

## **U.S. Oversight and Government Reform**

### **Subcommittee on Healthcare, the District of Columbia and the Census**

#### **Hearing on “McPherson Square: Who Made the Decision to Allow Indefinite Camping in the Park?”**

#### **Statement of Danny K. Davis, Ranking Member**

Thank you, Mr. Chairman.

The First Amendment reads, “Congress shall make no law...abridging the freedom of speech or of the press, or the right of people peaceably to assemble, and to petition the government for redress of grievances.” Of course, the right to protest is not unrestricted. The Supreme Court has determined that certain limitations can be imposed to strike a delicate balance between order and the right to be heard. In a public forum, the government may restrict expression with time, place and manner regulations. However, restrictions cannot be based upon the content of the speech and the regulation must not be “substantially broader than necessary to achieve the government’s interest.”

The history of dissent in America is a long and productive one. From the Abolitionists’ flyers, to the Labor Movement of the early 20<sup>th</sup> Century, to women’s suffrage, to the Civil Rights marches and peace protests, our country has become a more inclusive and enlightened nation because people spoke truth to power. Dissenters met government resistance, but persevered. Around the clock vigils and “sit-ins” are nothing new. The students that maintained their seats at a North Carolina Woolworth’s lunch counter ignited a movement to challenge injustice and helped changed America. I understand civil disobedience. But, I encourage those who seek government redress to operate in a peaceful manner.

That being said, I certainly appreciate the National Park Service and the U.S. Park Police's measured approach to the DC Occupiers. We have not seen the disarray here that has been broadcast across our television screens from other cities. The federal agencies overseeing the lands and parks have a specific role in ensuring that First Amendment rights are respected and protected.

The District of Columbia as a protest site is of particular significance and importance. The District has a history of hosting some of the most significant protest activities of the modern era. Accordingly in 2011, there were over 600 First Amendment activities on our national park lands. So I find it curious that this particular demonstration has risen to the level of a Congressional hearing. The Occupy DC movement has not encountered widespread arrests. The vigils are in a concentrated area. The District receives funds for reimbursement annually for such activities. Further, the discretion allowed the Park Service allows for a reasonable approach of "compliance, then enforcement or expulsion". I believe going forward, the Occupy DC movement should continue to be closely monitored to ensure proper safety, health and sanitation. Interaction and cooperation of the various agencies to monitor the site should be encouraged. However, this protest, in its current form, does not rise to the level of necessary congressional intervention. This subcommittee should defer to the discretion of the National Park Service and err on the side of the First Amendment.

*I would now like to yield myself an additional few moments to read a portion of the statement from the Occupy DC General Assembly submitted to staff.*

Like so many Americans whose voices are not heard in the halls of Congress, we have been precluded from speaking today on a matter that directly concerns us. That we have to ask a member of Congress to speak here for us is symbolic of the disenfranchising top-down nature of the government that we are fighting to democratize.

Citizens of a free country should not have to ask for permission to occupy public spaces. Our occupation of McPherson Square is an expression of our First Amendment right to free speech and peaceful assembly. We are maintaining a site of protest - a physical presence that gives visibility and voice to our dissent. We are creating a space in which free speech flourishes - not only the free speech of occupiers, but that of the general public, the empowered and the disenfranchised alike.

Like most people, the members of Occupy DC at McPherson Square do not relish being in uncomfortable conditions that humans without housing have endured for millenia. We do so because it has become a necessary tactic to express our concern for the country's direction in a way that will maintain public attention. Two out of every three Americans, incidentally, agree that our country is headed in the wrong direction. A far smaller percentage approves of the job Congress is doing. And while foreclosure has become a hallmark of modern America, the solutions to our country's numerous problems do not include suppressing free speech and evicting peaceful patriots from their tents.

The very existence of a committee of politicians controlling a city none of them were elected in is offensive. Though McPherson Square happens to have been declared federal land, DC's forced submission to

congressional control is the height of hypocrisy for a nation that considers itself the global arbiter of democracy.

The members of Occupy DC at McPherson Square have worked hard to build, clean and maintain our site of protest since the beginning of October. We are happy to work with the National Park Service, Department of Health, and the city of Washington, DC to improve the health and safety of our conditions. Unfavorable conditions in the park are a distraction from our constitutionally guaranteed free expression, just as this hearing is a distraction from Congress getting to work on the many challenges our country faces today. Let's work together to improve the conditions of our site and to make this country a better place.

Thank you, Mr. Chairman for your indulgence. I yield my remaining time.