

“Arrests, Repression, and the 2004 Republican National Convention”*

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A number of scholars have recently attempted to intellectually bridge socio-legal research traditions with social movement studies. One understudied but highly important bridge involves the role of arrests in controlling protest. Building on classic research on this topic (e.g., Barkan 1984), recent work has questioned assumptions about what arrests empirically look like (Earl 2005), reexamined the effects of arrests on protesters and the movements that they represent (Earl 2005), and offered new hypotheses about how pre-trial and trial-related decisions might be made by prosecutors (Barkan 2006) and defendants (Earl 2005; Barkan 2006).

This paper focuses on a particular thread in this line of work: Earl's (2005) theoretical application of Feeley's *The Process is the Punishment* (1992 [1979]) to protest-related arrests. While discussed in more detail below, the core of Earl's argument is that much like the mostly misdemeanor defendants that Feeley so famously studied in New Haven, arrested protesters receive more punishment through the arrest experience and the pre-trial process than from the sentencing that might stem from a guilty verdict. Because this form of pre-trial punishment can be legally meted out by only meeting a very lenient probable cause burden, Earl argues that police are able to do in practice what they could not constitutionally accomplish on the books: criminalize protesters as a class.

However, Earl's (2005) arguments are based on evidence from arrests made during urban riots characteristic of the 1960s and 1970s and arrests made during a long labor dispute in Arizona. Thus, while her theoretical application of Feeley's work is intriguing, data limitations precluded the kind of rich empirical descriptions and tests of her arguments that would be preferred.

The present paper uses unique data to reexamine her arguments. Data are largely drawn from in-depth interviews with a small random sample of individuals who were arrested in relation to protests during the 2004 Republican National Convention (RNC), which took place in New York City from August 30, 2004 to September 2, 2004. Using these rich and unprecedented data, this paper shows that indeed the process was the punishment for the majority of those arrested during the 2004 RNC.

Existing Socio-Legal Research on Protest-Related Arrests

A growing number of scholars have been concerned with the intersection between social movements and socio-legal research over the last decade. However, most of that work brings socio-legal research into social movement studies by considering civil litigation (e.g., Handler 1978; McCann 1994; Rosenberg 1991) or by considering cause lawyers (e.g., Sarat and Scheingold 1998), not by considering the relationship between the criminal justice system and protest. When the criminal justice system is considered (Jenness and Broad 1997), this work is often focused on constructivist accounts of the meaning of newly passed criminal laws. I argue that an important and under-studied point of contact between social movement studies and socio-legal traditions involves what social movement scholars often refer to as state-based repression (Earl 2003).

In fact, recent work has shown that classic criminological and socio-legal research on the organizational characteristics of police agencies and the ongoing process of police professionalization can be productively applied to understanding various aspects of protest policing, ranging from how police develop new models of protest policing (Earl 2002), to how those new models compete with one another for adoption by police

departments (Earl 2002), to how police characteristics shape on-the-ground policing at actual protest events (Earl et al. 2003; Earl and Soule 2006).

This paper develops a particularly important application of classic socio-legal research to protest policing by further exploring Earl's (2005) analysis of the impacts of arrests on protesters and the movements they represent. For the purposes of this paper, there are four important issues raised by Earl (2005): (1) What do arrests and pre-trial detentions empirically look like? (2) What are the theoretical implications of those empirical findings in terms of the conceptualization of repression? (3) How do pre-trial costs affect defendants' decision-making about their criminal cases? and (4) What does understanding these pre-trial forms of punishment tell scholars about relevant differences between law on the books and law in action?

Empirically Understanding Arrests and Pre-Trial Detention

Earl (2005) argued that researchers need to collect more empirical data on the kinds of punishments that may be embedded in arrest itself and in pre-trial detention by asking such questions as “how much pain and discomfort might result from arrests?” (Earl 2005: 105) and “what costs does the process activated by arrests impose on protesters and the social movements to which those protesters are related?” (Earl 2005: 105). These questions resulted from her application of Feeley's *The Process is the Punishment* (1992):

Feeley documented the expenses associated with arrest and prosecution: bail and lost work time due to incarceration until bail was set and paid (or greater amounts of lost work if bail could not be made); legal fees for a private attorney or the opportunity cost of using a free legal aid attorney if a private attorney was not

hired; fees for investigative work; and significant financial burdens relating to court continuances as defendants have to repeatedly miss work and pay attorneys for short pre-trial court appearances (Earl 2005: 108-109).

In light of these significant pre-trial costs, which framed as a form of pre-trial punishment, he argued that for smaller offenses, such as misdemeanors, “the process is the punishment.” Choongh’s (1997; 1998) research adds to this by arguing that arrests themselves can be very physically difficult experiences, involving violence that occurs as part of the arrest, pain associated with handcuffs, and other physical or psychological abuse.

Earl (2005) applies these insights to protest-specific arrests and confirms these findings for the two empirical cases she studied. Specifically, she found evidence of violence during the arrest itself, physical suffering associated with handcuffs (including lasting physical damage), social embarrassment, discomfort from arrestees being subjected to extremes of hot and cold, limited access to food, water, and medical care, and, of course, experiencing the most obvious aspect of pre-trial detention: a lack of liberty. She also found that arrestees might have to post high bails before being released.

Earl also argues that mass arrests can exacerbate the costs associated with pre-trial punishment because jails often become overcrowded, which further deteriorates the already often unpleasant, and sometimes even dangerous, conditions in which arrestees are held. Additionally, the courts have historically been more lenient in accepting weaker probable cause justifications for arrests during mass arrest situations and have been historically more lenient in allowing exceptions to limits on pre-arraignment holding times and speedy trial guidelines. These accommodations to the police in mass arrest

situations, as will be shown later in the paper, can have very serious implications for protesters.

Earl (2005) also uncovered a set of costs to social movements as arrests of protesters associated with those movements accumulate, including diminished leadership as leaders are arrested and detained, diminished financial resources as social movement organizations (SMOs) spend money on bail and legal defense, and diminished legitimacy because the public often views arrestees as having broken the law, or at least as having done something to “deserve” arrest (Barkan 1984).

Summing these individual and movement-level costs, or pre-trial punishments, Earl echoes Feeley’s work in that she finds the pre-trial costs for individuals and social movements are often more significant than punishments meted out through sentencing. In part this is because very few protest arrestees ultimately are convicted, particularly in mass arrest situations, and therefore face no additional punishment. Also, even the minority of arrestees that are subsequently convicted are often sentenced to time served or are fined, such that few misdemeanor arrestees spend any additional time in detention (Earl 2005).

Questioning Commensurability: Reconceptualizing Repression

One theoretical implication of more accurate descriptions of arrests has to do with questioning the underlying theoretical conceptualization of repression envisioned by many social movement scholars. It has been common to argue that there has been a shift toward “softer” policing styles in Western democracies since the 1970s in which “softer” arrests have replaced “harder” police violence (Earl 2005). At a minimum, this framing of police styles that rely on arrests versus violence without arrests creates an implicit

comparison between arrests and violence: “the relative nature of the word *softer* (versus soft) builds in an comparison in which various styles of policing are thought to differ in degree, allowing one style of policing (i.e., violence) to be thought of as “harder” while other forms (i.e., arrests) are thought to be *relatively* soft” (Earl 2005: 102). However, Earl argues that this vision of “softer” arrests suggests that arrests are non-violent and thereby obscures “the physical reality of control and detention as if arrests cannot themselves be violent events” (Earl 2005: 102). Earl also argues that:

...this comparison emphasizes the *in situ* physical effects of police action, thereby minimizing if not entirely side-stepping the serious questions that exist about other effects and costs of different styles of protest policing. In doing so, prior work can seem to suggest that arrests are less detrimental to protesters and to movements when compared to police violence (Earl 2005: 102-103).

Some scholars have been even more upfront about their conceptualization of repression, explicitly casting arrests as less repressive than “direct force” (McPhail and McCarthy 2005), assuming both that arrests never involve direct force or subsequent discomfort and that direct force and arrests share a common metric on which they can be compared. Socio-legal research can offer an important corrective to research by social movement scholars who do not share a background in socio-legal research but whose research questions on repression have led them to discuss arrests by revealing the empirical and theoretical problems embedded in their “softer” vision of arrests. This correction involves both empirically showing that arrests are not typically “soft” and challenging a conceptualization of repression as a continuum, which assumes that

different types of repression are nonetheless commensurable.¹ I argue that an empirically rich and accurate view of arrests, whether protest-related or not, would find that arrests are not always, or even usually, conducted without violence and physical and emotional discomfort of varying degrees. Further, an empirically valid image of arrests makes clear that how one compares arrest and detention to violence without arrest is a normative determination, not an abstract theoretical question or a simple and unquestionable theoretical assumption (Earl 2005). Indeed, this paper joins Earl (2005) in arguing that it is better to think of arrests and violence as different in type, not degree, and to recall that both the dynamics that give rise to arrests and violence without arrests and the implications of arrests and violence without arrests may also vary in kind, not degree.

I argue that research on the RNC is a privileged site to study this set of arguments because virtually all observers would agree that the vast majority of protest-related policing during the RNC involved arrests, not violence without arrests. Thus, if other social movement scholars such as McPhail and McCarthy (2005) are correct and arrests are “soft,” then I should not find compelling empirical evidence to the contrary in this case. If, however, the New York Police Department (NYPD) is found to have acted harshly toward protesters precisely through their reliance on arrests, arguments about the relative softness of arrests can be more easily dismissed. Put most bluntly, the policing of the RNC suggests a simple empirical test: does this case look “soft” or not? This paper will argue that NYPD’s practices looked anything but soft.

¹ “The concept of commensuration implies that two different types of things can be evaluated against one another using a common metric, assuming that a common metric can be determined” (Earl 2005: 127).

Move On or Endure? Costs and Pre-trial Decision-making by Defendants

Another implication of an empirically valid understanding of arrests, pre-trial detention, and pre-trial process involves defendant decision-making. Feeley (1992) argued that the process of contesting charges against oneself increased the severity of pre-trial costs, and hence pre-trial punishments. For instance, a not guilty verdict might take multiple court appearances to garner, each of which would increase attorney fees and lost wages due to missed work. In such a situation, Feeley argues, defendants are forced to weigh the costs of exiting the criminal justice system—by pleading guilty, reaching a plea bargain, or simply failing to appear for trial—against the costs of continuing to contest the charges by pleading not guilty:

As these potentially substantial costs associated with arrest and prosecution mount, defendants weigh the costs of an uncertain day contesting the charges against them in court (after all, they could still be found guilty) versus the costs of pleading guilty in exchange for a lighter sentence. In Feeley's study, most defendants who pled guilty were sentenced to a fine that was less than their bail amount and little, if any, jail time. Taking these facts together, Feeley argued that the "process was the punishment" and that many defendants sought to lessen their punishment, ironically, by pleading guilty or not showing up to their trials (Earl 2005: 109).

Applied to protest-related arrests at the RNC, this suggests three issues that need to be considered: (1) does it empirically appear that most of the punishment was meted out before or after defendants were adjudicated guilty or not guilty? (2) did the already high costs/punishment of arrest and pre-trial detention, and/or the promise of increased

costs if charges were contested, affect how defendants made decisions about their criminal cases? and (3) for defendants who chose to contest the charges made against them, did they experience additional costs through the pre-trial process so that the bulk of their punishment was still meted out before trial? Data presented below will be able to address all of these questions directly.

Punishing Protesters as a Class: Law on the Books versus Law in Action

Earl (2005) noted:

An important implication of Feeley's work is the observation that the costs imposed on defendants through their sheer entanglement with the criminal justice system are imposed on the innocent and guilty alike. All who are processed by the criminal justice system bear these costs to varying extents, with those contesting their guilt bearing the heaviest burden (Earl 2005: 109).

Since all those who are arrested are punished through the process, whether or not they are innocent, and mass arrests at protest situations tend to involve the relatively indiscriminate arrest of those protesters, it would seem that law in action offers the possibility of criminalizing protesters as a class in a way that would never be constitutionally permissible as law on the books.

Although this perspective on protester-related arrests limiting the civil liberties of an entire class of speakers is novel, viewing arrests as a goal unto themselves is not new. In fact, Choongh's "social disciplinary" model of justice is built around explaining the non-negligible number of arrests and/or detentions that are not necessarily meant to generate legal prosecutions:

In these cases arrest and detention are used in order to achieve police goals as

opposed to criminal justice goals, and from the outset the police view the station as the end rather than the beginning of the process. Those arrested do not conceptually fit into legally accepted categories: they are detainees not suspects. Here, arrest activates a police system of summary punishment in which the police station becomes the site in which the on-going conflict between the police and particular individuals, groups and classes is played out. In this context, the police station is detached from the judicial process for which it is supposed to be the point of entry... It represents instead a self-contained policing system which makes use of a legal canopy to subordinate sections of society viewed as anti-police and innately criminal (Choongh 1998: 625).

Given the potential severity of arrest and detention, one might suspect that the police would have to meet high standards in order to initiate this potentially damaging pre-trial process. But, in fact, this model of police-based punishment can be initiated after only overcoming the relatively minor burden of probable cause. Put most simply, probable cause means that officers should reasonably believe that the person they are arresting has committed an offense or is presently committing an offense in order to make an arrest without a warrant (*US vs. Puerta* 982 F.2d 1297). This is a much lower burden than the civil trial burden of a preponderance of the evidence and a far lower burden than the criminal burden of beyond a reasonable doubt, and yet it is the only burden that stands between protesters and pre-trial punishment.

Further, in mass arrest situations, the courts have historically been very lenient in their assessment of probable cause, assuming that the exigencies of the protest policing render reasonable errors more likely such that police deserve more latitude in such

situations. Even when courts don't agree that probable cause existed, such a finding comes after arrest and pre-arraignment detention, and as such, cannot erase the punishment that had already been meted through that process. In a non-fiction work about a series of Arizona mine strikes, Barbara Kingsolver surmised in clear language the solace one might find in a subsequent exoneration after weathering a protest-related arrest: "being legally in the right did them [arrested protesters] no more good than if they had been pedestrians run down in a crosswalk" (Kingsolver 1989: 33). In what follows, I examine the applicability and validity of all of these theoretical arguments to the arrests made during the 2004 Republican National Convention.

Background: The 2004 Republican National Convention

The 2004 Republican National Convention was held at Madison Square Garden in New York City. The Convention was preceded by extensive planning by the NYPD, which included the development of a complex system for arrests, detention, and pre-trial processing. Based on statements by police officials before the Convention began, the NYPD expected to make hundreds, if not thousands, of arrests during the Convention. The NYPD intended to handle that level of arrest activity by having a large number of officers on duty, extending the length of some shifts, opening a temporary detention center at an abandoned bus depot called Pier 57, and creating a connected set of arrest processing centers at the Centre Street corrections and court complex.

In actuality, the NYPD made over 1,800 arrests in the days leading up to and during the RNC, including a day in which hundreds of protesters were arrested within a few hours. As will be described in more detail below, most arrests were made during mass arrest situations where tens to hundreds of individuals would be cordoned off by police—

using materials ranging from orange netting to temporary metal fencing to police officers physically creating perimeters with bicycles—and then taken into custody. Arrested individuals would then generally be sent to Pier 57 for preliminary processing which included the vouchering of property, preliminary identity checks, and limited security screenings. Protesters were held at Pier 57 for varying lengths of time, which commonly ranged from several hours to a day, and were then transported to a set of facilities at a correctional and court complex on Centre Street in lower Manhattan. There, protesters were fingerprinted and had their papers processed, and were ultimately arraigned or given Desk Appearance Tickets (DATs), which are summons given by police for a future court date. Although much more could be written about the overall policing strategy put in place by the NYPD, the counter-measures taken by protesters and supporters, and the actual protest events held during the RNC, due to space constraints, I have limited the foregoing background discussion to basic details of arrest-related expectations and processing procedures.

Methods

The massive number of arrests made during the RNC makes the RNC a rich laboratory for understanding the arrest, detention, and pre-trial experiences of protesters. The New York Chapter of the National Lawyers Guild (NYC-NLG) spearheaded a legal observer service at RNC protest events and coordinated pro bono and/or reduced cost defenses for arrested protesters. Their observers directly collected data on arrests from protesters, police, and court documents, culminating in a database on arrestees that included contact and case disposition information for 1,451 of the over 1,800 arrests that

were made (and case disposition data without contact information on the remainder of arrests).

The NYC-NLG agreed to forward a solicitation for in-depth interviews with the author to a random sample of arrestees for whom they had contact information. That random sample was stratified by case disposition type (e.g., acquitted, guilty, dismissed, etc.) so that I could potentially interview individuals with a wide variety of case dispositions. The sampling rate for each case disposition category varied by the number of arrests in that category (e.g., a 100% sampling rate was applied to the 37 individuals who had been acquitted and for whom NYC-NLG had contact addresses, a 10% sampling rate was used for the 884 individuals who had taken an Adjudgment in Contemplation of Dismissal (ACD)—discussed further below—and for whom NYC-NLG had contact information). This differential sampling rate allowed enough individuals from each category to be sampled, without swamping the study with a massive numbers of informants from large-N categories like ACD dispositions. The NYC-NLG also forwarded one follow-up solicitation to sampled arrestees.

Exclusionary criteria were used to determine eligibility, including: arrestees had to be over 18 years of age to be interviewed, their criminal cases had to be completed, and they could not be planning to be or currently be involved as a named plaintiff in any civil suits relating to the RNC. These criteria were used to ensure that interviews could not have any adverse impact on informants.

When individuals were interested in participating, they contacted the author through phone or e-mail and a phone interview was scheduled. Interviews were taped and lasted between 30 minutes and two hours. Interviews were semi-structured and included

questions on a range of topics, including the arrest experience, informants' transport and detention experiences, their decision-making regarding the charges against them, and the short and long term consequences for their arrest-related experiences.

Interview tapes and transcripts were stored anonymously and all below names are pseudonyms. Because so few individuals were ultimately convicted, to preserve the anonymity of informants I have indicated "contested charges" in lieu of the specific case disposition wherever informants were either convicted *or* acquitted. I have also redacted potentially identifying details, marking the transcript with "[redacted]" and including a non-identifying summary of the information in the brackets. Where an interviewer question is important to understanding the answer, it has been reproduced in parentheses in the transcription.

In all, 27 individuals were interviewed, which unfortunately represents a very low response rate for many case disposition categories. Nonetheless, interviews do seem to capture a wide spread of experiences and converge on many main elements, suggesting that even with 27 informants, I was able to capture much of the depth and breadth of the experiences that arrestees had.

Findings

As discussed above, many social movement scholars implicitly cast arrests as if they are separate from, and indeed alternatives to, police violence. From a socio-legal perspective, though, this assumption is clearly incorrect.² Earl (2005) challenged this assumption, arguing that arrests can themselves involve quite a bit of violence and that

² Even "on the books" police violence is only appropriate when that violence is occurring incident to arrest.

arrests lead to transport and detention situations that can also be physically difficult experiences. However, Earl's data were not able to probe this issue sufficiently since she did not have access to accounts by protest arrestees of their whole experience. The interviews conducted for the present project allow much more detailed access to the concerns.

Interviews with 2004 RNC arrestees suggest that arrests were at times quite violent affairs, whether those arrests occurred during mass arrest situations or in situations where only a few individuals were arrested at one time. One informant, Kevin, was arrested during a set of mass arrests made during the Critical Mass bicycle ride, which was held just before the convention officially began. Because he was arrested before the majority of arrests were made and held at the scene before being placed into a transport vehicle, he was able to remark on the scene he observed:

...they just started basically arresting everybody who they could get their hands on. Some of them... they [police] were violently pulling [riders] off of their bicycles...I got to witness the whole scene for at least 30 or 40 minutes, and I saw people thrown to the street by the police. They [police] were kneeling on their [riders'] heads, on their backs, um, two or three officers doing that. Trying to pull bicycles out from under people where the handlebars were wrapped around their legs. There was blood on the street. I saw, um, people had, um, wounds on their face from contact with the street. Um, I saw police officers throwing bicycles into the backs of trucks. I saw another officer jumping up and down on the spokes of a bicycle. Uh, some of the police were laughing, others were just, had extremely violent, agitated looks on their faces. Some were being restrained by other

officers. Uh, it just turned into a melee (Kevin, held at least 16 hours, contested charges).

Other informants reported violence outside of these mass arrest situations with police. Kyle, who was wearing his non-corporate media credentials, was trailing police with a camera crew as the police chased protesters on foot. Rounding a building, however, he and his crew found themselves accidentally running toward another group of officers, who he described as “running at full speed with batons in the air.” His violent arrest followed:

...rather than...try to explain...that we...were just journalists...our first impulse was just to run...‘cause they were right in front of us, running straight at us, looking like they were just going to beat us. So we...ran the other direction with everybody else they were chasing...everybody that I was with...managed to get away. Um, some of them got hit with batons a couple times but they all got away except for me...I was tackled to the ground and, by about, I don’t know...I guess...four or five cops...piled on top of me. Okay. Well, once they had, um, got me down to the ground, then, uh, they hit me with batons several times. They were, you know, being extremely vulgar and, and offensive and-. (Interviewer: Do you remember where they hit you?) ... they were, like, standing on my legs...But then they were mostly just like hitting [me] on the back with the batons, um, and, like, pressing my face against the concrete. (Interviewer: How were they being vulgar? What did they say?)...They were like, “Take that, take that, motherfucker” you know, “This’ll teach you” ... so then, let’s see, once,

once they had beaten me a little bit, they picked me up and they put me in a van, um, with one other person (Kyle, held for 20 hours, ACD).

Once protesters were arrested, they were placed in transport vehicles—which ranged from city buses to paddy wagons—and most were held on the scene awaiting transport to Pier 57. A number of informants reported witnessing the after-effects of violent encounters with police when injured individuals were placed in their transport vehicles:

We were left in the truck for a long time. They just kept putting more people in, including a person who was thrown into the back of the van, separated from the rest of us who were seated with our hands behind our backs, cuffed. Um, and this person was, was writhing in pain and, uh, and I mean, they literally threw him into the back of this truck, face down. And we were trying to talk to him, to try to calm him down ‘cause he was very agitated and frightened (Kevin, held at least 16 hours, contested charges).

Of course, not all of the arrests that informants discussed included this kind of violence in the actual capture of the arrestee. A large share of informants reported on mass arrest situations in which there was more confusion and wasted time than there was violence in the actual apprehension. Joseph’s account is typical:

I can remark a little bit on the confusion among police that I saw. Um, there was a fair bit of confusion as to whether or not we were even gonna be arrested. Um, we wanted to know, [laughs] because there was so much uncertainty until the end. And, most police, they’d clearly been instructed not to talk to us. Um, and so most of them did not. Um, some said, “No.” Um, some said, “Uh, I don’t know.” Um,

but when, uh, when the sort of violence started on the south side of the street, um, where I was, when I was on the north side, some police sort of broke away from the line that was keeping us penned in on the north side and started to go over there. Um, and, they, their, their higher-ups said, “No,” you know, “you stay right there.” And it, they were just, they looked like they didn’t know what they were doing. They would bark contradictory orders... I’m trying to remember a specific example of the contradictory orders: ... “Sit down. Stand up,” I believe was one of them. Um, yeah, or we would say, “What do you want us to do?” you know, “What, what can we do to avoid- to, to deescalate this and go home?” And there would just be no response... (Joseph, held for 24 hours, ACD).

In such situations, informants often reported that the more senior officers on the scene, who were distinctively dressed in white shirt uniforms (and therefore called “white shirts” by most informants), seemed agitated and acted less professionally or more questionably than the line officers (i.e., non-supervisory officers) at the scene. For instance, one protester reported having a flag taken away from him by a more senior officer, who was then talked into returning the flag by line officers who did not think the flag should be confiscated. Joseph reported specifically on the differences he saw between “white shirts” and the line officers on the scene:

...at the other end of the spectrum, um, you had this, uh, um, you had this guy, this, um, white shirt who was clearly, um, just, just doing everything possible to intimidate [us]... there was a woman wearing a, uh, a young woman, probably in her early twenties, wearing a, uh, bandana over her face and taking photos. And I saw him point to her and the next thing I knew, she was on the ground, with two

or three police on top of her and she was being dragged out. Uh, there was another man who was encouraging us to passively resist. Um, and when it became clear the he was acting in some sort of leadership capacity, he also was knocked down and dragged out, um, with, uh, less than, uh, less, with, with, uh, disproportionate force (Joseph, held for 24 hours, ACD).

This is not to suggest that protesters arrested in this type of situation did not experience any physical pain or discomfort relating to their arrest. In fact, in whatever manner one was apprehended—and however much violence that did or did not include—protesters were then cuffed, almost without exception, using “flexi-cuffs,” which are plastic ties often used by police departments in mass arrest situations. A major complaint about these cuffs has to do with the ease with which this kind of cuff can be over-tightened, causing a great deal of pain and sometimes even lasting physical damage to arrestees. In fact, informants commonly complained about their own cuffs, or about the cuffs of someone they directly observed in transport vehicles. Kevin was both cut by his flexi-cuffs and observed others who were experiencing a great deal of pain from their cuffs:

...the person sitting next to me was, um, a young guy who they had the handcuffs on so tight, and they were all, I mean, they're very painful. I don't know if you've ever had them on, but they're, they're exceptionally painful because they have very sharp, rough edges on them. They're just machine made, you know, pieces of plastic, just like cable ties. And, uh, you know, rectangular cut and it, it digs into your skin and, uh, I didn't realize it at the time, but at, when I got to the jail later, I saw that it had in fact had cut into my hand. And I had bled. Um, but this

person next to me was, uh, feeling very faint. And it was obvious that his cuffs were so tight and I repeatedly asked, um, to, you know, release these or- [but the officers said] “Oh, we can’t do that.” But it was obvious that they could. They had cutters and they could put others on. And they also had regular handcuffs, as part their normal uniform. But they refused to do it (Kevin, held at least 16 hours, contested charges).

Later, Kevin continued his discussion of handcuffs, noting that:

...the person who had been sitting next to me actually did pass out, he fell to the ground. And I was trying to help him, which is not easy to do when you don’t have access to your hands. And I asked his arresting officer to please help him, that he needed air, he needed water, he needed to have those cuffs removed, and he [the officer] said, “I can’t do anything for him.” They just let him lay there on the ground (Kevin, held at least 16 hours, contested charges).

Kevin also noted that even after other protesters had their cuffs removed, his were left on:

And so I asked, I said, you know, “I see a lot of people who’ve had them removed, can you please remove them?” And they just ignored me (Kevin, held at least 16 hours, contested charges).

When he was transported later, he was again cuffed using flexi-cuffs:

And now we’re back in the plastic cuffs again. New ones. And these, this time, it was so tight, I thought I, I was gonna pass out. It was so painful and already my wrist was cut from the first ones. Um. They shoved us into the seats and then drove like maniacs with this bus and, you know, I, twice I fell out of the seat, onto the floor of this bus. And people, you know, people were just banging back and

forth. And, you know, one person per seat. And there's noth-, nothing to hold on to, just slick seats (Kevin, held at least 16 hours, contested charges).

Kyle shared a similar experience of both his own cuffs and the cuffs of those around him:

And I sat in the van, um- oh yeah, and they put, um, the plastic, uh, handcuffs on me, which were excruciatingly tight... there was this one, um, African-American, um, guy who had been arrested and they put two sets of plastic handcuffs on his wrists. And they, they like tied them so tight on his wrists that the police couldn't cut them off because they couldn't get the scissors underneath the plastic handcuffs to be able to cut them... And they had to cut it off with a knife because they couldn't get scissors underneath it. Um, and the only reason they did that is because everybody on the bus, you know, had been complaining that this guy was basically being tortured for about half an hour. 'Cause he was, he was in, he was in extreme pain...his hands were completely swollen and purple and he was basically just like sitting by himself on the bus, whimpering because he was in really bad pain. Um, and other people had, had, like, really tight handcuffs, but I think his were by far the worst. And they eventually, after they cut off his handcuffs, they actually let him go...I had, I had severe bruises on my wrists for about a week after that...there was one part that was actually cut by them...

(Kyle, held for 20 hours, ACD).

Another informant discussed his experience this way:

Um, they were tight, but, um-. You know, I mean, it's miserable. There's nothing good about it. But, uh, I didn't feel in danger of-. I mean, there was, there was

major discomfort but, um, I, as a medical student, I waited to feel, I waited for them to go numb, you know, and they never did. Um, I mean, well, maybe they went a little numb and tingled, but it was never excruciating pain. (Interviewer: Did you have any bruises or cuts?) Um, yeah, there was some bruising. Mm-hmm (Joseph, held for 24 hours, ACD).

Another common experience reported by informants was that their own cuffs were not overly tightened, but that they observed overly tightened cuffs on others, which were often not addressed, or addressed adequately, by police:

...they were pretty tight but it wasn't, like, cutting into anything. Um, there was a girl who was sitting next to me in the paddy wagon and, um, she, I mean, her, I saw her hand, like, turning purple, um, from how tight they were, um. And that happened to quite a few people. Um, in fact while we were being transferred to, like, from the Pier to, um, 100 Centre Street, um, there was a girl in my paddy wagon who passed out from how tight the handcuffs were. Um, that was a complaint of almost everyone that was arrested. But it didn't actually happen to me (Gina, held for 44 hours, dismissed).

The same informant, Gina, indicated that she observed cuffs that were so tightly applied that the police injured the arrestee when removing the cuffs:

And the girl in front of me, um, when she went through security, the, um, the guard, uh, cut off her handcuffs but when she cut off the cuffs, she also cut the girl's wrist. And, like, it started bleeding and she, like, she screamed in pain and, like, you know, the guard was just like, "Oh, well you know that happens." And,

you know, so she was in a lot of pain from that, you know, with, like, her hand was bleeding (Gina, held for 44 hours, dismissed).

She also indicated that arrestees worked together to try to ease the discomfort they faced, even when police were not responsive:

... when we were sitting on the ground, like waiting to go in the paddy wagon, um, there was, uh, there was a girl next to me who, who was in a lot of pain because she had a backpack on. And, uh, like, her hands were tied behind her backpack and so it was really hard for her to, like, move her arms, they were kind of, like, stuck. So I kind of like used my foot to, like, move her backpack and then, I was having the same problem 'cause I also had my backpack on so she, like, helped me (Gina, held for 44 hours, dismissed).

Cuffs were not the only cause of discomfort for arrestees as they awaited transport from the scene. Some protesters reported having to stand or kneel for long periods, or watching others being forced to do so. Others reported that they were transported from the scene, and sometimes even went through processing at Pier 57, in discomfort that could have easily been addressed but either was not addressed or was not addressed quickly. Kevin's experience was typical of this kind of account:

... when I was being put in the truck, my glasses were shoved down on my nose. It was pinching my nose, it was hard to breathe and speak. And I had asked them "Could you, you know, at least move my glasses so that I can breathe?" And they ignored that for, I would say, at least an hour. And finally one of the officers pushed my glasses back up so I could both see and breathe (Kevin, held at least 16 hours, contested charges).

Transport from the Scene of the Arrest

Protesters were generally transported from the scene of their arrest to Pier 57 (and were transported later from Pier 57 to a facility in lower Manhattan). While many informants reported that there was nothing notable about their transport experiences, a minority of informants talked about varying levels of pain and discomfort during their transportation.

Ah! That was the nightmare bus. Uh, I mean not, it seemed like the way that—you know, this is a public bus, this is a bus that people take to work and all that kind of stuff—and it was being driven by like, you know, it was like they were going to kill us, uh, you know, they wanted, like, people to fall out of their chairs and, uh, you know, we couldn't balance ourselves because our hands were tied behind our backs, uh, and like purposely going over potholes. Uh, so that was, that was a little bit frightening but the spirits of people on the bus were high and we kind of laughed through the whole experience. Um, but I think it was, but people were, were definitely bothered by it, the way that the bus being driven and, you know, we were falling down and stuff like that...It was all right for me, uh, 'cause my, a friend of mine that was next to me and I were kind of pushing against each other to support ourselves. But for, a, a, there were some other guys that fell out of their, out of their chairs (Pedro, held for 24 hours, contested charges).

...and when we finally did start driving, it was apparently a—I was at the back but the people at the front told us—it was a policeman driving and clearly was not

good with the city bus. Um, I think he hit several cars and, um, he had to, he took about 45 minutes to make it around one corner (Joseph, held for 24 hours, ACD).

Pier 57

When arrestees arrived at Pier 57, they generally were unloaded from their vehicles and stood in line, while still handcuffed, waiting to have their property vouchered, arrest forms filled out, identity checked, and to be searched. After this processing, arrestees were placed into one of the several holding cells, or “cages” as many informants referred to them as, for between a few hours to overnight. The Pier was described as filthy by all informants. Typical descriptions of the Pier included:

And my absolute first thought—and I hadn’t heard anything about it ahead of time—was, this, it looks exactly like the pictures I’ve seen of Guantanamo Bay. Giant, square, chain link fences with, you know, razor wire, coils of razor wire, uh, around the top of it. Desks for police, you know, all over the place, and portable toilets here and there. Uh, but just rows and rows and rows of these cages that they had made...the ground was covered with motor oil and, uh, what looked like radiator fluid, well it smelled like radiator, it had that, it had that smell, and just all kinds of grit. Just everything was dirty. Dirt everywhere. And I saw somebody laying in it. And their arm was in what looked like this radiator fluid. And I said, “I really don’t think you ought to lay in it. That stuff is toxic and it, it could be corrosive, could burn your skin.” And, uh, you know and I looked around and I saw that, that’s what this, in fact, you know, that it’s obvious that vehicles had been parked in there because there were the characteristic stains

where if you'd had a car, or a bus, or a truck parked (Kevin, held at least 16 hours, contested charges).

...before I even got out of the paddy wagon, I looked out the window and, like, I saw a sign outside the Pier that said, like, um, it said something about having to, like, wear a mask while you're inside because there were a lot of chemicals in the air. And I was like, "Oh great." Like, you know, obviously, we're not going to have any masks or anything...the floor of the cell was really disgusting. It was, um, it was like dirt and dust with all kinds of chemicals in it. Um, there was one bench which could only fit, like, maybe 5 people. And the rest of us were either standing around or, like, sitting on the ground. Um, I mean, when we first got in the cell we kind of-, we really didn't think that we'd be in there for a long time, so we were just standing. And then we started, like, to get really tired and, like, people were sitting down. And then I was, you know, after like 2 hours I was like, "Well, I'm going to have to sleep at some point." So, you know, I figured I was gonna be in there long, for a long time. So I like laid down on the ground, 'cause I really didn't have anything else to do. Um, but- (Interviewer: And when you laid down on the ground, were the chemicals prominent enough that they stained your clothes?) Yes, like, right away they stained my clothes (Gina, held for 44 hours, dismissed).

I'm sure you've probably heard descriptions of the cells, you know, they're basically, like, there weren't, there weren't, wasn't anything to sit on or lay on or anything. Basically, just, you know, grimy, warehouse floor with motor oil on it. Um, so, we'd just sit there or lay there, if you didn't mind getting your clothes

dirty...(Interviewer: Did contact with the floor stain your clothes?) Oh yeah, in fact, I still have the clothes [laughs] from, uh, from that night. And I've tried bleaching them many times but they're still stained (Kyle, held for 20 hours, ACD).

The only informant who did not report that the Pier was filthy is also illustrative. He had been arrested very late in the RNC after complaints about the conditions at the Pier had been raised in the media. He reported that the Pier appeared freshly cleaned, that it smelled of detergent, and that inexpensive carpeting had been laid over some spots in the Pier. Thus, it would seem that this protester was arrested after the Pier was cleaned.

Beyond the generally dirty state of the Pier, informants reported that access to food, water, and bathrooms was regulated by officers, leading to a situation in which some arrestees had easy access to water and bathrooms while others had to wait for long periods before they could use the restroom and had water containers for their cells that ran dry:

We didn't have any water. There was a, a water cooler next to the fence of each one of the cages, but ours, uh, was a little hose thing, but ours was empty. The water thing was empty. And I, I reported that. They didn't care either. And I, I actually, it was extremely hot that day. But I hadn't had any water. I forgot to bring water with me on the [Critical Mass bike] ride, so I was really thirsty. I had nothing to eat that evening. I didn't have any water or anything (Kevin, held at least 16 hours, contested charges).

All reported that when food was available, it was generally inedible, including moldy sandwiches. For the vegetarians and vegans who were arrested, finding food that

they could eat was even harder, leaving many to report being hungry throughout their detention.

Transport from the Pier to Centre Street

After being processed and held at Pier 57, protesters were generally transferred by prison bus to a complex at Centre Street in lower Manhattan for further processing and release. Many informants reported that these transport experiences were particularly uncomfortable because the buses were often very hot. For instance, Marge who spent 3 days in jail on a violation for disorderly conduct that was ultimately dismissed, reported that the heat, the transport vehicles themselves, and the flexi-cuffs combined for a difficult ride:

Sometime during the next day, I think it must have been again late afternoon, we were filed out again, handcuffed again, and told to get into a police truck, a really hot and airless police truck, one of these things where you transport prisoners. I never want to be a real prisoner, they don't, they don't go in comfort. And this time there seemed to be a sadistic police officer who was putting on these cuffs, because everyone's cuffs were very, very tight (Marge, held for 3 days, dismissed).

Other informants also focused on the heat and the cuffs:

Yeah, it was extremely hot. Um, it was also, like, the middle of the afternoon, um, on a very hot day. And, uh, I think there were about, maybe 12 people in that van. Um, and, like each seat was, like, in the, in a little cage. Um, and the cages we were in were, like, so small that, like, it was extremely uncomfortable. Um, plus, they, they handcuffed up right before we went on to the bus, or, I guess, bus or

van, whatever it was. Um, and there was this girl in the back who, um, her handcuffs were so tight that, I mean, her, her hand was turning purple. Um, she was kind of, like, screaming in pain, like, there was nothing she could do. And we kept, um, we kept, like, you know, asking the officer to like help her out, just a tiny little bit. And, um, he was like, “Uh, well, you know, I’ll get to it later.” And it, it was really, like, unbearable just, like, watching how, how much in pain she was... But, um, then when we got to Centre Street, um- you know, we were still, like, demanding that this girl who was, um, in a lot of pain, like, be helped out. And the officer was like, “All right, I’ll be right back.” Um, so he stops the van outside, like, right before going in. Um, and just kind of left us in the heat for about half an hour. Um, he said she was, he would be, like, going in to get, um, the handcuff cutters. And were- we were waiting for there for at least half an hour. Um, it was extremely hot, we could barely breathe at all. Um. We were all just kind of delirious at that point because it was just, like, so unbearably hot. Um. And then when he finally, like, let us in, there were a lot of cops just, like, right there. And, they were, like, trying to be cheerful. They were like, you know, “Hey guys, how was the ride?” And we were just, like-, there were, there were a bunch of people who were in the van with us that just started yelling at the cops, like, “This girl’s been in pain for so long,” you know, like, “What do you mean, ‘how did we enjoy the ride?’” like, “We were just sitting in the heat for half an hour, we can barely breathe at all.” Um, and they were just kind of like, like they were laughing at us. They were like, “Oh, well, that’s what you get.” (Gina, held for 44 hours, dismissed).

I would say, it must have been, about, over 100 degrees inside of the small, kind of, van that we were in, with no air conditioner. Um, and, uh, we sat there, with our hands behind our backs for a very, very long time. Maybe 2 hours.

(Interviewer: Before the van started moving?) Yeah, yeah, it was sitting inside this exhaust, on and, you know, inside of this kind of garage area and there was, um, you know, two individuals that were, when inside of this van, put into small, confined areas where they were, they had no room whatsoever. And they were completely just, they were paranoid. And they were, they were, I mean, they were very disturbed and they were crying and yelling that they needed to get out because the space was so confined in the van. You know, like, a little cell, inside the van and they were handcuffed inside of it.... (Interviewer: Can you describe the drive to central booking?) It was similar to the, uh, bus drive that we had had, uh, where the police officers, you know, I don't even think they were obeying stop signs, uh, or traffic lights and they were just, you know, racing, uh, over potholes and driving aggressively, taking turns quite fast, until we got to Central Booking, where we sat in the transport vehicle for, like, another hour or so, waiting to get out... (Pedro, held for 24 hours, contested charges).

Centre Street and the Tombs

Arrestees were then taken to a complex at Centre Street, and some were housed in the so-called Tombs. Although not comparable to the Pier in terms of chemicals and disrepair, arrestees nonetheless found the conditions to be quite bad:

The walls and floors had, looked like they had never been cleaned. I mean, where you have aged, old grease and dust which has congealed in kind of a slime on

stuff. Uh, the cells themselves, uh, probably had superficial cleaning, because you didn't see dust, but that could just be because of such high turnover...the whole time I was there, which obviously was a long time...more than one shift for workers... no one cleaned the toilet or anything. Um, it just was completely filthy. I mean, I, I really, you know, I, I don't think I'm more than average in my tolerance of public lack of hygiene, but this was exceptionally bad (Kevin, held at least 16 hours, contested charges).

Arrestees also remarked on the cold temperature, which some reported being so bad that they tried to persuade the guards to provide them with trash bags to use as blankets. One informant discussing the temperature also discussed the lack of access to information from police that was characteristic of most arrestees' entire experience:

It was just dirty. Um. Dirty and cold, very, very cold. Um, you know, it was this weird contrast of it was summer outside still so everyone's wearing a lot of light clothing and we were sleeping on a really hard, cold floor. And, um, a lot of noise, incredibly noisy. And, the police officers who were there were very, very snappy, very cold, very, um- no one seemed to be in a hurry, the entire time. And so when you'd ask a question, and it was sort of, you'd get a very nonchalant or very biting response from whomever you asked (Jessica, held approximately 46 hours, dismissed).

Once in the complex, arrestees tended to be moved from cell to cell as they were further processed. That processing, from the informant's perspective, involved fingerprinting and identity verifications, but according to court documents arrestees were also moved from cell to cell as internal documents for police and prosecutors were processed.

When arrestees were moved, they tended to be moved in groups who were connected in a chain-gang with metal chains and metal wrist cuffs:

And they brought us in and, uh, it, at that point, it was about, mmm, I want to say 3:30 or 4 o'clock in the morning. And they never really let us rest because the same thing would happen. They would put a group of people into a cell, up to 20 people, occasionally call somebody out, after- We weren't handcuffed inside the cell, only when they took us out, which was frequent. They would, again, put 6 or 7 people in chains, with regular handcuffs, with the chains on them. Lead us up stairs, down stairs, through hallways, and then put you back again. I don't know if that was considered exercise or what it was, but just giving us a tour of the interior of the Tombs, which was, you know, the most unbelievably filthy and decrepit place I've ever seen. You know, absolutely no light, it's so filthy (Kevin, held at least 16 hours, contested charges).

And they always put you through, you go through these endless hallways. And then they end up, they, they photograph you, they take your fingerprints. You know, oh, and the other thing is when you're transferred, when you're going through these halls, you're in a chain gang. So, again, for something the equivalent of a parking ticket, this is, you know, it was, it was totally out of proportion (Bill, held for just under 24 hours, ACD).

Access to food, water, and a restroom was different at the Centre Street facility than at the Pier. Many informants reported open toilets in their cells to which they had regular access but which afforded absolutely no privacy, water sources that were in the

cell but were sometimes too weak or too unhygienic to use, and similarly poor access to food as had occurred at the Pier.

It's unbelievable. Nothing worked, you know, the water doesn't work and the, you know, they all they have is the open toilets with a water spig-, not even a spigot, just like an open little pipe that water was dribbling off of. And if you wanted to drink, you had to put your mouth on it and it's right, right on top of the toilet. So I decl-, even though I was extremely thirsty, I declined to do that (Kevin, held at least 16 hours, contested charges).

Kevin also discussed problems getting access to appropriate meals, in addition to problems with access to water:

And there was a sign in the, in the cell that said "Alternative meals to be provided on request," if you are kosher or Hillel or whatever. And I said, "I am a vegan. I cannot eat meat or dairy products." And an officer said, "Oh, no problem. They'll, they'll get you something else." So, at about 5 o'clock, they handed out little, tiny boxes of cereal like you would see in a, a diner or something for breakfast, the kind where you pour the milk into the box, and little things of milk. I said "I, I can't drink milk. Don't you have water? I would just be satisfied with some water." They gave me a plastic cup [but] I couldn't get it [water] out of the supposed water faucet because it wasn't coming out strong enough to put it in to one [his cup]. The second time they brought us out and put us in chains,... they took the cup out of my hand, took it and threw it away. So I never saw that again. I didn't have a drop of water the entire time I was there, which was 16 hours. Plus, the time prior to that, during the [Critical Mass bike] ride and while I was

waiting to be taken away, so, you know, I almost went an entire day without a drop of water (Kevin, held at least 16 hours, contested charges).

Because individuals were held for such long periods—ranging up to 3 days for people I interviewed—sleep deprivation became a large issue for a number of informants. Many informants, as discussed above, chose to stand or share very limited bench space at Pier 57 because they did not want to sit or lay down on the chemical-smearred floors of the Pier. This meant that by the time many arrived at Centre Street, they were quite tired and many reported trying to make do by sleeping on whatever they could find. A few informants reported having mats placed in their cells, but this was an uncommon experience with most having to sleep on benches or on the floor. Alice, an older woman, reports on her experience with these mats:

...the last cell was on another floor, and we had maybe 25 women in that cell.

There were many women in all of these cells... she [a female officer] said, anyone who wanted to sleep, she was going to put some mats out in the cell... So, I went for that. I got about half of my body on that thing, the other of my body on the floor. It really was not big enough... (Alice, held 46 hours, contested charges).

One of the male informants I interviewed indicated that he had heard that some female arrestees were given mats, but that no one in his cells was offered mats.

The conditions were even more difficult for individuals who needed medication or had an acute or chronic medical condition. Informants had two broad kinds of experiences in this respect: some informants asked for medical assistance, or saw others ask for assistance, and were ignored by police; others asked for and received or were directly offered medical assistance by police. In either case, virtually all informants that

talked about medical access were told by police that if they opted to receive medical care, they would have to restart the entire detention process, which would lead them to be in jail for at least another day, if not more. This threat was enough to dissuade all informants I spoke with, except one. The one informant that still requested care was not, in the end, taken to a hospital after repeated requests, although he was seen by someone identified as a nurse who determined he was not in an emergency situation.

Alice was typical of informants who took chronic medications but had to forego those medications because of lengthy detentions. She suggested that at first she thought it would not be an issue because she assumed she would be released quickly:

By now, I had no medication but each time I was being told I was going to get out. So, I figured “well, that’s alright.” Certainly, by tomorrow morning I will get out. Certainly. And the next morning came... I finally got out, after again going back down for some other foolish thing and being on line for some other foolish thing... at about short of 7 o’clock that evening. So, we are now talking about 46 hours (Alice, held 46 hours, contested charges).

Some informants did request help. Kevin’s account illustrates the dilemma that many arrestees faced in deciding whether they wanted medical care:

And they [the police] said, “Does anyone here have a medical problem?” Well two of us in the group said, “Well, we have [redacted chronic illness]” And they said, “Well, do you have medicine with you?” And I said, “No, I don’t. I left it at home.” And he says, “Well you have a choice. We can take you to Bellevue Hospital. But, that w-, after you’re treated, we’ll have to start the process all over again. So it, it will mean, you won’t be getting out of here at all this weekend.”

And then another officer said, “Well, I don’t think anyone’s going to be out of here before Monday anyway.” So it’s early Saturday morning. So now I’m starting to worry... (Kevin, held at least 16 hours, contested charges).

Threats about restarting the detention process were even made to arrestees who the police identified as needing medical assistance:

The medical professional immediately asked me if I wanted to go to the hospital, uh, because I was looking pretty bad at that point, you know, I had, like, dried blood and puss all over my face. Um, in fact, um, when I, when I had first been arrested...I asked the police...if I could go to the hospital or have an ambulance or whatever and they assured me that I could. But of course, you know, that didn’t happen because, basically, nothing the police told us was true. You know, they would just tell us whatever we wanted to hear to get us to be quiet. Um, but he immediately, this was, you know, this was, at this point, I had been in jail for at least a dozen hours or so—or I had been detained at least a dozen hours or so—and that was the first time that anyone had actually offered me, uh, legitimate, you know, uh, medical care. Like, he, he asked me if I wanted to go to the hospital because I looked pretty bad. But I said, you know, at this point, I definitely didn’t want to go to the hospital because then that means that, you know, after I got out of the hospital, I would have to go through the entire procedure again and have to, you know, go through the, I’d have to go back to jail and go through the whole processing procedure and start at the end of the line again and basically, you know, I’d have to spend who knows how many more hours going through the whole thing. So-. (Interviewer: Did someone specifically tell you you’d have to

go through it all again?) Yeah, yeah, well I asked him, you know, when he said that, uh, asked me if I wanted to go to the hospital, I was like, “Well, if I go to the hospital and then they bring me back, um, then what happens?” And he’s like, “Well, basically you have to kind of, you have to get at the en-, at the end of the line again and go through the entire processing from the end and so you, you basically, you know, have to spend another day in jail.” So I, I passed up that, you know, ‘cause, you know, at that point, it didn’t matter anyway (Kyle, held for 20 hours, ACD).

A few informants reported begging police for medical assistance for another arrestee to no avail, including informants discussing a fellow arrestee fainting and not being assisted by police who saw the arrestee fall to the ground unconscious. Kyle, who observed a serious medical situation on his transport bus:

One of the other people that was arrested and was on the, the city bus with me, um, he had some type of illness, I don’t remember what it’s called, um, but...it’s basically, like,...he doesn’t have a colon and so he has to have, he has like a bag, you know, that he carries under his shirt. Um, and he, after he was arrested, he was really sick. Um, and he kept, like, asking the police if he could get some water, ‘cause he was really sick and he was gonna throw up. And they wouldn’t, they basically, like, wouldn’t even acknowledge that, you know, he was saying anything, just ignored him the entire time. Um, but then, you know, finally he threw up a few times on the bus and they cleaned it up but pretty much ignored him otherwise. Um and then-(Interviewer: Even after he vomited, they didn’t offer medical treatment?) No, they did-, they wouldn’t even offer him water. All

they did was, um, like, wiped up some of the vomit and then left him alone. Um, and then once we finally got to the Pier, um, everyone in the bus was trying to convince the police to let him off first because he was ill, but, um, they just ignored everybody. And they actually, um, ended up letting me off first, I think because I was, like, the most, um, bloody of everybody on there. [laughs] So they let me and then that other guy off that, that I was sitting with [the other man who was also bleeding]. And then they let everybody else off in whatever order they were sitting (Kyle, held for 20 hours, ACD).

There were only a few incidents where informants reported receiving or observing medical attention, but even those incidents suggest a concern for liability on the part of police. For instance, Kyle, who was bleeding as a result of his arrest, had his wounds cleaned and bandaged when he arrived at the Pier, but otherwise received no medical care until his wound became pussy, as described above. Joseph described what he observed in one his holding cells at Centre Street:

Um, he [a man in his cell] seemed to be tweaking or something. Um, he loudly identified himself as Osama bin Laden and, uh, you know, I, I suspected that if I looked closely, his pupils would be all the way dilated. Um, and, at some point, he just sort of fell asleep, um, and, um, I don't recall why it was but they, at some point, they realized that he was non-responsive. Uh, and they came in and they got him and they took him across the hall to a, uh, uh, god, to, sort of a, they brought in paramedics in sort of a make-shift examination that we watched. Um, and it seemed- and the police were clearly scared by this. Um, they said, "Please," you know, "If anything like this happens, let us know. Like, we want, we don't

want people getting hurt. Or, we don't want people dying in here." Um, it was, I'm sure it was a combination of liability and, uh, you know, to some extent, genuine concern, but I'm sure it was largely liability concern. Um, he was subsequently okay. I mean we saw him. It took him a while for him to start moving but, um, later we saw him walking around (Joseph, held for 24 hours, ACD).

Of course, all of this skips over one of the most basic elements of detention—confinement—which also took its toll on informants I interviewed:

I was uncomfortable. Um, I was, uh, you know, there was no freedom of movement and we were overcrowded inside of the pen. Um, there was no privacy to use the bathroom. It was uncomfortable (Pedro, held for 24 hours, contested charges).

A number of informants discussed the difficulty of passing time in jail, with Joseph remarking that “the tedium was, was excruciating.”

The difficult experience of being confined, and being bored while also physically uncomfortable, was compounded by the uncertainty about when arrestees would be released. Alice, who was held for 46 hours, consistently asked when she would be released:

I would ask the police woman, “How long is this going to be?” ...each time I was told that usually once you get up to that point, it is not bad, a couple of hours, not that long... (Alice, held 46 hours, contested charges).

Despite regular promises of only a couple hours more, Alice continued to languish in jail. Others also reported on the uncertainty and the difficulty of passing time:

Um, I couldn't really tell you how I passed the time, except in watch those minutes go by. Because it's, for, for people who are not used to this, to be doing nothing for three calendar days is, is very difficult. ...And nobody ever knew what was gonna happen to us. Nobody knew where we were going and how long it would take and, and what would go on (Marge, held for 3 days, dismissed).

In recounting her experience, Marge remarked that she had never considered that she might be detained for so long:

...I had no idea that I would be in custody for the better part of three days. Uh, that never crossed my mind. I certainly thought that I would be arrested and taken somewhere and let go. I had no clue as to what was gonna happen (Marge, held for 3 days, dismissed).

Marge also described how the uncertainty was worsened by the conditions of detention:

We stayed in that other cage [at Pier 57] for what seemed like ages. And I can't even think- it must have been into the next day. And we, we saw other people being led out to buses. And we weren't being led out to buses. Nobody would answer the questions that we had. Uh, people were beginning to get a little frantic. People didn't have their, their medications. People were cold. People were ill. People were, were not feeling good. I have to say, I slept very little. I refused to lie on the ground, um, and so I stood most of the time (Marge, held for 3 days, dismissed).

Uncertainty extended beyond the time one would be in jail; the vast majority of informants indicated that they did not know what they had been arrested for or what they

were charged with until well into their detention, with many reporting that it was not until they had been moved to Centre Street or until they were released with a Desk Appearance Ticket (DAT) that they found out the charges against them.

For those who were not arrested with friends or a support group, or for those who were separated from friends during detention, the isolation was even more difficult:

I think the thing that disturbed me was that I didn't know any of the people in the group that I was arrested in before getting arrested. So there was really no one to talk to (Alice, held 46 hours, contested charges).

I felt kind of funny that I was the only person in my group to get arrested and I kind of wished, like, somebody else had been arrested with me [laughs] to keep me company. But the people that I was on the bus with were pretty friendly (Gina, held for 44 hours, dismissed).

Many informants talked about taking solace in conversations with other arrestees who they had not met before their detention. The camaraderie that developed across their detention experience was notable for many.

Some informants remarked on the dehumanizing way they were treated by police, which added to arrestees' physical and psychological distress:

And they used different- they never referred to us as people or, or anything like that. They, they had weird terms like...well, at one point they called us "meat," just meat. Um, units, they just very, you know, non-personal terms, or terms meant to be degrading in some way (Kevin, held at least 16 hours, contested charges).

Remarking on the same phenomena later, Kevin continued:

Uh, we were, the, uh, prisoners or whatever—I, I wish I could remember the exact term that they used to describe us but it was extremely dehumanizing [laughs].

Well, you know, “meat” was used a couple times. But, uh, they referred to us as “this.” “What do I do with this?” That was the term they used sometimes (Kevin, held at least 16 hours, contested charges).

Some reacted to this experience with anger, others with sadness, and many with a sense of overwhelming helplessness. Pedro captured this emotion when he said:

I was helpless. Uh, I, I felt helpless. Um, I felt, um, I was, I was angry, uh, because I could not, uh, change the situation in which I was in. Uh, and I couldn't fight back. So, I felt I couldn't, I felt like I was overwhelmed by, by, by the police, um, and, you know, fighting back was, was just futile at that point, because there was so many of them and, you know, they were armed. And, and, and, and, and, you know, they, they were, these guys were armed, armed brutal, brutal men, for the most part, that, uh, they didn't recognize anyone's humanity there. Um, and, and fighting back wouldn't, would've, wouldn't have gotten me anything. So I just kind of felt like I was, you know, pretty helpless (Pedro, held for 24 hours, contested charges).

This helplessness may have been compounded by the feeling of many protesters that even their lawyers could not get access to them. Some talked about police taking action to prevent legal observers from getting the names of arrestees. For instance, Marge discusses the windows of her transport vehicle being closed by police when legal observers yelled through the windows asking arrestees to yell back their names and contact information:

They closed the windows on the bus because the people, I guess, the organizers were trying to get our names. And closing the windows of the bus was a way to keep that from happening. So it was an unpleasant situation (Marge, held for 3 days, dismissed).

Other informants reported that the police attempted to take away phone numbers for legal assistance organizations, such as the National Lawyers Guild. Some informants also reported that they were under the impression that to talk to a lawyer, they would have to restart the detention process, as arrestees were told would happen if they requested medical assistance:

No, I wasn't offered an opportunity to speak with an attorney. Although, well, when, um, when they took me down there the time to sign the piece of paper, you know, basically, like, I, I think they said, like, if we wanted to we could talk to an attorney before we signed it but, you know, we'd have to go through, you know, another, basically, like, we'd have to, they'd have to start the whole process over. Like, they would have to take us out of the, the processing queue, basically, and have us, you know, contact our lawyer or whatever and start us over from the beginning (Kyle, held for 20 hours, ACD).

Occasionally, informants reported even more egregious and obvious attempts by police to cause psychological distress and a sense of being held where no one could see what was happening:

They, at one point, they led us, in chains, and stood us outside of a, a medical examining room, at which we could hear people crying out either in pain or discomfort. And, and a person came out with extremely filthy rubber gloves on,

latex gloves, like examining gloves. And we all thought, oh no, you know, they're gonna, they're gonna do some probing or something. And a female officer came by and walked up and down. "So, these are the, these are the protesters. These are the bike criminals. Yeah, we've heard about them. Well, welcome to the police state. Welcome to, to, uh, the fascist state." And then let out this, uh, like bloodcurdling laugh. And they were all having a, a big hoot over that one. We didn't end up getting examined, but that they obviously were parking us there just so we would feel like we were going to (Kevin, held at least 16 hours, contested charges).

Professionalism and Bureaucracy

A few informants reported more positive experiences with at least some officers, particularly their arresting officers. Jessica's remarks stand out in this regard:

My arresting officer, who I actually ran into the other day, ironically, was a very nice guy. Um, he was very kind. He said he was really supportive of what we had all been doing and that he, he felt that, you know, we had every right to do what we had done. And he was frustrated with the City of New York for making such a push to keep protesters off the streets. So he was interesting and very open about how he felt about the whole procedure. And ended up taking very good care of us, staying on after his shift to make sure the five of us, um, that we were okay (Jessica, held approximately 46 hours, dismissed).

Even when informants did not have that kind of positive relationship with officers, they occasionally remarked on responses that they considered professional. Joseph was the informant who had his flag taken away and then returned, and he viewed

the return of his flag as a sign of professionalism. He also spoke of another incident where he thought police officers exhibited their professionalism:

...other professional, other aspects of professionalism I saw were...an officer, um, finding a superior so that he could, uh, uh, cut the plastic cuffs off someone who had, who had, upon whom they'd been clearly put on far too, put far too tight and his hands were, um, turning white. This individual, for what it's worth, was hardly cooperative, uh, throughout most, most of the time, um, but, you know, the plastic cuffs were clearly put on far too tight... Um, and, uh, that was the point at which I saw, um, them cut the, uh, plastic cuffs off the guy who had clearly had, uh, had them put on too tight, uh, after, after some delay, for what it's worth. It wasn't a, it wasn't an initial or immediate medical response or anything of that sort (Joseph, held for 24 hours, ACD).

More common, though, were experiences that sat between the poles of entirely unresponsive police and professionalism, with informants often remarking on the almost bureaucratic nature of their processing. Joseph, who remarked on professionalism above, also noted: “[i]t was, uh, a long and confu-- sort of Kafka-esque maze of, uh, of bureaucratic ineptitude.” He elaborated:

...what I was struck by most, most of all, was that these people were workers, um, that, uh, they just had a job that they were being, that they were doing. Um, and they didn't want to be there anymore than we did... But, um, the banality of it all was what struck me (Joseph, held for 24 hours, ACD).

However, informants experienced this bureaucratic approach to their arrest as a very negative aspect of their experience. Joseph continues:

I knew it was going to be long and tedious and painful and I was going to be, uh, inconvenienced to the point of psychic distress. But, um, and, and it was also just clear to me, you know, what, it, it didn't make me afraid, but what made me angry was they were so clearly keeping us off the streets on any pretense. Um, and, and that, uh, and that, that was just infuriating. You know, I was not there to sit in [a] jail cell, I was there to register my dissent. Um, and for them to, uh, be detaining us in this, uh, deliberate or, or, or unintentional bureaucratic maze was, uh, was infuriating (Joseph, held for 24 hours, ACD).

Summing up his take on the situation, Joseph said:

...it seemed designed to make us the most uncomfortable they could without explicitly making it look like they were trying to make us uncomfortable...but it was sort of lack of interest in our well being more so than, more than an, more than, uh, that struck me than any kind of deliberate, uh, uh, lack of them going out of their way to do anything (Joseph, held for 24 hours, ACD).

The Trouble Continues: Vouchered Property

When arrestees were finally released from custody, they were given property vouchers that would allow them to retrieve their property from a temporary property trailer that had been set up a few blocks from the Centre Street complex from which arrestees were released. Many informants reported that getting their property back was a frustrating process that mimicked their experiences in detention in many ways.

The first frustration released arrestees faced in getting their property back was even finding the trailer:

We were given, I think a printout when you got to court, saying where the backpack stuff could be picked up. And, the directions were a very circuitous route. On the route going over there—of course I was old, so no one thought I would be going over there, although I looked to bad that they probably would have walked away or offered me some spare change—I saw some people that I knew had been arrested and I saw them coming out. So, I asked them where this place was and they told me that they moved it. And they told me where... the location to get your stuff. And this place, you know, had long, long lines... (Alice, held 46 hours, contested charges).

Most informants noted that once they found the property trailer, they faced long lines and delays. Kyle describes his experience:

...so I went down there and they had, um, they had like these little gates set up to kind of construct a make-shift, um, line corridor, you know, like the kind they have at, like, amusement parks, where they just loop back and forth. You know, there were at least, like, a hundred or two hundred people waiting in line there. And each person, they would, it would take about ten minutes to process each person. So, I mean, it was, you'd, you'd basically have to wait in line for half a day just to get up to the front of the line. And then you'd give them your voucher and they'd say-. Well, when, when I did it, um, they said, "Well, we don't have your stuff here, come back tomorrow," when I finally got to the front. Which was, happened to, you know, a lot of people there because, apparently, at any given moment, they probably only had, you know, a certain percentage of all the stuff there, for some reason. Um, so they told me to come back tomorrow and do the

same thing. So I came back the next day and did the same thing and finally got my stuff. And, you know, all told, you know, I must've spent at least, I don't know, six, seven, eight hours waiting in line to get all my stuff back. So, I mean, it was basically like being in jail again, you know, 'cause we were just standing there, in line, in, you know, in the summer sun, you know, and, um, in these little kind of like, uh, it was kind of like a holding cell, basically. They had these little, like, racks set up, to rack everybody in (Kyle, held for 20 hours, ACD).

When property was returned, some informants reported that items were damaged. A common complaint was that the cords to purses, bags, and backpacks were cut. This apparently happened because police cuffed arrestees while they still had their bags on their shoulders and then told the arrestees that they would have to cut the bags off (instead of either removing the bags first or cutting off the cuffs and then removing the bags and replacing the cuffs):

Well, my backpack was damaged. Um, when I was getting arrested, I had this, like, um, it was, like, a pretty nice, like, kind of expensive backpack on me. And, they, uh, it- while we were in the paddy wagon they, um, they cut the cords on the backpack. Um, and it's not something that can be fixed. Like, I tried to duck tape 'em back together and it didn't work. Um, and they did that to everyone. Like, there was a girl who had, like, um, she had a purse and the officer said she had to cut it. And so, the girl asked her to cut in a specific place, knowing that it would be, um, somewhat easier to fix later. And the cop said, "Okay." And then she, like, cut in a completely different place so now, like, her bag is ruined too. (Interviewer: And why did they say they had to cut it?) Um, oh, they said that

they had to cut it so they could get the bags off of us while we were handcuffed (Gina, held for 44 hours, dismissed).

Some informants lost either all or some of their property. Marge, for instance, lost \$2,000 worth of property when her entire property bag was lost:

They somehow had lost them. And my arresting officers, officer, whose name I, I, I memorized and whose face I memorized since he was my only way out of there, uh, was running around frantically, trying to find my belongings. And finally, he just got me from the cell and he said, “Lady, if you don’t get out of here now, you’ll never get out of the system.” And so I had no voucher, I lost all my belongings. And that’s, the, the results of that, as a matter of fact, were annoying as hell. I had to replace everything I owned. And an expensive camera was in there, all sorts of stuff that I still don’t believe was lost. Uh, and I had to spend until February of this year going to small claims court because the City Controller’s department refused to, to do anything about the items that I had lost. And certainly nobody ever gets satisfied going small claims court, and I didn’t (Marge, held for 3 days, dismissed).

Resolving Cases Quickly: Taking an “ACD”

One of the claims that Feeley (1992) makes is that defendants facing minor charges will experience more hassle and pre-trial punishment by contesting the charges against them. Therefore, he argues that in the short-term, it is rationale for defendants facing minor charges to plea bargain even when they are innocent, or to fail to show up for future court appearances and simply resolve the case in absentia. Earl (2005) argues that this is often the case in protest situations as well.

RNC arrestees had an option that would be predicted to be very appealing to defendants under Feeley's and Earl's logic: an adjournment in contemplation of dismissal, or an "ACD" as it is more commonly known. An ACD is an arrangement offered by prosecutors where a case is effectively suspended for six months. If the defendant is not re-arrested in that 6-month period, then the original case is simply dropped and records related to that case are sealed. If the defendant is re-arrested in the 6-month period, the original case is reactivated as if the ACD was never taken, leaving open the option of pleading not guilty or otherwise contesting the charges. Thus, if arrestees were very concerned about extricating themselves from the criminal justice system quickly and as painlessly as possible, an ACD should be a popular option. In fact, it was. According to aggregate figures made available to the author in the summer of 2005, of the 1,660 arrests that had been disposed of by June, 2005 and were being tracked by the National Lawyers Guild, fully 60% (or 1,007) were resolved through ACDs, as shown in Table 1.

Several individuals who resolved their cases through ACDs were interviewed for this project. Their accounts of their decision-making are exactly what one would expect given Feeley's and Earl's arguments. Kyle is typical of these informants when he says that he agreed to an ACD so that he could be done with the whole experience:

...my main reason for signing it [the ACD] is because I wanted to get out of jail. You know, I was, I was, um, I was in a lot of pain, you know, from, uh, from being hit by the batons and my face was bloody. Actually, my face didn't hurt that much, it was actually my back that was in the most pain, just from being hit by the batons. Like, I had bruises on my back for a long time. Um, you know, and I, I

hadn't been able to sleep on a surface that wasn't metal or concrete in a day. Um, and I hadn't eaten anything since I had been arrested, either. Um, so, definitely my main reason for deciding to accept it is, is at that point I would have accepted anything just to get out. Um, and I guess the, you know, the other considerations were that I, I didn't really, I wouldn't have really been able to challenge it in court, um, efficiently or easily because I was from out of state. Um, like, I knew that if I, if I challenged it, I would have to make court appearances and that would be difficult for me, being from a long way away. So, um, I didn't really think it would be financially possible for me to, you know, go back and forth to New York to challenge it (Kyle, held for 20 hours, ACD).

Joseph offers a very similar account, pointing out the extra costs to contesting charges that people from outside of NYC would face:

...so much of it was immediate institutional pressure, just wanting to get out. I mean, it was, it was...the, uh, sudden small opening in an otherwise very dark room. Um, so there was a lot of that. Um, I was not from New York, um, I had only planned to be there for three days. Um, I wanted to get out and, um. If I'd lived in New York and could've gotten out and, uh, you know, continued to, uh, if I could've continued to pursue it more easily, I probably would've insisted on a not guilty plea. But it would've been, um, it would've been an enormous hassle. Uh, and I was, I was confident that there would be enough other protesters doing that that I wasn't going to, uh, that I wasn't going to be harming the cause by refusing... Um, I also, uh, I mean, there was also the fear, of course, of actually being convicted. Um, uh, oh, it was only at that point, by the way, at the time

when I talked to my, uh, arr- my lawyer that I learned the charges against me. Um, it, there was the fear that, um, uh, something else would be piled on if I pled not guilty. Uh, there were, any time that a, uh, one pattern that I seemed to observe was, any time that there was any kind of physical contact between a protester and a, uh, and a police officer that, they were also, they were segregated and they were also charged with assaulting an officer, uh, even if it was on provocation of the officer. Um, and I, so the, the sort of, uh, irrationality of the system and the, um, vul-, and my vulnerability, um, I, I did not want a felony on my record. Um, I don't know if I can practice medicine with a felony and, uh. I'm just not interested in that (Joseph, held for 24 hours, ACD).

Even when arrestees were from the NYC area, they realized that the repeated court appearances that would be required to plead not guilty would cut into their lives, causing a large burden that could be avoided with an ACD:

So I was really thinking, you know, did I want to take this ACD or did I want to fight this? And then I just decided that it would be so time consuming for me, that it'd be difficult for me to get off of work to fight it that I decided to take the ACD... (Interviewer: Could you tell me more about the decision-making process that you went through?)... Well, it was really, it was really sort of that simple. It's that I didn't-, I had no idea how we were going to fight this, you know, how many times. But I figured that, if there were so many people like me, there were going to be a number of people who were probably going to fight this, especially people who lived in town and maybe they were students or didn't have, uh, didn't have demanding jobs. That you would probably have to go over and over to, to court

somehow. And, each time you went there would probably be a considerable amount of waiting time. And I just figured with the kind of job I had, the responsibilities I had, both at work and with family, that it was just something I didn't want to do (Bill, held for just under 24 hours, ACD).

Contesting Charges

For those that decided that they wanted to contest the charges against them, often, according to my informants, out of a sense of indignation over the way they were arrested and detained or because they did not want their name sullied by a conviction, a legal gauntlet lay ahead of them. As Feeley (1992) suggests would be the case, one of the most important aspects of this legal gauntlet is simply the number of court appearances that would be necessary to advance to trial.

Kevin, for instance, had to make 10 court appearances in order to contest his charge—which was a violation that is legally equivalent to a parking ticket or moving violation. On each occasion, he reported having to spend the majority of the day in the court building, with approximately 5 minutes or less of that time involving an actual appearance in front of the judge. When I asked why he had to be at the court building for so long given that only 5 minutes of a day would be spend in front of a judge, he replied:

Where they, you would go there and they would just mess around, mess around, start late in the afternoon, maybe get to you, maybe not, and have to come back again. Or the attorney would be called away for a more important case, something. And, and frequently, I, I would say two-thirds of the time, where I, I went to court, the Assistant DA would say that they weren't ready (Kevin, held at least 16 hours, contested charges).

Marge, whose case was one of the 436 arrests that were dismissed, made similar comments about the time wasted during her one court appearance:

It was a whole morning. Because court didn't get started when they said it would get started. I probably got there at 8 o'clock in the morning, 'cause I, I didn't know what was gonna happen. And I probably didn't get out until after 11 (Marge, held for 3 days, dismissed).

Between court appearances, defendants often faced daily stress about their pending cases, as Jessica explains:

And, I guess, a fair amount of anxiety, just wondering, again, what was going to happen, um, in terms of, I knew that they were misdemeanor charges, they were like really no big deal but just, you know, still anticipating what happens next and really wanting it to be over... (Jessica, held approximately 46 hours, dismissed).

Kevin also experienced stress and anxiety:

(Interviewer: How stressful was having a pending case?) Terribly. I, at some points, I mean, I would feel exhausted. I felt like, well, for a while when it was constant and, you would go and it would start to seem like it was going to be positive, then there'd be some negative development. I felt like I was going- I already had some stomach problems. It started getting worse. I was constantly having indigestion and, uh, difficulty sleeping. Where it, it becomes so much a part of, of your life that you don't see any end in sight. Um. It, it starts taking over as a priority and you're thinking that it shouldn't even be there. I shouldn't have to be thinking about stuff like this. And, well, the worst impact on my life is bicycling. I can't, I, I cannot get on a bicycle and go anywhere without feeling

I'm gonna be arrested, I'm gonna be harassed... (Interviewer: Were you an avid bicyclist before your arrest?) Oh, all my life. Yes, still am. But I, when I see police, now, I go out of my way to get, get away from them (Kevin, held at least 16 hours, contested charges).

Kevin also faced repercussions at work because he had to make so many court appearances while he contested the violation with which he was charged. His story is typical of arrestees who had to make frequent court appearances and were not students:

...it, it really, it totally changed the attitude of my employer who was initially very positive and appreciative of the fact that I was fighting this. But then once it started becoming, you know, every other week I had to go to court for one or two days, then they started not being so happy about it. And started making negative remarks about it: "Oh you're gonna be here? Oh, you have court again? Isn't this thing over? Why is it taking so long?" (Kevin, held at least 16 hours, contested charges).

Continuing Impacts on Arrestees' Lives

Even after cases were resolved (through whatever means), informants reported that the effects of their arrests lingered for sometime afterwards:

And, there also were, like, physical effects of having been there. Like, I couldn't sleep for a long time afterwards. I couldn't eat normally for at least a week afterwards. Um, and, I mean, I lived, last year I lived, like, on the third floor of a building. And I remember, like, the day after I got out of jail, like, sitting there, um, at the front desk, like, downstairs and people would be, like, you know, "Why are you sitting there?" And, like, I told them, like, I was just too weak to, uh, to

walk upstairs. Like, I didn't have any energy at all... it was something that I thought about, like, obsessively for, like, months afterwards. Um, and I was worried that I wouldn't, like, get over it for a while. I mean, I'll, I'll have, like, dreams about it or, like, I'll get flashbacks (Gina, held for 44 hours, dismissed).

Psychological impacts, such as anxiety and nightmares, were reported. Jessica experienced both: "I had a number of pretty bad nightmares about different situations involving the police and, um, just being held, being taken away from my home." She also reported short-term physical repercussions of her detention:

I was pretty sick when I was first was let out, I'd say from that Friday morning until Tuesday of next week. I had an awful cold and kind of a very light case of bronchitis. And the other- There were...other students from my school who had been arrested, um, and they all had felt similar symptoms (Jessica, held approximately 46 hours, dismissed).

Some worried about even longer term consequences on jobs and career, as Joseph explains:

I haven't applied for jobs since then. I don't know when I will encounter a, um, have-you-ever-been-arrested question. Or, or if it, if it will be, only be a have-you-ever-been-convicted question. Um, yeah, no, I mean, any opportunity- what I fear is, um, any time where I'm not able to explain the context of my arrest. Um, yeah, and the immediate assumption being, uh, well, "you must've done something wrong" when, in fact, I did something right (Joseph, held for 24 hours, ACD).

There were also mixed impacts on arrestees' willingness to protest again, but discussing those goes beyond the scope of this paper.

Discussion

As described above, this paper set out to investigate: (1) the empirical characteristics of arrest, pre-trial detention, and pre-trial processes; (2) to determine, based on that empirically-generated understanding of arrests, if arrests were commensurable with police violence, and whether arrest appears to be a lesser form of repression; (3) to determine whether defendant decision-making was affected by the pre-trial punishment process; and (4) to determine the extent to which pre-trial punishment allowed all arrested protesters to be punished after only overcoming the very lenient burden of probable cause.

The empirical picture of RNC arrestees' experiences suggests that arrests can contain a great deal of violence, and even when the apprehension itself does not involve violence, arrests can involve a great deal of physical discomfort, particularly from the over-tightening of handcuffs. Pre-trial detention can also produce physical discomfort, which can include unsafe transport conditions, being in physically uncomfortable positions for long periods of time, exposure to extremes of hot and cold, lack of medical attention, inadequate access to food and water, being held in dirty and potentially unsafe conditions, and sleep deprivation. Psychological discomfort occurred during pre-trial detention due to feelings of isolation, large amounts of uncertainty, feelings of helplessness, feeling dehumanized, and even severe and prolonged boredom. It would appear, then, that arrests and pre-trial detention were very difficult physical and psychological experiences for many, with some informants reporting stress-related

symptoms for long periods after their release, such as nightmares and a compulsion to avoid police out of fear.

To summarize, protest-related arrests empirically involve a great deal of physical and psychological pre-trial punishment. Given that very few RNC arrestees either pled guilty or were found guilty (see Table 1), and those that were convicted faced fines of up to a few hundred dollars but generally did not face additional jail time, it would seem that the majority of punishment was meted out pre-trial. In fact, for those that did not plead guilty or were not ultimately found guilty, all of their punishment was pre-trial. For those that pled or were found guilty, the majority of their punishment was still experienced pre-trial.

Having clarified the empirical nature of these arrests, it is now possible to return to the theoretical implications of a more empirically valid image. First amongst these theoretical debates is a question about whether arrests are “softer” than, and indeed even empirically distinct from, violence. In the first instance, empirically some arrests involved quite a bit of violence, suggesting that it would be more appropriate to compare arrests that may or may not involve violence to violence that does not also include arrests. Second, even when comparing arrests that don’t involve violence and violence that does not involve arrests—which is presumably what social movement scholars labeling arrests softer imagine as a comparison—it is clear that arrests and pre-trial detention can involve a host of physical and psychological punishments that are perhaps more slowly meted out than violence on the street, but cannot be said to be inherently “lesser” to such violence. Indeed, more than anything, this comparison reveals the way in which claims about commensurability between arrests and violence are based on the publicly unexamined

and undefended normative beliefs of scholars who cast arrests as less repressive, since the empirical world these scholars study does not conclusively suggest that arrests are lesser forms of repression. Instead, it is my contention that the empirical picture of arrests suggests that arrests are best regarded as distinct and incommensurable forms of punishment from police violence without arrest, which may both be explained by different processes and have different impacts than violence.

Another implication of the arrest and pre-trial detention experience has to do with the empirical impact these experiences have on subsequent defendant decision-making. The interviews presented above suggest that some defendants sought to end their entanglement with the NYPD through whatever means necessary, often by agreeing to take an ACD. These informants directly pointed to the severity of their arrest and pre-trial detention experiences in explaining their decisions. Informants also pointed to the expected costs of further pre-trial processes if they were to contest their charges. The expectation of multiple additional court appearances, missed work or school, and travel-related expenses all fed into several informants' decision to not contest their charges. This is particularly noteworthy because two of the pre-trial costs that would be expected to produce this effect—the costs of legal defense and bail costs—were absent in all of these cases because RNC arrestees did not generally have to post bail and the National Lawyers Guild was coordinating free legal defense for defendants who sought their assistance. This suggests that even when those major costs are factored out of the equation, the costs associated with court appearances alone were enough to dissuade many from contesting their charges.

These findings should, much like Feeley's (1992) and Earl's (2005) work, call into question the veracity of the guilty pleas that were made, which some chose when not offered an ACD. Surely some of those pleas were made because defendants believed that they were in fact guilty of their charges, but it is as likely that many, if not the majority, of those guilty pleas were motivated by a desire to end the pre-trial process, and not by actual guilt. This becomes even more likely when one considers that many arrestees were booked on violations, which are not even technically criminal charges. Instead, violations are akin to parking tickets in that they can result in fines but are not criminal. In fact, disorderly conduct, one of the most frequent charges, could be charged as a violation or as a misdemeanor and was often charged as a violation, suggesting that many of the "guilty" pleas were more like agreeing to pay a parking ticket instead of fighting in court about whether the parking meter was actually broken or not. As Feeley's work long ago implied, a criminal justice system that can create incentives for innocent people to plead guilty is a system that metes out a great deal of pre-trial punishment.

As expected, for those that did decide to contest the charges they faced, more pre-trial punishment followed from that choice. Informants spoke of making multiple court appearances over extended periods of calendar time. Each appearance led to missed work—and sometimes to more tenuous relationships with employers as the amount of missed work mounted—and to hours spent at the court building in order to have a few minutes dedicated to one's case. The calendar time during which cases were ongoing was also a period of stress for many informants, who reported thinking and worrying about their case often and sometimes in intrusive ways.

Finally, we can return to the question of whether arrests that generate disproportionately pre-trial punishments can be thought of as a way to punish protesters as a class in way that would never be constitutionally permissible if passed as law. That is, does law in action seem to do what law on the books constitutionally could not by punishing protesters, as a group, for their first amendment expression, and do so before any given protester's criminal guilt is established? The resounding answer according to informants I interviewed was yes:

... I was very afraid. I had ne- I had never been arrested before, never been part of a large street pro- protest before and, um, I was very afraid that it would get out of hand. Um, yeah. And I was also, uh, I mean, I was crying at one point, um, just shocked and appalled that this was America. Um, this is, um, I, you know, I've spent the last, I mean, without, without revealing identifying information, I've, I've spent the last, oh, six years studying the American nation and, uh, and I was really, I was amazed that this could be the same place that I was studying, um, in terms of its legacy of apparent freedom. Um, yeah, the police presence was incredibly intimidating. Um, and it, um, it felt, it felt like what a police state must feel like. Um, and that was such, that created such cognitive dissonance in me with what, uh, I sort of, I sort of expected, um, about what America was. That, uh, um, yeah, it was very upsetting (Joseph, held for 24 hours, ACD).

Perhaps making matters worse, the vision of arrests as relatively soft affairs allows this kind of pre-trial, class-based punishment to occur without drawing notice from others.

Conclusion

The empirical and theoretical picture of arrests during the 2004 RNC is a picture of pre-trial punishment that includes both physical and emotional punishments. It is a picture of a criminal justice system that can lawfully summarily punish protesters with a lenient establishment of probable cause, and one that if overturned later cannot in any case undo the pre-trial punishment that was meted out. The questions that remain for scholars are whether the visions of arrest are typical of all RNC arrests and whether RNC arrests are typical of protest-related arrests more generally? That is, because of the low response rate, were informants representative of the arrest and pre-trial experiences of those arrested at the RNC? And, assuming that informants were generally representative of RNC arrestees, are RNC arrestees representative of other protest-related arrestees? Put most simply, is the scripted and almost genteel arrest scene that McPhail et al. (1998) consider typical of protest-related arrests more empirically common than the experiences of RNC arrestees profiled here?

To address the first of these questions, informants interviewed for this study do seem to be representative of the RNC arrest experience more generally. Informants ran the spectrum, ranging from experiencing violence to bureaucratic ineptitude, from experiencing kind officers to malicious ones, and from experiencing long pre-trial detentions to relatively swift releases. But virtually all informants' experiences nonetheless converged around common themes of poor conditions and extensive pre-trial punishment meted out in a variety of ways. That is, informants had a large diversity of experiences but their experiences converged on key points.

Further, the informants for this study had narratives consistent with the press coverage at the time, and this was true even where the most egregious of scenarios were

concerned. For instance, the medical access issue was discussed by the media in graphic detail:

[An arrested bystander] spent several hours with other arrested people on a bus, where one man with Crohn's disease suffered from a burst colostomy bag. "He was throwing up all over the back of the bus," she said in an e-mail message.

"The entire bus begged the officers present to please get medical attention to this man. They completely ignored us" (Steinhauer 2004).

Reporters also documented multiple allegations about limited access to food, water, and lawyers, and the conditions at the Pier, which one reporter described as being "confined in a pier with a dirty floor greased with chemicals" (Steinhauer 2004).

Informants' descriptions also seem to comport with the reaction of city officials to the overall arrest and detention experience. Illustratively, Mayor Bloomberg's reaction to allegations about decrepit conditions and awful detention experiences was to say: "It's not Club Med, don't make any mistake about it, and it's not supposed to be Club Med... I don't think there's anyone in the city that wants to make it Club Med... This is not supposed to be great" (Steinhauer 2004). Thus, it would appear on its face that a case can be made that the random sample of informants that were interviewed for this project were representative of RNC arrestee experiences more generally.

But what about non-RNC protest-related arrests? One way to answer this question would be to turn to existing accounts of protest-related arrests and detentions, such as the two cases that Earl (2005) documents, Barkan's (1984) work on civil rights arrests, Balbus' (1973) work on riot-related arrests, and even international cases such as research on arrests during a series of British mine strikes (Green 1990; Render 1995; Waddington

et al. 1991). The account presented here is entirely consistent with this body of work, which is distinctive in its detailed attention to arrest and pre-trial processes.

Another, perhaps equally instructive, way to address this question would be to consider how similar protest-related arrests may be to non-protest related arrests and pre-trial detention. Two possibilities exist here: (1) protest-related arrests share the same kinds of pre-trial punishments that non-protest-related arrests share, which socio-legal scholars are uniquely positioned to document and describe; and (2) protest-related arrestees are protected from the even more severe vagaries of non-protest arrest experiences, but nonetheless face substantial pre-trial punishments. It is clear that NYC officials believed that the later was true for the RNC, but their description of typical arrests and conditions suggests the low-bar for comparison that exists:

...he [The President of the Correction Officers' Benevolent Association] thought the pier was better than some jails he has seen, and that he would be the first to complain if his officers were working in a poorly maintained facility. "They [the arrested protesters] would not be happy going through Rikers Island... The rats, the roaches, the mice, the alleged rapes and sodomies. They should count their blessings (Steinhauer 2004).

That is, by only subjecting protesters from the conditions at the Pier 57, versus the regular city jail, Rikers Island, NYC officials saw themselves as "protecting" the protesters from the regularly heavier level of pre-trial punishment meted out by the system. Whichever of those alternatives is true, it is clear that arrestees of any ilk face situations designed to be punishing, and which live up to that design. Taking these pre-

trial experiences more seriously, both empirically and theoretically, is an important task for socio-legal and social movement scholars alike.

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Table 1: Outcomes of RNC Cases Resolved by June 2005

No Charges Filed	12
Dismissed	436
ACD	1007
Acquitted	38
Bench Warrants	23
Guilty Plea*	119
Guilty Verdict	18
Appeal	7
Total	1660

*As considered in the Discussion section of the paper, it is an open empirical question whether guilty pleas indicate guilt or a desire to quickly exit the pre-trial punishment process.