intimidation, and coercion and subjects them to deprivation of their rights.

Occupiers say Courtroom witnesses have been threatened with arrest; Occupiers have been arrested for chalk art; and say they say they are victims of police misconduct.

Over six months after Envoys of the United Nations wrote a letter to the Obama Administration, the U.S. government has yet to response to requests regarding local repression of the Occupy movement.

Members of Occupy LA plan to push the issue with local and federal governments after alleged increase of Rights violations by LAPD.

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Campaign by Occupy L.A. for human Rights reaches out to art-walk goers in spite of LAPD
Occupy LA Activists hope its chalk-art campaign will hit LAPD in the pocket books and others in their hearts to raise awareness and encourage others to participate.

We see Rights being violated every day, around the world, and it makes us seethe, sob, and sometimes want to fight back. Sometimes we respond in masse and speak up for human rights.

Thanks to the wiki-leaked cables, revolution after revolution has popped out around the world, even if the media doesn't give them ample or accurate coverage.

Thanks to the Arab Spring, we had an American Autumn ushered in by anti-wall-street protestors.

We see things on facebook or twitter or email and we respond with a "like" or a "share" or a "retweet" or a "forward", in part because it's so easy. At our keyboards or on our cellphones, we can— with a handful of clicks— beam out our support and speak out against injustice without much effort.

Last year, the Obama Administration spoke out against the unjust treatment of protestors, by their own governments, in far off lands.

What's right in front of us is different. Sometimes we don't see. Sometimes we choose not to see. Sometimes we see but have no idea what to do.

Take the Occupiers in many U.S. cities. Maybe you even visited an encampment and attended some Occupy meetings yourself.

Do the Occupiers have Rights to Freedom of Expression? Do the Occupiers have Rights to Freedom of Assembly and Association? Is chalking on a public sidewalk really an arrestable offense or a violation of Rights? Are Occupiers' Rights being violated by local law enforcement? Is the Obama Administration keeping quiet?

A lot of us mull these questions and, failing to resolve them, do nothing.

The United Nations Special Rapporteurs responsible for Freedom of Expression and Freedom to Assembly and Association want to challenge that, at least with the Obama Administration regarding Occupiers. These U.N. Envoys sent an "[official communication](#)" to Secretary of the State, Hillary Clinton, at the end of last year, asking for a response to the reports of local law enforcement and governments violating Occupiers' Rights.

The Obama Administration has yet to respond to the U.N.'s request.

Activists fear the Obama administration has actually taken drastic steps against them by signing into law the National Defense Authorization Act which activists say could targets their rightful activities and lead to indefinite detention of American citizens on American soil.

Occupy LA plans to press the issue locally and nationally.

The Ninth Circuit Court of Appeals ruled "no reasonable person could think that writing with chalk would damage a sidewalk" in [MacKenny v. Nielsen\(1995\)](#).

The Fourth Amendment prohibits an officer from making an arrest without probable cause.

In addition, [Title 42, Chapter 21, subsection 1, section 1983](#) states any officer who subjects another to the deprivation of any rights, shall be liable to the party injured in an action of law.

please add to connect file 09-0234-51

California has a similar code on the books, Civil Code 52.1 which allows anyone who has been threatened, intimidated, or coerced from exercising and enjoying their rights to sue the violators for \$25,000 each.

The city of Orlando spent nearly \$200,000 defending a lawsuit from one Occupy Orlando arrestee earlier this year.

"It really is cheaper to respect a person's constitutional rights," said Mike Riggs, a reporter covering the Occupy Orlando case.

So Occupy LA has decided to reach out to a larger audience on their own terms, with a campaign designed to generate the most "likes" and "retweets" and "shares" and "forwards" on Facebook and twitter and email — and to educate the public on the breadth of LAPD's political repression against Occupiers and activists alike.

The campaign is centered on the First Amendment of The Constitution of America and focuses in on the U.N.'s "official communication" with some creative flares. Occupy LA asks people to donate to the cause by joining them a Jalisco's near Second and Main Streets after the Downtown LA Artwalk on Thursday. Occupiers will occupy the artwalk with their own political contributions to the festivities, called Chalk Walk, from 7-9pm.

Last month, after the first chalking arrests, Carol Sobel a National Lawyers Guild Civil Rights attorney wrote a letter to the Constitutional Policing Assistant at LAPD.

"Given the [MacKinney] decision is now 18 years old, there is no excuse for these arrests," Sobel states in the letter.

Yet LAPD has made a dozen more chalking arrest against Occupiers.

However, Occupiers say that the LAPD uses selective enforcement against them because the LAPD arrested no one for chalking at a permitted anti-Walmart protest organized by unions and non-profit organizations two weeks ago in Chinatown.

Not to mention, the city's own parking enforcers use chalk on private property each time they leave a water-soluble mark on the tires of vehicles they wish to monitor for time restrictions. However, it is illegal to wipe of suck chalk under certain circumstances, so driving and activist beware.

The Occupiers plan to chalk up downtown, in front of City Hall, Police Headquarter, and other spots around downtown, in exercise and enjoyment of their Rights.

"Mainstream media may have written off the Occupy movement since the encampments were violently disbanded last year, said a female Occupier, 19, who was arrested in the raid, "but a group of activists still meet and take action and use digital media to spread the word about our activities."

Occupy LA's plan is to widely disseminate chalk at this Thursday's Downtown Artwalk and video the project and to get local media to cover their efforts.

The dream is that the campaign will go viral and LAPD will stop blatantly violating their Rights.

"We need a safe space to express our political views." Another Occupier said.

A male Occupier, 22, who was arrested for chalking last week, says the campaign's message works for him.

"Our encampment was violently raided by LAPD," he said, "and now we're being targeted by LAPD for our activism."

Occupiers say public awareness is the key to stopping the LAPD.

Campaign by Occupy L.A. for human Rights reaches out to art-walk goers in spite of LAPD

"We need to get the word out there. I showed a bunch of my friends our idea and they thought it was awesome," he added.

It shouldn't take this kind of effort to make us see the need closest to home. But it does.

The LA Times featured an article about Weingart Center on skid row which has launched a chalk-art campaign to raise money for homeless services but as far as we know, the LAPD hasn't arrested any of them yet.

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Yesterday, an Occupy LA participant wrote an article compiling a list of video clips and photos of the arrests and injuries from Thursday's Artwalk. The video shows artwalkers getting shot, pushed, kicked, and slammed to the ground.

In the 6 weeks prior to Art Walk, LAPD had made a dozen arrests of Occupiers for chalking. The first arrests began outside of the offices of the Central City Association, a local lobbying group. Participants of Occupy LA have kept an encampment each night from 9pm to 6am in protest of their lobbying efforts.

On Thursday, July 19th, Participants of Occupy LA will take part in a PEACEFUL candlelight vigil to show solidarity for those that were injured, arrested, or mistreated by the LAPD. In addition, Occupiers will be mourning the loss of their Rights which, they say, law enforcement and government continue to kill off bit by bit.

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OCCUPY LA FILES COMPLAINTS WITH POLICE FOR 'CHALK WALK'
Occupiers say they were at Artwalk to Have Fun and Police Turned it into a Riot

LOS ANGELES— Participants of Occupy LA will submit complaint forms to the Los Angeles Police Commissioners at their weekly Tuesday morning meeting at police headquarters. The complaints cover actions officers took at Thursday's downtown artwalk including intimidation, being pushed with batons, excessive show of force, injuries, and violations of Rights.

Activists welcome to the public to file complaints for any LAPD misconduct from that night.

Occupiers say police started off with excessive show of force by deploying what appeared to be more than two dozen officers, one dozen on bicycles, five squad cars, and three motor cycles to make the very first arrest of the evening.

The contingent of about 30 Occupiers split up from Pershing Square around 7pm. By 7:15pm LAPD had Occupiers surrounded as they detained Taylor Harrison, one of the only occupiers to get arrested that night.

At 7:21pm, LAPD Officer with Badge # 19855, with a name like Ingaland, told a few officers on the northern end of the group to get people to move south. After a brief announcement, he and other officers begin pushing those on the northern end with their batons.

"Why are you pushing me?" one, preschool teacher asked Officer #19855. He met her question with more aggression. He could be heard screaming at her as he pushed her even harder.

LAPD pushed people into bolted-down garbage cans, parked cars, and into the streets.

Occupiers say this kind of force turned their evening of outreach into an emotionally charged stance for justice and fair treatment.

All Occupiers remained peaceful during this altercation and the entire evening.

"The police acted violent," says one Occupier pushed by officers with batons raised. "We were there to hand out flyers, talk to people about the chalk arrests and to have a good time".

At 7:35pm, the police started pulling back after the first arrest, and occupiers started outreach.

However, Occupy activists say that police used excessive show of force for each of the arrests. In addition, participants of Occupy LA say that at least 7 of the 9 vandalism arrests were made before 9pm, long before police in riot gear made it to the scene.

Activists also questions whether LAPD followed policy with using less-lethal weapons and giving dispersal orders.

Occupiers accuse LAPD of trying to intimidate them out of exercising and enjoying their Rights to freedom of speech, artistic expression, and assembly guaranteed by the First Amendment.

please add to council file 09-0234-51