

# Tech-Savvy Occupy Protesters Use Cellphone Video, Social Networking To Publicize Police Abuse

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George Orwell once wrote that if you want a vision of the future, "imagine a boot stamping on a human face -- forever." Governments have suppressed citizen dissent for as long as there have been governments and citizens to dissent against them. But over the last decade, it has become increasingly likely that someone will be there to document Orwell's predicted face-stamping with a cellphone and then post it to YouTube for the world to see. It's getting increasingly difficult for governments to get away with suppressing dissent.

At the Occupy Wall Street protests and their progeny across the country, protesters are using personal technology to document, broadcast and advertise police abuse like never before. Incidents of alleged police brutality are posted almost instantaneously. And nearly as fast come the ensuing campaigns to take the videos viral. Smartphones, laptops and tablet computers have in fact become so common at protests in the U.S. and elsewhere in recent years, it's easy to lose sight of how revolutionary it all really is. But it *is* revolutionary: For the first time in human history, hundreds of millions of citizens around the world carry with them the ability to not only record footage of government abuse, but to distribute it globally in real time -- in most cases, faster than governments, soldiers or cops can censor it.

Twenty years after George Holiday's grainy video of Los Angeles police officers beating motorist Rodney King spawned worldwide outrage and later incited riots across the city, last year's protests in Iran, this year's protests all across the Arab world and now the Occupy movements have all demonstrated just how far personal technology has come to

empower citizens to combat government abuse. Political leaders, police and security officials around the world now crack down on protests with the knowledge that their actions could and quite likely will be beamed around the globe. It's not only altering the balance of power and bringing new transparency and accountability to police and public officials, it may even be altering how police and governments react to dissent.

## **Eyes on the State**

"About 80 percent of the country now has a smartphone with video capability," says Jay Stanley, public education director for the ACLU's Technology and Liberty Project. "And there's really no question that it's having an effect. The macing incident [at the Occupy Wall Street protests] became as big a deal as it did because of the videos. The public visibility of these incidents has ratcheted up significantly."

As of this writing, a search of "police brutality" and "occupy" returned about 3,300 YouTube videos. If you've followed the movement, you likely know some of the notorious police actions by how they've been described on social networking sites: the [punch in the face video](#), the [scooter video](#), the [pepper spray incident](#), and most recently, the [flashbang/Marine video](#).

Carlos Miller, who runs the [Photography Is Not a Crime](#) blog and has himself been wrongly arrested for recording or photographing police on a number of occasions, has been documenting the way technology is moving power to people (and the government's push back) for several years. "The amazing thing about these videos is that as soon as the police start to use force, you see 15 cellphone cameras go up in the air," Miller says. "It's pretty amazing."

Smartphone apps like ["Qik"](#) and ["UStream"](#) now not only allow users to stream video in real time, but they also then archive the video. That means a copy of every user's video is preserved off-site. If police or other government officials destroy a phone or confiscate a memory card, there's still a copy of the video elsewhere. Users can also set up accounts to notify email lists or post updates to their Twitter or Facebook accounts the moment they stream a new video. Which means that even if police are later able to get into a protester's phone, access a "Qik" or "UStream" account, and delete an incriminating video, by that time dozens of people may have already downloaded it.

The power-shifting nature of cellphone video may be most prominent in the court proceedings that take place after the protests are over. In the past, courts, prosecutors and juries have mostly accepted police accounts of altercations with protesters as the official narrative. Now, in both criminal proceedings of protesters charged with crimes and in civil suits brought by protesters alleging police abuse, it's likely that any significant protest will have independent video shot from multiple angles to ferret out what actually happened.

Mara Verheyden-Hilliard is co-founder of [Partnership for Civil Justice](#), an advocacy group that represents protesters and activists in First and Fourth Amendment cases. "The

ability of protesters to document what they've witnessed has had an enormous impact," she says. "We've had cases in the past where police justified arrests or brutality with these completely false, fantastical stories. It would take months of painstaking litigation to demonstrate just how absurdly false the police account was. We now often have video, which cuts that process down considerably."

Video can not only disprove a false account of events, it also may discourage false police narratives in the first place. If the police know they've been recorded, and that the video has been preserved, they're far less likely to exaggerate or lie about the incident in their reports.

"It used to be the case that the only source of information about what happened was law enforcement -- maybe sometimes members of the official press," says Jim Harper, director of information technology for the Cato Institute. "That has changed. The law enforcement perspective is now just one of many. We've really seen a sea change in the relationship between control of information and access to power."

Verheyden-Hilliard's group has filed a class action on behalf of the 700 protesters arrested by the NYPD [on the Brooklyn Bridge](#) last month. NYPD officials claim the protesters were blocking traffic, and wouldn't exit the bridge when instructed to do so. The protesters say police led them across the bridge, allowed them into the roadway, but then blocked off both exits and began making arrests. How the resulting criminal cases and civil suits are resolved will almost certainly turn on footage from the [dozens of cellphone cameras](#) that recorded portions of the incident from various parts of the bridge.

In the pepper spray incident, NYPD Supervisor Anthony Bologna is currently on leave after videos posted to YouTube showed him spraying several protesters who had been penned in with a plastic police net. It's likely that more investigations and lawsuits based on citizen-shot video will follow. Prior to the Occupy movement, Miller documented dozens of incidents in which police accounts of events have been directly contradicted by citizen-shot video.

Of course, video can also work to the benefit of police officers. [While police unions strongly favor](#) laws and policies prohibiting citizens from recording on-duty cops, the sentiment isn't universal among law enforcement. Since I began writing about this issue a couple years ago, a number of cops have told me they welcome citizen video -- indeed that such videos have vindicated them or other cops they know from false accusations of brutality.

### **Citizen Video: Changing Police Tactics for the Better?**

It's less clear if mass ownership of cellphone cameras is changing the way police and governments actually deal with protests. That is, if the knowledge that any confrontation will be recorded and streamed around the world is persuading police to opt for more tolerance, or less aggressive policing. Despite a few high-profile incidents of brutality in the first few weeks of the Wall Street protests, and the recent violent crackdown on

Occupy Oakland protesters, there's an argument to be made that the aggregate police response across the country to the Occupy movement has been less confrontational and more respectful of the rights of protesters than one might have expected, especially in light of the overwhelming show of force at other recent protests, such as the [2009 G20 summit in Pittsburgh](#), or the [2008 RNC Convention](#), when police preemptively raided the homes of protesters and journalists.

"I don't think there's any question that the proliferation of cellphone video and the ubiquitous recording of everything that's happening is impacting policing," says Executive Director of the New York Civil Liberties Union Donna Lieberman. "If you look at the Bloomberg administration's decision not to clear the protesters out of Zuccotti Park, I think knowing that a confrontation there would be shown all over the world may well have impacted the city's decision to back down."

As Miller and others (including [this reporter](#)) have documented, the last few years have brought countless incidents in which police have illegally harassed or arrested citizens for recording or photographing them, or wrongly ordered citizens to turn off their cameras. But by most accounts, that doesn't seem to be happening at the protests, at least not on a large scale.

"Miami-Dade cops are some of the worst in the country," says Miller, who has camped out with the occupy movement in Miami. "But they've been nothing but respectful during the protests. I haven't seen any effort to suppress video. They've even bought protesters pizza."

Both Stanley and Lieberman say it's their impression that police in New York have also largely respected the right to record, though Verheyden-Hilliard says she's heard of at least a few cases of harassment and arrest for recording cops around Wall Street.

If there has been more respect for the right to record, it may be due to awareness. The spate of stories about arrests for recording police have resulted in campaigns [by the ACLU](#) and [other civil liberties groups](#) to make citizens aware of their rights if they're confronted for recording police in public. Earlier this year, the U.S. Court of Appeals for the First Circuit threw out the conviction of a man charged with recording police with an opinion that affirmed a First Amendment right to record public servants. In just the last year, state judges in Illinois and Maryland have also overturned similar convictions on First Amendment grounds. Those decisions, and the coverage of them, may have further ingrained the idea that cellphone cameras are now ubiquitous, and that in the overwhelming majority of the country (save for Illinois, and possibly Massachusetts), recording on-duty cops is perfectly legal.

But there's still some skepticism. Verheyden-Hilliard, whose organization is also representing protesters across the country in addition to those arrested in Brooklyn, isn't at all convinced that citizen video has forced police to adopt less aggressive tactics. "You would think the police *should* be less aggressive if they know they're probably going to

be recorded, but we've seen way too many incidents of brutality and false arrest at these protests for that to be the case."

To the extent that protests are less confrontational, or that a city like Washington, D.C., has seen little if any brutality at all, Verheyden-Hilliard says it's more likely due to the years of litigation over prior protests, which have set firm guidelines on what police and city officials can and can't do.

"We've been litigating in D.C. for years," she says. "Ten years ago you couldn't protest in D.C. without a good chance of getting beaten or falsely arrested. That's not the case anymore. And that's probably why we haven't seen many incidents with the Occupy protesters there."

Miller adds that the reluctance to harass citizen recorders may have more to do with the sheer number of cameras around than any newfound respect for the First Amendment among police and political leaders. "There's an amazing difference in attitude you get when *everyone* has a camera."

Cato's Harper suggests that if police and politicians aren't scaling back the more aggressive tactics, they should probably consider it, if not for the obvious civil liberties reasons, then solely out of self-interest. "I think some of these videos -- the pepper spray incident in New York and the wounding of the Marine in Oakland, especially -- have caused a lot of people who didn't have much reason to support the Occupy protesters to begin to sympathize with them."

Lieberman agrees. "I think you saw a lot of public sympathy move to the protesters after the pepper spray incident, the Brooklyn Bridge arrests and the show of force in Oakland."

### **Moving the Other Way**

There's also the possibility that the proliferation of cellphone video could cause police and governments to adopt tactics that suppress freedom of expression, such as attempting to stifle the flow of information by cutting off access to cellphone networks and the web, or [pressuring hosting sites](#) into censoring video. During the Arab Spring protests, the governments of Egypt and Syria both tried to shut down citizen access to the Internet, both with some success.

Unfortunately, that strategy hasn't been limited to dictatorships. [In August](#), San Francisco transit officials turned off the electricity to local cellphone towers to thwart planned police brutality protests at the city's train stations. [Apple recently published a patent](#) with the United States Patent & Trademark Office for technology that would enable the remote deactivation of cameras on the company's iPhones. The patent described using the technology to block concertgoers from streaming copyrighted material at live events. But if the technology exists, it isn't difficult to see how it could be used to shut down cameras at protests, or even adopted for individual police officers to prevent the recording of a specific encounter.

"There are always possibilities of government using technology for social control," says the ACLU's Stanley. "You could also have notifications and sensors that alert authorities to the location of protesters or people on watch lists. But for now, there's little public support for blocking access to networks. The public response to the BART incident was strong and clear that it was a mistake."

But public opinion can always shift. For example, it isn't difficult to see public support to at least give government the option to stop information flow in the case of a national emergency, or during an ongoing terrorist attack. That could quickly bleed into support for less serious emergencies, or to blocking technology during protests by fringe groups deemed dangerous or extremist (designations that are of course made by government).

Cato's Harper also worries about centralization. "Right now, nearly everyone accesses the Internet through just a handful of ISPs. As we continue to give government the power to closely regulate them, it makes the ISPs more susceptible to arm-twisting. And that means there's only a handful of places the government needs to go when it wants to control some kinds of information."

"So far technology has been able to stay ahead of government efforts at censorship," Harper says. "It will continue to be a race. But I worry that as governments start to pay more attention, they'll eventually start to catch up."