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**THESIS**

**DEMONSTRATIONS IN AMERICA: AN ASSESSMENT  
OF THE FACTORS MOTIVATING NON-VIOLENCE AT  
THE MILLION MAN MARCH AND VIOLENCE AT THE  
UNITE THE RIGHT RALLY**

by

Elizabeth C. Moten

September 2018

Thesis Advisor:  
Second Reader:

Carolyn C. Halladay  
Cristiana Matei

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**DEMONSTRATIONS IN AMERICA: AN ASSESSMENT OF THE FACTORS  
MOTIVATING NON-VIOLENCE AT THE MILLION MAN MARCH AND  
VIOLENCE AT THE UNITE THE RIGHT RALLY**

Elizabeth C. Moten  
Lieutenant, United States Navy  
BS, U.S. Naval Academy, 2012

Submitted in partial fulfillment of the  
requirements for the degree of

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**NAVAL POSTGRADUATE SCHOOL  
September 2018**

Approved by: Carolyn C. Halladay  
Advisor

Cristiana Matei  
Second Reader

Mohammed M. Hafez  
Chair, Department of National Security Affairs

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## **ABSTRACT**

Demonstrations have brought awareness to issues of healthcare, civil rights, women's rights, and the environment. While most of these demonstrations have been peaceful, some have resulted in injury and death. This thesis attempts to develop an understanding of the factors motivating non-violence and violence at U.S. demonstrations by examining the 1995 Million March and the 2017 Unite the Right Rally. Seven crucial questions—What were the organizational efforts and funding source for the demonstrations? Who were the key players or organizations that participated in the demonstration and do they have a history violence? What was the rhetoric of the speakers and performers at the demonstration? What were the actions of the protestors and counter-protestors? What were the actions of law enforcement during the demonstration? Did any legal cases result from the demonstration? What was the media coverage before and after the event?—are analyzed for an understanding of the factors that lead to violence at demonstrations. The findings show that non-violent demonstrations share four factors: extensive planning for the demonstration, the presence of religious leaders, rhetoric of non-violence in the speeches, and the demonstrators' ability to police themselves. In contrast, violent demonstrations share only lack of preparation by public officials, and improper responses from law enforcement, which may be the two determining factors for violence at these events.

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

|           |  |
|-----------|--|
| ACLU      | American Civil Liberties Union                             |
| ADL       | Anti-Defamation League                                     |
| Alt-Right | Alternative Right  |
| Antifa    | Anti-facist Movement                                       |
| BLM       | Black Lives Matter   |
| CNN       | Cable Network News   |
| DOJ       | Department of Justice                                      |
| FBI       | Federal Bureau of Investigation                            |
| KKK       | Ku Klux Klan   |
| LGBT      | Lesbian, Gay, Bisexual, and Transgender                    |
| MCI       | Muslim Cult of Islam                                       |
| NAACP     | National Association for the Advancement of Colored People |
| NAALS     | National African-American Leadership Summit                |
| NSM       | National Socialist Movement                                |
| SRA       | Socialist Rifle Association                                |
| UCC       | United Church of Christ                                    |
| UVA       | University of Virginia                                     |

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# **I. FREEDOM OF ASSEMBLY IN AMERICA: NON-VIOLENT AND VIOLENT DEMONSTRATIONS**

From women being assaulted during marches in the 1910s suffrage movement to non-violent demonstrations of the Westboro Baptist Church at soldiers' funerals a century later, Freedom of Assembly has been a contentious practice in the United States. Freedom of Assembly is a critical part of the First Amendment, and it has been a widely used form of dissent for several social movements throughout American history. While Freedom of Assembly has been a critical instrument in pushing American society forward, this type of demonstration has had both a non-violent and violent history. The root causes or factors in determining whether a public assembly will remain peaceful or erupt into violence have not been established. This thesis explores the potential contributing factors to non-violent and violent demonstrations, specifically in the United States, by comparing the Million Man March and the Unite the Right Rally.

## **A. MAJOR RESEARCH QUESTION**

The Founding Fathers of the United States embedded the right to peaceful assembly in the First Amendment. Recently, such assemblies have been both non-violent, as seen with the 2017 Women's March, and violent—perhaps most notably at the 2017 “Unite the Right” rally in Charlottesville. The thesis aspires to answer this primary research question: Which factors explain or contribute to the non-violence or violence seen at recent U.S. demonstrations?

## **B. SIGNIFICANCE**

From the inception of the United States until the present, peaceful assembly has been a way for individuals to express their beliefs in a public forum. More recently, peaceful assembly has been utilized to focus awareness on the issues of healthcare, civil rights injustices, women's rights, and the environment.

In 1995, the Million Man March organized by controversial figure Louis Farrakhan was the largest gathering of African-American men in United States history; it was expected to be a violent event due to the portrayal of African-American men in America at

the time. However, the event became known for its positive speeches, prayer, and performances that called for reconciliation, unity, and atonement.

Contrarily, in 2017, the Unite the Right Rally, in Charlottesville, VA, a significantly smaller demonstration and counter-demonstration than the Million Man March, resulted in three deaths and more than 30 injuries of either protesters, counter-protesters, or law enforcement.<sup>1</sup> Understanding what leads to violence at demonstrations is imperative to preserving the inalienable rights of United States citizens by ensuring their safety when they are invoking their First Amendment right to peaceably assemble.

### **C. LITERATURE REVIEW**

This literature review focuses on definitions and characteristics of demonstrations, legitimate protest, and the perception of protest. The majority of the research conducted on collective behavior, legitimate protest, and the perception of protest was conducted in the 1950s and 1960s prior to the Civil Rights Movement in the United States. The study of protest evolved from research conducted on collective behavior and analysis completed on public perception of protest. There has been no usable research on either topic in contemporary scholarship.

#### **1. Demonstration: Definitions and Characteristics**

Broadly, demonstrations have been placed into several categories that range from peaceful to violent. Thomas Ratcliff and Lori Hall place protest events into six different categories: Literal Symbolic, Aesthetic, and Sensory; Solemnity and the Sacred; Institutional and Conventional; Movement in Space; Civil Disobedience; and Collective Violence and Threats. The first category, Literal Symbolic, Aesthetic, and Sensory, is composed of street theatre, dancing, images, and graphic arts, and is “highly visible and

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<sup>1</sup> Joe Ruiz and Doreen McCallister, “Events Surrounding White Nationalist Rally in Virginia Turn Fatal,” NPR, last modified August 12, 2017, <https://www.npr.org/sections/thetwo-way/2017/08/12/542982015/home-to-university-of-virginia-prepares-for-violence-at-white-nationalist-rally>.

most diverse category of activity.”<sup>2</sup> Solemnity and the Sacred protest activity encompasses “vigils, prayers, rallies in format of religious services, candle lighting, and cross carrying.”<sup>3</sup> Solemnity and the sacred protest activity rarely met with police force or presence, and provide “a distinct quietness or stillness.”<sup>4</sup> “Institutional and Conventional” protest activity is “institutionalized activity or activity highly dependent on formal political processes and social institutions (press conferences, lawsuits, lobbying, etc.).”<sup>5</sup> Movement in Space is comprised of “marches or parades (processional activities) from one spatiotemporal location to another, with beginning or ending places sometimes chosen for symbolic reasons.”<sup>6</sup> Civil Disobedience protest activity involves “withholding obligations, sit-ins, blockades, occupations, bannerings, ‘camping,’” and “in some way, these activities directly or technically break the law.”<sup>7</sup> Collective Violence and Threats is the most disruptive type of protest activity, and includes “pushing, shoving, hitting, punching, damaging property, throwing objects, verbal threats, etc.,” and is generally committed by a “relative few out of many protestors.”<sup>8</sup> These six categories cover almost any type of protest activity found in America.

## 2. What Is Legitimate Protest?

The foundation for the study of protest started as collective behavior research in the 1950s and evolved as the Civil Rights Movement materialized. The question of what legitimate or credible protest is was first asked by Ralph H. Turner. He argues that legitimacy in protests depends heavily on the motives and actions of the protesters.<sup>9</sup>

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<sup>2</sup> Thomas N. Ratliff and Lori L. Hall, “Practicing the Art of Dissent: Toward a Typology of Protest Activity in the United States,” *Humanity & Society* 38, no. 3 (2014): 278, <https://doi.org/10.1177/0160597614537796>.

<sup>3</sup> Ratliff and Hall, “Practicing the Art of Dissent: Toward a Typology of Protest Activity in the United States.”

<sup>4</sup> Ratliff and Hall, 278.

<sup>5</sup> Ratliff and Hall, 278.

<sup>6</sup> Ratliff and Hall, 278.

<sup>7</sup> Ratliff and Hall, 278.

<sup>8</sup> Ratliff and Hall, 278.

<sup>9</sup> Ralph H. Turner, “The Public Perception of Protest,” *American Sociological Review* 34, no. 6 (December 1969): 813. JSTOR.

The study of collective behavior, social movements, and social protest was pioneered by Ralph H. Turner in the 1950s and provided one of the first explanations of what constitutes credible nonviolent and violent legitimate protest. Legitimate protest incorporates “an expression of declaration of objection, disapproval, or dissent, often in opposition to something a person is powerless to prevent or avoid.”<sup>10</sup> Furthermore, Turner asserts, “to be credible as protestors, troublemakers [protestors] must seem to constitute a major part of a group whose grievances are already well documented, who are believed to be individually or collectively powerless to correct their grievances, and who show some signs of moral virtue render[ing] them ‘deserving.’”<sup>11</sup>

However, for a protest that was initially violent to establish credibility it must be preceded by a nonviolent movement because that opens the door for “widespread support and sympathy for the objectives of protest.”<sup>12</sup> Furthermore, it allows the group to reject the violent actions used by a small number of its members, and prove that they are deserving of their grievances without undermining their group’s objectives.<sup>13</sup> Contrarily, once a social movement or protest resorts to violence, its intentions and credibility are immediately called into question and can only be counterbalanced if the group has a history of acceptable behavior.<sup>14</sup>

Turner’s analysis about legitimate protest is endorsed and further analyzed in the 1972 article, “The Credibility of Protest,” by David L. Altheide and Robert P. Gilmore. They believe legitimate protest to be “an expression or declaration of objection, disapproval or dissent often in opposition to something a person is powerless to prevent or avoid.”<sup>15</sup> Additionally, social protest is a manifestation of objection that intends to change

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<sup>10</sup> Turner, 813.

<sup>11</sup> Turner, 818.

<sup>12</sup> Turner, 819.

<sup>13</sup> Turner, 819.

<sup>14</sup> Turner, 819.

<sup>15</sup> David L. Altheide and Robert P. Gilmore, “The Credibility of Protest,” *American Sociological Review* 37, no. 1 (February 1972): 100. <https://doi.org/10.2307/2093497>.

the status quo.<sup>16</sup> It is likely that a protesting group’s activities will be considered legitimate if its “subordinate position is recognized” because acknowledgement makes the problems of the group palpable.<sup>17</sup> Ultimately, their research “supports Turner’s contention that knowledge of an event (as indicated by a few ‘facts’) had little effect on how people defined the disruption,” and the more important factor is if the protestors’ grievances are justifiable.<sup>18</sup>

### 3. Perceptions of Protests in the United States

How a protest is perceived could be influenced by several factors; however, it is widely accepted that the folk concept is the basis for collective behavior and protest research. As Ralph Turner states, “the *folk concept* supplies the criteria against which people judge whether what they see looks like social protest or not.”<sup>19</sup> However, public perception of a protest has been attributed to the presence of violence in the protest, the media depiction of the protest leader, and level of education of the onlooker to the protest. While none of these theories discredits the others, they do all offer different perspectives on what leads to protest interpretation.

The *folk concept* lays the framework for how Turner derives potential explanations for what factors contribute to the public perception of protest. The *folk concept* originates from the theory of *folk psychology*, which is “a particular set of cognitive capacities which include—but are not exhausted by—the capacities to predict and explain behavior.”<sup>20</sup> According to Turner, “the folk concept is only partially explicit, and is best identified by examining the arguments people make for viewing events and treating troublemakers [protesters] in one way or another.”<sup>21</sup> Using the folk concept, Turner determined that the “disturbance itself must be seen either as a spontaneous, unplanned, and naive outburst, or

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<sup>16</sup> Altheide and Gilmore, 100.

<sup>17</sup> Altheide and Gilmore, 106.

<sup>18</sup> Altheide and Gilmore, 106.

<sup>19</sup> Turner, “The Public Perception of Protest,” 818.

<sup>20</sup> *Stanford Encyclopedia of Philosophy*, s.v. “Folk Psychology as a Theory,” accessed November 30, 2017, <https://plato.stanford.edu/entries/folkpsych-theory/>.

<sup>21</sup> Turner, “The Public Perception of Protest,” 818.

as an openly organized protest of more limited nature that got tragically out of hand” if it wants to be considered legitimate by onlookers.<sup>22</sup> Moreover, Turner asserts, “when violence and disorder are identified as social protest, they constitute a mode of communication more than a form of direct action,” which will negatively affect how the protest is viewed.<sup>23</sup>

Conversely, another idea is that protest interpretation is dependent on the protest leader. According to Michael Lipsky, protest interpretation by their action, which assists in determining the strategies and rhetoric the public will support.<sup>24</sup> Lipsky claims, “[protest] leaders’ ability to control protest constituents and guarantee their behavior represents a bargaining strength” because if the protest is docile the leader can more easily can make agreements with political leaders.<sup>25</sup> Additionally, the public perception of protest is influenced by the media, and it is imperative that protest leaders “articulate goals and choose strategies so as to maximize their public exposure through communications media.”<sup>26</sup> Media’s role in the perception of a protest is important because how the protest leader is depicted determines how the protest will be interpreted by the public.

Protests are perceived differently depending on individual’s level of education, according to Marvin Olsen. As Olsen asserts, “highly educated persons are consistently willing to grant dissatisfied persons the right to engage in protest actions, regardless of their own age, political preference, or political attitudes. Poorly educated persons, in contrast, tend to score rather low on the protest actions scale.”<sup>27</sup> Though, he does note that if poorly educated individuals have “strong attitudes of political incapability and discontentment are controlled, then their adjusted protest legitimacy scores are as high as

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<sup>22</sup> Turner, 819.

<sup>23</sup> Turner, 816.

<sup>24</sup> Michael Lipsky, “Protest as a Political Resource,” *American Political Science Review* 62, no. 4 (December 1968): 144. <https://doi.org/10.2307/1953909>.

<sup>25</sup> Lipsky, 1149.

<sup>26</sup> Lipsky, 1144.

<sup>27</sup> Marvin E. Olsen, “Perceived Legitimacy of Social Protest Actions,” *Social Problems* 15, no. 3 (1968): 309. <https://doi.org/10.1525/sp.1968.15.3.03a00030>.

those for college educated persons.”<sup>28</sup> This view is very different from Turner’s and highlights the importance of factors other than just the disturbance itself.

#### **D. POTENTIAL EXPLANATIONS AND HYPOTHESIS**

Promising potential answers to the primary research questions are centered on law enforcement response, public official preparation, and the reason for the demonstration. It can be hypothesized that when law enforcement shows up to a demonstration in tactical or riot gear the protesters feel threatened and are more prone to conducting violent acts. Furthermore, protesting organizations with a history of violence are more prone to violence, thus, increasing the response from law enforcement. From this hypothesis one can derive that there are certain groups that attend demonstrations to incite violence to invoke a law enforcement response. This hypothesis is universal for all protesters and is not specific to the reason for the demonstration (race, gender, civil rights).

Another possible hypothesis is public officials do not appropriately prepare for potentially violent demonstrations. Public officials appear often to underestimate or overestimate the capabilities of protesters leading to insufficient preparation. A city unprepared to for a potentially violent demonstration could lead to injuries or even deaths of protestors, counter-protestors, and law enforcement. Moreover, lack of preparation by public officials could lead to inappropriate responses law enforcement.

In addition, there are hypotheses that can be derived from the reason for the demonstration. A potential explanation is that demonstrations that are race-based are more prone to violence than gender-based or civil rights-based demonstrations. A plausible explanation could be that race-based demonstrations are inherently contentious, and these groups’ extremist members want to incite violence. Moreover, these demonstrations tend to receive more media attention causing more tension at the demonstrations. It can also be hypothesized that public officials view gender-based demonstrations specifically about women’s rights are seen as nonthreatening, and generally receive less media attention.

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<sup>28</sup> Olsen, 309.

## **E. RESEARCH DESIGN**

The thesis analyzes the Million Man March and the Unite the Right Rally to find patterns and similarities to assist in answering the primary research question. The majority of the primary sources used are published books, academic journal articles, court records, official statements, and legal cases. The secondary sources consist of books, scholarly articles, newspaper articles, speeches, and official statements regarding the event(s).

The author examines a non-violent and violent case study in which both demonstrations are based on race. The thesis provides brief historical background on the case study, and will ask seven crucial questions: what were the organizational efforts and funding source for the demonstrations; who were the key players or organizations that participated in the demonstration and do they have a history violence; what was the rhetoric of the speakers and performers at the demonstration; what were the actions of the protestors and counter-protestors; what were the actions of law enforcement during the demonstrations; did any legal cases result from the demonstration, and what was the media coverage before and after the demonstration; what was public official response to the demonstration; and to what extent did the media cover the demonstration? After answering these questions, the author will be able to provide analysis on common patterns discovered in non-violent and violent demonstrations.

## **F. THESIS SUMMARY**

Chapter II discusses the landmark cases that have affected Freedom of Assembly in the United States, and the effects that they have had. Chapter III analyzes the Million Man March, a non-violent demonstration, and the factors that allowed for peace. Chapter IV examines the Unite the Right Rally, a violent demonstration, analyzing the same factors as in Chapter III. Chapter V is dedicated to comparing the case studies presented in Chapters III and IV, attempting to make a connection between non-violent and violent demonstrations. Furthermore, this chapter will conclude with what the assessed critical factors are for non-violent and violent demonstrations, drawing overall conclusions that hope to answer the research question posed.

## II. THE HISTORICAL BACKGROUND OF FREEDOM OF ASSEMBLY IN THE UNITED STATES

The United States was one of the first countries in the world to include freedom of assembly in its constitution, and it remains one of the few nations where this freedom is not only legal but cherished. There was substantial backlash to the original version of the constitution because citizens felt it did not provide any protections of civil liberties.<sup>29</sup> Thus, James Madison created the First Amendment to focus on civil-liberty protections for United States citizens. This provision states: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”<sup>30</sup> The First Amendment specifically protects freedom of religion, freedom of speech, freedom of the press, peaceful assembly, and grievances against the government leading to all of these rights becoming a staple in American culture. The First Amendment comes at the beginning of the Bill of Rights because it was one of the key tenets of the Constitution, and deemed necessary by the Founding Fathers to create a fair and free society.

This chapter starts with a discussion about 19th-century First Amendment challenges by explaining the events that led to the Colfax Massacre and *United States v. Cruikshank*, which proved that at this point in American history the Bill of Rights only applied to the Federal government and Supreme Court cases. Following there is an examination of the 20th-century First Amendment legislative documents and Supreme Court cases that have shaped how the First Amendment is interpreted today, which include the Incorporation Doctrine, *De Jonge v. Oregon*, *Chaplinsky v. New Hampshire*, *Edwards v. South Carolina*, and *Cohen v. California*. Finally, this chapter explains the critical 21st-century case *Snyder v. Phelps* that highlighted protestors’ protection from liability law suits

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<sup>29</sup> “An Overview of the First Amendment,” 1st Amendment—Constitution | Laws.com, January 25, 2018, <https://constitution.laws.com/1st-amendment>.

<sup>30</sup> “First Amendment,” Cornell University Law School Legal Information Institute, January 25, 2018, [https://www.law.cornell.edu/constitution/first\\_amendment](https://www.law.cornell.edu/constitution/first_amendment).

if the demonstration abides by laws and is an issue of public concern. The chapter concludes with some of the current court challenges to the First Amendment regarding peaceful assembly, and what their impacts could be.

**A. NINETEENTH-CENTURY FIRST AMENDMENT CHALLENGES:  
*UNITED STATES V. CRUIKSHANK***

The Colfax Massacre was one of the first recorded political demonstrations in the United States to turn violent. It led to a significant Supreme Court decision in *United States v. Cruikshank*. The 1872 Louisiana gubernatorial race resulted in a divided government, leading to disputes.<sup>31</sup> Both the progressive Republican candidate William Pitt Kellogg and conservative Democrat candidate John McEnery believed that they had won and each refused to recognize his opponent as the legitimate winner.<sup>32</sup> Following the election, each candidate held inaugural ceremonies, and believed he assumed the title of Louisiana Governor.<sup>33</sup> Not surprisingly, a struggle subsequently ensued for control of the Grant Parish courthouse in Colfax, Louisiana.<sup>34</sup> According to the Digital Library of Louisiana, “a disbanded black militia unit, the Radical [Republican] faction gained control of the courthouse building and began to form a sheriff’s posse in defense of its [the courthouse] position” leading to Democrats forming their own militia nearby, to contest claims to the courthouse.<sup>35</sup>

On Easter Sunday, April 13, 1873, hundreds of African-Americans had assembled near the courthouse to protect it from coming under siege from the Democrats.<sup>36</sup> Furthermore, “a white force of 150 or more announced its intention to attack [the courthouse] and made time for the safe passage of noncombatants from the site.”<sup>37</sup>

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<sup>31</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*, s.v. “Colfax Massacre,” accessed January 30, 2018, <http://www.knowlouisiana.org/entry/colfax-massacre>.

<sup>32</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*.

<sup>33</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*.

<sup>34</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*.

<sup>35</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*.

<sup>36</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*.

<sup>37</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas*.

Led by George Cruikshank, the hostile democrats were “armed with a small cannon, mounted whites forced most of the defenders inside the courthouse and set fire to the building,” leading to the death of more than 100 Republican African-Americans supporters and two Democrats.<sup>38</sup> Following the incident, the Louisiana Attorney General launched an investigation into the massacre that occurred at the Grant Parish in Colfax leading to the charge and conviction of three Caucasian Democrats for conspiracy.<sup>39</sup> The case was appealed and eventually made it to the Supreme Court as *United States v. Cruikshank et al.*

*United States v. Cruikshank et al.* was decided on March 27, 1886, and the majority opinion was written by Supreme Court Justice Morrison Waite and was joined by Justice Ward Hunt, Justice William Strong, Justice Freeman Miller, Justice Joseph Bradley, Justice Noah Swayne, and Justice David Davis.<sup>40</sup> Ultimately, Cruikshank’s conviction was reversed because at the time the First Amendment—along with the rest of the Bill of Rights—had not yet been applied to the states.<sup>41</sup> In the decision, Chief Justice Waite held,

an indictment for conspiracy to interfere with the right peaceably to assembly, &c., or with the right to bear arms, or “to deprive certain citizens of African descent of their lives and liberties without due process or law,” where the state has not passed any law interfering with such rights or denying equal protection to all its citizens, is not sustainable in a United States court under any law that Congress had power to pass.<sup>42</sup>

In other words, no federal law prohibited Cruikshank and company from curtailing the Republican demonstration with lethal violence—yet.

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<sup>38</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas.*

<sup>39</sup> *The Digital Encyclopedia of Louisiana and Home Louisiana Cultural Vistas.*

<sup>40</sup> “U.S. v Cruikshank et al.,” U.S. Conlawpedia, January 30, 2018, <http://sites.gsu.edu/us-constipedia/u-s-v-cruikshank/>.

<sup>41</sup> *Barron v. Mayor & City Council of Baltimore*, 32 U.S. 243. <https://www.law.cornell.edu/supremecourt/text/32/243>.

<sup>42</sup> I. F. R. (1874), Circuit Court of the United States. District of Louisiana. *The United States v. Cruikshank et al.*, *The American Law Register (1852-1891)*, 22(10), 630–644. doi:10.2307/3303600.

## B. TWENTIETH-CENTURY FIRST AMENDMENT CHALLENGES

After the Fourteenth Amendment was ratified in 1868, the Supreme Court undertook the laborious process of “selective incorporation,” which allowed the Supreme Court to “incorporate certain parts of certain amendments, rather than incorporating an entire amendment at once,” while still honoring states’ rights.<sup>43</sup> However, over the next several decades, culminating in the Warren Court (1961–1968), the Supreme Court conformed states’ interpretation of the Bill of Rights to the national standard in a series of cases that had the court split at times.

### 1. *De Jonge v. Oregon*

One of the most notable cases about the Freedom of Assembly under the incorporation doctrine was *De Jonge v. Oregon*. On July 27, 1934 Communist Party member Dirk De Jonge spoke at a meeting held by the Communist party.<sup>44</sup> During his speech, De Jonge “protested against the conditions in the county jail, the action of the police in relation to the maritime strike then in progress in Portland and numerous other matters,” but never encouraged violence at any point during the meeting.<sup>45</sup> Following the meeting, De Jonge was arrested by the Portland Police Department for “unlawfully and feloniously teach[ing] and advocate[ing] the doctrine of criminal syndicalism and sabotage.”<sup>46</sup> This charge was based on Oregon’s 1930 Criminal Syndicalism Act (amended in 1933), which stated that “any person to become a member of a society or assemblage of persons which teaches or advocates the doctrine of criminal syndicalism” is a felony.<sup>47</sup> The statute described criminal syndicalism as “the doctrine that advocates crime, physical violence, sabotage, or any unlawful acts or methods as a means of accomplishing or effecting industrial or political change or revolution,” and created in an attempt to contain

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<sup>43</sup> *The American Law Register*.

<sup>44</sup> “*De Jonge v. Oregon*,” Cornell University Law School Legal Information Institute, February 27, 2018, <https://www.law.cornell.edu/supremecourt/text/299/353>.

<sup>45</sup> Cornell University Law School Legal Information Institute.

<sup>46</sup> Cornell University Law School Legal Information Institute.

<sup>47</sup> *Encyclopedia of the First Amendment*, s.v. “*De Jonge v. Oregon* (1937),” accessed February 9, 2018, <http://dx.doi.org/10.4135/9781604265774.n417>.

the spread of communism in Oregon. De Jonge appealed the charges filed against him, and the case eventually made it to the U.S. Supreme Court.

The case was decided on January 4, 1937, and in a unanimous decision (8–0), the court dismissed the charge against De Jonge.<sup>48</sup> Justice Harlan Stone was not present for the decision, and took no part in the consideration or decision of the case. The majority opinion was written by Justice Charles Hughes and was joined by the rest of the court.<sup>49</sup> Justice Hughes wrote, “peaceable assembly for lawful discussion cannot be made a crime. The holding of meetings for peaceable political action cannot be proscribed. Those who assist in the conduct of such meetings cannot be branded as criminals on that score.”<sup>50</sup> Justice Hughes went on to state, “we [the Supreme Court] are not called upon to review the findings of the state court as to the objectives of the Communist Party. Notwithstanding those objectives, the defendant still enjoyed his personal right of free speech and to take part in a peaceable assembly having a lawful purpose, although called by that Party.”<sup>51</sup> This ruling was especially significant because it marked the first time the court had ruled against a state with regard to a peaceful assembly. Furthermore, the Supreme Court’s ruling protected the rights of De Jonge, overturning the ruling because he was acting well within his given rights as a citizen.

## 2. *Chaplinsky v. New Hampshire*

This case was a pivotal freedom-of-speech case that had direct effects on the freedom of assembly by establishing that there are certain words that can be designated as “fighting words” that are not protected under the First Amendment. In April 1940, while distributing pamphlets on a public sidewalk in Rochester, New Hampshire, Walter Chaplinsky, a Jehovah’s Witness, was confronted by a crowd of people who disliked the

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<sup>48</sup> Cornell University Law School Legal Information Institute, “De Jonge v. Oregon.”

<sup>49</sup> *Encyclopedia of the First Amendment*, “De Jonge v. Oregon (1937).”

<sup>50</sup> Cornell University Law School Legal Information Institute, “De Jonge v. Oregon.”

<sup>51</sup> Cornell University Law School Legal Information Institute.

organization.<sup>52</sup> As the crowd became more belligerent, a city marshal told the crowd that Chaplinsky was following the law and exercising his First Amendment right in distributing his religious materials.<sup>53</sup> However, “after leaving the scene, the city marshal received word of a riot ensuing where Chaplinsky was speaking,” and when he arrived back at the scene, different police officers were arresting Chaplinsky.<sup>54</sup> As Chaplinsky was being arrested, he yelled “you are a God damned racketeer” and “a dammed Fascist and the whole government of Rochester are Fascists or agents of Fascists” at the city marshal whom he believed betrayed him.<sup>55</sup> Chaplinsky’s words led to him being accused of breaking a New Hampshire state law that prohibits the use of “offensive, derisive, or annoying” words.<sup>56</sup> Following Chaplinsky’s conviction, he appealed, claiming the New Hampshire law violated both his First and Fourteenth Amendment rights.

On March 9, 1942, the Supreme Court released its decision on *Chaplinsky v. New Hampshire* with the majority opinion written by Justice Francis Murphy.<sup>57</sup> The court was unanimous in upholding the Chaplinsky’s conviction, as Justice Murphy wrote,

there are certain well defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or “fighting” words—those which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.<sup>58</sup>

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<sup>52</sup> *Encyclopedia of The First Amendment*, s.v. “Chaplinsky v. New Hampshire (1942),” accessed February 15, 2018, <http://sk.sagepub.com/cqpress/download/encyclopedia-of-the-first-amendment/n260.pdf>.

<sup>53</sup> *Encyclopedia of The First Amendment*.

<sup>54</sup> *Encyclopedia of The First Amendment*.

<sup>55</sup> “Chaplinsky v. New Hampshire,” Cornell University Law School Legal Information Institute, February 15, 2018, <https://www.law.cornell.edu/supremecourt/text/315/568>.

<sup>56</sup> Cornell University Law School Legal Information Institute.

<sup>57</sup> Cornell University Law School Legal Information Institute.

<sup>58</sup> Cornell University Law School Legal Information Institute.

This decision, which gave rise to the “fighting words” doctrine, was significant because it displayed that the highest court did not believe the First Amendment gave citizens the right to say anything that could potentially incite violence.

### 3. *Edwards v. South Carolina*

The First Amendment played a critical role during the civil rights movement, and *Edwards v. South Carolina* was one of the pivotal cases that specifically dealt with freedom of assembly. On March 2, 1961, a march at the South Carolina State House grounds was held by local African-American high-school and college students protesting segregation.<sup>59</sup> For approximately 45 minutes, protesters carried signs and chanted comparable phrases, walking single and double file causing a crowd of around 200–300 people.<sup>60</sup> When law enforcement arrived, officials gave the protestors 15 minutes to disperse; instead the demonstrators began singing religious and patriotic songs.<sup>61</sup> After 15 minutes, the protesters were arrested for breaching the peace and convicted by the magistrate’s court in Columbia, South Carolina.<sup>62</sup> The convictions were upheld by the South Carolina Supreme Court, and the case was eventually brought before the Supreme Court.<sup>63</sup>

*Edwards v. South Carolina* was decided on February 25, 1963, and overturned the convictions of the protesting students.<sup>64</sup> The Supreme Court decision was 8–1, with the lone dissent being Justice Tom C. Clark. The majority opinion was written by Justice Potter Stewart. He explained, “The circumstances in this case reflect an exercise of these basic constitutional rights in their most pristine and classic form.”<sup>65</sup> Furthermore, he notes, “not until they were told by police officials that they must disperse on pain of arrest did they do more. Even then, they but sang patriotic and religious songs after one of their leaders had

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<sup>59</sup> *Encyclopedia of the First Amendment*, s.v. “Edwards v. South Carolina (1963),” accessed March 1, 2018, <http://dx.doi.org/10.4135/9781604265774.n453>.

<sup>60</sup> *Encyclopedia of the First Amendment*.

<sup>61</sup> *Encyclopedia of the First Amendment*.

<sup>62</sup> *Encyclopedia of the First Amendment*.

<sup>63</sup> *Encyclopedia of the First Amendment*.

<sup>64</sup> *Encyclopedia of the First Amendment*.

<sup>65</sup> *Encyclopedia of the First Amendment*.

delivered a ‘religious harangue.’ There was no violence or threat of violence on their part, or on the part of any member of the crowd watching them.”<sup>66</sup> The dissent written by Justice Clark argued, “the manner in which they exercised those rights was by no means the passive demonstration which this Court relates; rather, as the City Manager of Columbia testified, ‘a dangerous situation was really building up’ which South Carolina’s court expressly found had created ‘an actual interference with traffic and an imminently threatened disturbance of the peace of the community.’”<sup>67</sup> *Edwards v. South Carolina* was a monumental decision that protected the rights of protestors safely exercising their rights as citizens.

#### 4. *Cohen v. California*

In 1968, Robert Cohen was arrested for breaking a California breach-of-peace law after wearing a jacket emblazoned with the words “fuck the draft” in a courtroom. The Supreme Court case *Cohen v. California* was a 5–4 split decision that overturned Cohen’s conviction.<sup>68</sup> Justice John Marshall Harlan II delivered the majority opinion, which was joined by Justice William Douglas, Justice William Brennan, and Justice Thurgood Marshall.<sup>69</sup> In his opinion, Justice Harlan acknowledged “that the States are free to ban the simple use, without a demonstration of additional justifying circumstances, of so-called ‘fighting words.’”<sup>70</sup> Taking into account the fighting words doctrine, Justice Harlan stated that in this particular case “no individual actually or likely to be present could reasonably have regarded the words on appellant’s jacket as a direct personal insult. Nor do we have here an instance of the exercise of the State’s police power to prevent a speaker from intentionally provoking a given group to hostile reaction.”<sup>71</sup>

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<sup>66</sup> *Encyclopedia of the First Amendment*.

<sup>67</sup> *Encyclopedia of the First Amendment*.

<sup>68</sup> *Encyclopedia of the First Amendment*, s.v. “Cohen v. California (1971),” accessed March 1, 2018, <http://dx.doi.org/10.4135/9781604265774.n319>.

<sup>69</sup> “Cohen v. California,” Cornell University Law School Legal Information Institute, March 01, 2018, <https://www.law.cornell.edu/supremecourt/text/403/15>.

<sup>70</sup> Cornell University Law School Legal Information Institute.

<sup>71</sup> Cornell University Law School Legal Information Institute.

The dissenting opinion, written by Justice Harry Blackman and joined fully by Justice Warren Burger and Justice Hugo Black, and in part by Justice Byron White, found “Cohen’s absurd and immature antic, in my view, was mainly conduct, and little speech,” thus, not falling within the fighting words doctrine because the First Amendment only protects speech and not conduct.<sup>72</sup> This case displays that the court was divided on what was considered fighting words. The Court also restricted the fighting words doctrine by limiting it to words directed at an individual in a personal attack, which means that individuals can wear offensive or lewd clothing at peaceful assemblies as long as it does not intend to personally attack another citizen inciting violence.

### C. TWENTY-FIRST CENTURY FIRST AMENDMENT CHALLENGES

While there have not been many First Amendment peaceful assembly cases in 21<sup>st</sup> century, *Snyder v. Phelps* was a pivotal in extending the protections of protesters. Lance Corporal Matthew Snyder was killed in 2006 serving the United States in Iraq.<sup>73</sup> LCpl Snyder’s funeral was demonstrated by Westboro Baptist Church members, who claimed to believe that the 9/11 terror attacks on the United States were signs of God’s displeasure with the country for tolerating the “abomination” of homosexuality. Thus, the Westboro congregants brought signs that said, “Thank God for Dead Soldiers,” “Fags Doom Nations,” “America is Doomed,” “Priests Rape Boys,” and “You’re Going to Hell.”<sup>74</sup> To be sure, the Westboro Baptist Church demonstrated the funeral approximately 1000 feet away from the church on public land, informed local law enforcement of members’ intention to demonstrate, and did not break any of the local, state, or federal laws.<sup>75</sup> Albert Snyder, father of LCpl Snyder, sued the Westboro Baptist Church leader Fred Phelps “alleging, as relevant here, state tort claims of intentional infliction of

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<sup>72</sup> Cornell University Law School Legal Information Institute.

<sup>73</sup> “Facts and Case Summary - Snyder v. Phelps,” United States Courts, accessed March 01, 2018, <http://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-snyder-v-phelps>.

<sup>74</sup> “Snyder v. Phelps,” Cornell University Law School Legal Information Institute, March 2, 2011, <https://www.law.cornell.edu/supct/html/09-751.ZS.html>.

<sup>75</sup> Cornell University Law School Legal Information Institute.

emotional distress, intrusion upon seclusion, and civil conspiracy.”<sup>76</sup> The initial court case found the Westboro Baptist church liable for the claims, and a jury awarded Albert Snyder \$10.9 million, which was lowered by the judge to \$5 million.<sup>77</sup> When Phelps appealed, the Fourth Circuit Court of Appeals overturned the ruling, determining that Phelps was only exercising his First Amendment right of peaceful assembly.<sup>78</sup>

Eventually the case made its way to the Supreme Court, which upheld the Fourth Circuit’s decision in a vote of 8–1 with Justice Samuel Alito dissenting.<sup>79</sup> The majority opinion was given by Justice John Roberts with a concurrence from Justice Stephen Breyer.<sup>80</sup> Justice Roberts wrote, “While these messages [posters] may fall short of refined social or political commentary, the issues they highlight—the political and moral conduct of the United States and its citizens, the fate of our Nation, homosexuality in the military, and scandals involving the Catholic clergy—are matters of public import.”<sup>81</sup> Moreover, he explains, “Westboro conducted its picketing peacefully on matters of public concern at a public place adjacent to a public street.”<sup>82</sup> Due to the Westboro Baptist Church protesting about matters of public concern, protesting peaceably, and following all laws, members were well within their First Amendment right holding posters with very ugly sentiments at a fallen soldier’s funeral. As Justice Breyer noted in his concurrence, “Westboro’s means of communicating its views consisted of picketing in a place where picketing was lawful and in compliance with all police directions” and “the First Amendment protects Westboro.”<sup>83</sup>

However, there was a dissenting opinion by Justice Samuel Alito, who believed the actions of the Westboro Baptist Church were meant to cause emotional distress or violence.

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<sup>76</sup> Cornell University Law School Legal Information Institute.

<sup>77</sup> United States Courts.

<sup>78</sup> United States Courts.

<sup>79</sup> Cornell University Law School Legal Information Institute, “Snyder v. Phelps.”

<sup>80</sup> Cornell University Law School Legal Information Institute.

<sup>81</sup> Cornell University Law School Legal Information Institute.

<sup>82</sup> Cornell University Law School Legal Information Institute.

<sup>83</sup> Cornell University Law School Legal Information Institute.

In the dissent, Justice Alito cites *Chaplinsky v. New Hampshire* to assert that “it is well established that a claim for the intentional infliction of emotional distress can be satisfied by speech.”<sup>84</sup> The outcome of this case clarified that protestors who are in compliance with the law and exercising their first amendment rights cannot be liable for emotional distress if the demonstration is of public concern.

#### **D. CURRENT CASES THAT COULD AFFECT FREEDOM OF ASSEMBLY**

*Minnesota Voter Alliance v. Mansky* is the only case that could have major implications on peaceable assembly. In November 2010, Andrew Cilek was prevented from voting at his polling location because of his shirt and button that displayed a Tea Party logo.<sup>85</sup> Currently, “Minnesota Statute §211B.II prohibits individuals from wearing political apparel at or around polling places on primary or election days. The text of the statute did not define “political,” so Minnesota election officials distributed policy materials to help identify which items fell within the scope of the law. Thus, Andrew Cilek could have been cited for a misdemeanor if he did not remove or cover the T-shirt and button.”<sup>86</sup>

A lawsuit was filed against the Minnesota Secretary of State and election officials by the Minnesota Majority, Minnesota Voters Alliance, and Minnesota North Star Tea Party Patriots for violating the First Amendment.<sup>87</sup> This case asks whether a state can regulate speech in certain areas, making them “speech-free zones.”<sup>88</sup> The case was argued February, 28, 2018, and has yet to be decided. If the Court rules against the Minnesota Voters Alliance, there could be major implications on First Amendment law in Minnesota because this law effectively creates a space where free-speech rights are limited, thus, making it difficult to demonstrate at polling locations. However, if the Court rules in favor

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<sup>84</sup> Cornell University Law School Legal Information Institute.

<sup>85</sup> “Minnesota Voters Alliance v. Mansky,” Oyez, March 5, 2018, <https://www.oyez.org/cases/2017/16-1435>.

<sup>86</sup> Oyez.

<sup>87</sup> Oyez.

<sup>88</sup> Oyez.

of the Minnesota Voters Alliance, the state would be required to change the law and protect the free speech from “speech-free zones.”<sup>89</sup>

#### **E. THE FIRST AMENDMENT TODAY**

The rights assumed under the First Amendment, specifically Freedom of Assembly, have been significantly expanded from what was in 1886 *United States v. Cruikshank* decision. Demonstrations are a popular form of expression in the United States, but must remain within confines of the law. *De Jonge v. Oregon* established that unpopular speech at a peaceful assembly is not illegal, and *Chaplinsky v. New Hampshire* narrowed the scope of the First Amendment by explaining demonstrations that incite violence are not legal. The *Edwards v. South Carolina* decision determined demonstrations may not be dispersed if there is no violence on the part of the protestors, counter-protestors, and bystanders. Additionally, *Cohen v. California* established that insulting speech in the form of a demonstration not directed at any one person is not illegal. *Snyder v. Phelps* further clarified that even distasteful demonstrations such as the acts of the Westboro Baptist Church are legal so long as they are within the bounds of the law.

Peaceful assembly law will continue to be shaped as long as demonstrations continue to happen. These court cases prove the peaceful assembly portion of the First Amendment is continually being shaped by the judicial system. It is important to note that even with all of the court cases mentioned above, violence conducted while exercising Freedom of Assembly is not addressed in the First Amendment because such acts are covered by the criminal code. Ambiguity remains on how to police such demonstrations in the United States, which is why demonstrations will be challenged in court so long as they remain controversial.

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<sup>89</sup> Oyez.

### **III. THE MILLION MAN MARCH: WHAT MOTIVATED NON-VIOLENCE?**

The 1995 Million Man March was a defining moment in American history because it changed the narrative around African-American men in America. Media and politicians expected the march to be violent because of the controversial past of its organizers. Due to the significant amount of planning, the calls for unity from the speakers, and the self-policing among demonstrators, the Million Man March ended with no arrests or violent acts. This chapter will examine the motivating factors for non-violence at the Million Man March.

This peaceful demonstration is considered one of the largest marches in U.S. history, with an attendance estimated at more than 750,000. The Million Man March was meant to be a day atoning “for their failure as men” and “taking responsibility as the head of the family.”<sup>90</sup> Prior to the Million Man March, contemporary commentators believed that a demonstration of that size addressing racial issues in the United States would end in violence; however, the march was conducted peacefully and changed the media narrative around African-American men in America. This chapter explores the factors motivating peace and non-violence at that Million Man March.

First, this chapter will discuss the Million Man March focusing on the factors of organizational efforts and funding, speeches and speakers, protestors and counter protestors, media coverage, and law enforcement presence and legal issues. This chapter will conclude with an analysis of the factors motivating non-violence at the Million Man March that are focused on the extensive planning for the demonstration, the presence of religious leaders and politicians, the rhetoric of the speeches, and the demonstrators’ ability to police themselves.

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<sup>90</sup> “The Million Man March - October 16, 1995 in Washington, DC,” Nation of Islam, May 07, 2018, <https://www.noi.org/about-million-man-march/>.

## A. PORTRAYAL OF BLACK MEN IN THE EARLY 1990S

In the years leading up to the Million Man March, African-American men were portrayed as violent and lawless criminals due to the actions of high-profile trials and celebrities. In March 1991, Rodney King was savagely beaten by four police officers, three of them white, in Los Angeles, California, after leading police officers in a high-speed car chase.<sup>91</sup> After police pulled King over, the officers demanded that King get out of the car, and after King got out of the car, he was beaten for fifteen minutes by the officers.<sup>92</sup> The whole interaction was caught on video. King sustained several injuries to include multiple skull fractures, broken bones, knocked out teeth, and permanent brain damage.<sup>93</sup> The four officers who beat King were charged with the use of excessive force; however, a year later, a jury acquitted the police officers of any charges.<sup>94</sup> The verdict enraged the African-American community, specifically African-American men, because of the lack of justice taken on the officers and the high unemployment and incarceration rates in the African-American community, which led to six days of violent riots. NPR reported, “Residents set fires, looted and destroyed liquor stores, grocery stores, retail shops and fast food restaurants. Light-skinned motorists—both white and Latino—were targeted; some were pulled out of their cars and beaten.”<sup>95</sup> Eventually, police with the help of the National Guard were able to regain peace. In total, one-billion dollars’ worth of damage was done.<sup>96</sup>

Another poor reflection on African-American men was the rape charges that faced famous boxer Mike Tyson in 1991. At the height of his career, Tyson was accused and ultimately convicted of raping Desire Washington.<sup>97</sup> Tyson was sentenced to ten years in

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<sup>91</sup> Karen Grigsby Bates, “When LA Erupted in Anger: A Look Back at The Rodney King Riots,” NPR, last modified April 26, 2017, <https://www.npr.org/2017/04/26/524744989/when-la-erupted-in-anger-a-look-back-at-the-rodney-king-riots>.

<sup>92</sup> Bates.

<sup>93</sup> Bates.

<sup>94</sup> Bates.

<sup>95</sup> Bates.

<sup>96</sup> Bates.

<sup>97</sup> Evan West, “The Decision: Mike Tyson’s Rape Trial, 25 Years Later,” February 2017, <https://www.indianapolismonthly.com/features/the-decision-mike-tysons-rape-trial-25-years-later/>.

prison (with four suspended).<sup>98</sup> Unfortunately, this was not the only high-profile trial involving an African-American male prior to the Million Man March. OJ Simpson's murder trial was one of the most talked about trials in American history. On June 17, 1994, police released a warrant for the arrest of OJ Simpson for the murder of his wife; however, Simpson refused to surrender to police, and led police on a low-speed chase through Los Angeles in a white Ford Bronco.<sup>99</sup> Eventually, Simpson surrendered to police, and was arrested. Simpson's murder trial became an extensively covered media event by mainstream media, and occupied a lot of the prime-time news coverage. Simpson was painted as an abusive father and husband leading to significant debate about the trial by the American public. Simpson was ultimately found not-guilty by a jury only days before the Million Man March was to take place.<sup>100</sup> These negative events allowed the media to frame a negative portrayal of African-American. Furthermore, during this time African-American men were in the highest demographic of incarcerations and unemployment.<sup>101</sup> The portrayal of African-American men in the early 1990s led to many Americans believe the Million Man March was a bad idea because it would only end in violence.

## **B. THE MILLION MAN MARCH**

The Million Man March organized by Louis Farrakhan was held on October 16, 1995, in Washington, DC; it was intended to bring attention to issues that plague African-American men, specifically high unemployment and incarceration rates; an American welfare system that encourages African-American men to leave their families; and racial stereotypes perpetuated by the media.<sup>102</sup> Moreover, the march was meant to be “a day of

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<sup>98</sup> West.

<sup>99</sup> “O.J. Simpson Acquitted,” The History Channel, accessed August 1, 2018, <https://www.history.com/this-day-in-history/o-j-simpson-acquitted>.

<sup>100</sup> The History Channel.

<sup>101</sup> Bruce Western, “Incarceration, Unemployment, and Inequality,” *Focus* 21, (Spring 2001): 388–392, [https://inequality.stanford.edu/sites/default/files/media/\\_media/pdf/key\\_issues/crime\\_research.pdf](https://inequality.stanford.edu/sites/default/files/media/_media/pdf/key_issues/crime_research.pdf).

<sup>102</sup> *The Social History of the American Family: An Encyclopedia*, s.v., “Million Man March,” accessed May 1, 2018, <http://dx.doi.org/10.4135/9781452286143.n362>.

atonement, reconciliation, and responsibility.”<sup>103</sup> At the march, African-American men were called on “to atone for their moral and ethical mistakes and to make amends with their creator,” “to heal or reconcile personal and social relationships to unite with one’s community to promote a more just society,” and “take responsibility for oneself, one’s family, and broader society.”<sup>104</sup> African-American women were asked to stay home with children in a “Day of Absence.”<sup>105</sup> Still, the march primarily addressed issues facing the African-American community as a whole.<sup>106</sup>

Attendance figures at the Million Man March were heavily contested. Following the march the National Park Service (NPS) estimated attendance at approximately 400,000, which was immediately rebutted by March organizers claiming actually 1.5 million people attended.<sup>107</sup> After Million Man March organizers threatened to sue the NPS, Congress decided that the NPS would no longer receive funding to make estimates on the size of public gatherings at the National Mall.<sup>108</sup> A research group from Boston University estimates attendance at 870,000 people, which has become the widely accepted number.<sup>109</sup> The organizational efforts of the Million Man March and its problematic leadership are discussed below, followed by an examination and analysis of the speakers and speeches, protestors and counter protestors, law enforcement presence/intervention, and media coverage.

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<sup>103</sup> *In Culture Wars in America: An Encyclopedia of Issues, Viewpoints, and Voices*, ed., s.v., “Million Man March,” accessed May 1, 2018, [http://libproxy.nps.edu/login?url=https%3A%2F%2Fsearch.credoreference.com%2Fcontent%2Fentry%2Fsharpecw%2Fmillion\\_man\\_march%2F0%3FinstitutionId%3D901](http://libproxy.nps.edu/login?url=https%3A%2F%2Fsearch.credoreference.com%2Fcontent%2Fentry%2Fsharpecw%2Fmillion_man_march%2F0%3FinstitutionId%3D901).

<sup>104</sup> *The Social History of the American Family: An Encyclopedia*.

<sup>105</sup> *The Social History of the American Family: An Encyclopedia*.

<sup>106</sup> *The Social History of the American Family: An Encyclopedia*.

<sup>107</sup> *The Social History of the American Family: An Encyclopedia*.

<sup>108</sup> Leef Smith and Wendy Melillo, “If It’s Crowd Size You Want, Park Service Says Count It Out,” *The Washington Post*, October 13, 1996, <https://www.washingtonpost.com/archive/politics/1996/10/13/if-its-crowd-size-you-want-park-service-says-count-it-out>.

<sup>109</sup> *The Social History of the American Family: An Encyclopedia*, ed., s.v., “Million Man March.”

## 1. Organizational Efforts and Funding

The idea for the March was based on the 1963 March on Washington organized by Dr. Martin Luther King, Jr., which called on the U.S. government to support civil rights for African-Americans.<sup>110</sup> The primary organizers for the Million Man March were Dr. Benjamin Chavis Muhammad (formerly Dr. Benjamin Chavis) and Minister Louis Farrakhan. Both organizers had problematic pasts, which led to a lot of controversy about the Million Man March even before it happened. Before becoming the National Organizer of the march, Dr. Muhammad worked for the National Association for the Advancement of Colored People (NAACP).<sup>111</sup> In 1993, Dr. Muhammad won the election to assume the role as executive director of the NAACP; however, after a year, Dr. Muhammad was fired when it was discovered that he had been setting aside NAACP funds to pay for an out of court settlement involving him and a former NAACP employee in a sexual discrimination case.<sup>112</sup> Following his resignation from the NAACP in 1994, Dr. Muhammad created the National African American Leadership Summit.<sup>113</sup> Leader of the Nation of Islam, Farrakhan was equal parts firebrand and lightning rod because he claimed to be a black nationalist; he was also accused of being xenophobic, homophobic, anti-Semitic, and Christianophobic.<sup>114</sup>

The majority of the planning for the Million Man March came from the 1994 National African American Leadership Summit.<sup>115</sup> At the summit, the theme for the march was determined as “atonement, reconciliation, and responsibility,” but the march would also focus on increasing voter registration of black men.<sup>116</sup> Later, in 1994, Louis Farrakhan

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<sup>110</sup> *The Social History of the American Family: An Encyclopedia*.

<sup>111</sup> Ellis Cose, “The Fall of Benjamin Chavis,” *Newsweek*, March 14, 2010, <http://www.newsweek.com/fall-benjamin-chavis-187934>.

<sup>112</sup> *Encyclopedia of World Biography*, s.v. “Benjamin Chavis Muhammad Biography,” accessed August 1, 2018, <http://www.notablebiographies.com/Ch-Co/Chavis-Muhammad-Benjamin.html>.

<sup>113</sup> *Encyclopedia of World Biography*.

<sup>114</sup> Michael O. West, “Like a River: The Million Man March and the Black Nationalist Tradition in the United States,” *Journal of Historical Sociology* 12, no. 1 (March 1999): 81–100, <https://doi.org/10.1111/1467-6443.00081>.

<sup>115</sup> *In Culture Wars in America: An Encyclopedia*, “Million Man March.”

<sup>116</sup> *In Culture Wars in America: An Encyclopedia*.

embarked on two speaking tours across the United States to promote the Million Man March and raise funds for the march. These were known as the “Women Only” and “Men Only” tours, and they focused on increasing voter registration, bringing attention to issues the African-American community faced, and fundraising for the march. Through these events, Farrakhan was able to generate excitement and popularity for the march, leading to the large attendance.<sup>117</sup> In *A History of the Nation of Islam: Race, Islam, and the Quest for Freedom*, Dawn-Marie Gibson explains that the primary organizations responsible for putting on the Million Man March were the Nation of Islam, the National African American Leadership Summit, and the New Black Panther Party.<sup>118</sup> Even though the African American Leadership Summit and New Black Panther Party assisted in the planning of the Million Man March, the march was primarily funded by the Nation of Islam and Farrakhan.

## **2. Key Participants and Organizations**

The Nation of Islam, the National African American Leadership Summit, and the New Black Panther Party were the three primary organizations that supported the Million Man March. Due to the rhetoric and discriminatory ideologies of the Nation of Islam and the New Black Panther Party, there was a significant amount of apprehension from the public, media, and law enforcement leading up to the Million Man March. Arguably, the most controversial of the three organizations was the Nation of Islam. This organization was established in Detroit, Michigan, around 1930 by an unnamed clothing salesman; however, did not gain notoriety until the 1950s.<sup>119</sup> In 1955, the Federal Bureau of Investigation (FBI) released a report on the Muslim Cult of Islam (or the Nation of Islam), in which it reported, “The MCI [Muslim Cult of Islam or National of Islam], although an extremely anti-American organization, is not at the present time either large enough or powerful enough to inflict any serious damage to this country; however, its members are

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<sup>117</sup> *In Culture Wars in America: An Encyclopedia*.

<sup>118</sup> Dawn-Marie Gibson, *A History of the Nation of Islam: Race, Islam, and the Quest for Freedom* (Santa Barbara, CA: Praeger, 2012), 111–128, <https://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=946721>.

<sup>119</sup> “Nation of Islam,” Southern Poverty Law Center, accessed August 1, 2018, <https://www.splcenter.org/fighting-hate/extremist-files/group/nation-islam>.

capable of committing individual acts of violence.”<sup>120</sup> Notable members of the Nation of Islam are Minister Elijah Muhammad, Malcom X, and Louis Farrakhan. Though, at the time of the Million Man March the leader of the Nation of Islam was Louis Farrakhan. A controversial figure in American politics because Farrakhan was the successor of Malcom X in leading a prominent mosque associated to the National of Islam. Although never proven, Farrakhan was believed to have played a critical role in the assassination of Malcom X because the two gunmen who shot him were Nation of Islam members who worked directly for Farrakhan.<sup>121</sup>

Throughout its history, the Nation of Islam is known to be prone to violence, and is believed to have been a part of assassinations and hate crimes against the Jewish and Lesbian, Gay, Bisexual, and Transgender communities (LGBT). Furthermore, Farrakhan is notoriously anti-Semitic and homophobic. When speaking on behalf of the Nation of Islam, Farrakhan has stated, “These false Jews promote the filth of Hollywood that is seeding the American people and the people of the world and bringing you down in moral strength. ... It’s the wicked Jews, the false Jews, that are promoting lesbianism, homosexuality.”<sup>122</sup> Membership numbers for the Nation of Islam prior to the Million Man March are unknown.

National African American Leadership Summit was established by Dr. Benjamin Chavis in 1994 following his controversial firing as the president of the NAACP.<sup>123</sup> Not much is known about this organization because it did not operate for a long time; however, while it was functioning, this organization put on the National African American Leadership Summit in the summer of 1994, which is where the creation for the Million Man March started. The summit was also meant to convene African-American leaders who wanted to unapologetically advance “the cause of Black liberation, justice and

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<sup>120</sup> “FBI Records: The Vault – Nation of Islam,” Federal Bureau of Investigation, July 18, 2018, <https://vault.fbi.gov/Nation%20of%20Islam/Nation%20of%20Islam%20Part%201%20of%203/view>.

<sup>121</sup> Gibson, *A History of the Nation of Islam*, 124.

<sup>122</sup> Southern Poverty Law Center, “Nation of Islam.”

<sup>123</sup> Cose, “The Fall of Benjamin Chavis.”

empowerment.”<sup>124</sup> Furthermore, this organization worked very closely with the Nation of Islam, and assisted with the mobilization efforts for the Million Man March.<sup>125</sup> The National African American Leadership Summit (NAALS) was not known to be a violent organization. The number of members of this organization prior to the Million Man March is unknown.

New Black Panther Party was another provocative organization that participated in the Million Man March. A spinoff of the original Black Panther Party, this organization was founded in 1989 on the premise of establishing a new country to ensure complete segregation of Black and White people.<sup>126</sup> This militant group believes it is a critical part of the larger black power movement that promotes the advancement of African-American people. Similar to the Nation of Islam, the New Black Panther Party also had a history of discrimination against the Jewish community. Leader of the organization Khalid Abdul Muhammad, has asserted, “Our lessons talk about the bloodsuckers of the poor.... It’s that old no-good Jew, that old imposter Jew, that old hooked-nose, bagel-eating, lox-eating, Johnny-come-lately, perpetrating-a-fraud, just-crawled-out-of-the-caves-and-hills-of-Europe, so-called damn Jew.”<sup>127</sup> Membership numbers of the New Black Panther Party prior to the Million Man March are unknown.

### **3. Speakers and Speeches**

The speakers at the Million Man March ranged from ministers to poets, and several celebrities performed. Speakers included Senator Aldebert Bryan, the Reverend Jesse Jackson, Chavis, civil rights activist Rosa Parks, and Harvard Professor Dr. Cornel West. Several media organizations and politicians alluded to an event being led by Farrakhan as

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<sup>124</sup> “National African American Leadership Summit; Operational Unity,” *The Washington Informer*, accessed August 1, 2018, <http://libproxy.nps.edu/login?url=https://search.proquest.com/docview/880394566?accountid=12702>.

<sup>125</sup> “Chavis Returns to National Rights Scene at Head of New Group,” *The Blade*, June 1, 1995, <https://news.google.com/newspapers?id=XT8xAAAIAIBAJ&sjid=ZwMEAAAIAIBAJ&pg=6674,50032&dq=million-man-march+national-african-american-leadership-summit&hl=en>.

<sup>126</sup> “New Black Panther Party,” Southern Poverty Law Group, accessed July 18, 2018, <https://www.splcenter.org/fighting-hate/extremist-files/group/new-black-panther-party>.

<sup>127</sup> Southern Poverty Law Center.

potentially problematic and the slogan “separate the message from the messenger” became critical when organizers discussed Farrakhan’s involvement in planning and funding the march.<sup>128</sup> Philadelphia Mayor Edward Rendell pointed out “the march is a whole lot bigger than Louis Farrakhan.”<sup>129</sup>

None of the speeches at the Million Man March called for violence, to the surprise and relief of law enforcement. During the march many of the speakers focused on the importance of unity and peace. Stevie Wonder said, “No matter where we might be in class, we are all one people. I’m here to also say to all of you that it is very important for you to be calm to make this a historical day, not just in American history, but in world history. A day of peace, a day of oneness, a day of celebration, a day of love, a day of brotherhood.”<sup>130</sup> Furthermore, he went on to discuss that the people of African descent in America “come together as one” to assist with achieving goals of the African-American community.<sup>131</sup>

Farrakhan ended the day with a two-and-a-half-hour keynote speech.<sup>132</sup> In his speech, Farrakhan attempts to improve relationships with Black communities and the government by calling for unity. Farrakhan asserted, “Our first motion then must be toward the God, who created the law of the evolution of our being. And if our motion toward him is right and proper, then our motion toward a perfect union with each other and with government and with the peoples of the world will be perfected.”<sup>133</sup> Furthermore, he discussed the role God would play in unifying African-American communities and the government.<sup>134</sup> Instead of violent and aggressive rhetoric, the speeches and performances

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<sup>128</sup> “Criticism of Farrakhan’s Million Man March Muted,” Edward Walsh, *The Washington Post*, accessed July 18, 2018, [https://www.washingtonpost.com/archive/politics/1995/10/08/criticism-of-farrakhans-million-man-march-muted/335735c2-306b-4c05-8ccd-7604395bfa07/?utm\\_term=.5c1fbe775393](https://www.washingtonpost.com/archive/politics/1995/10/08/criticism-of-farrakhans-million-man-march-muted/335735c2-306b-4c05-8ccd-7604395bfa07/?utm_term=.5c1fbe775393).

<sup>129</sup> Walsh.

<sup>130</sup> “Million Man March Coverage” CSPAN, video, 8:56:42, October 16, 1995, <https://www.c-span.org/video/?67630-1/million-man-march>.

<sup>131</sup> CSPAN.

<sup>132</sup> *In Culture Wars in America: An Encyclopedia*, ed., s.v., “Million Man March.”

<sup>133</sup> “Farrakhan Million Man March Speech Text,” Voices of Democracy, accessed May 08, 2018, <http://voicesofdemocracy.umd.edu/farrakhan-million-man-march-speech-text/>.

<sup>134</sup> Voices of Democracy.

focused on unity and empowerment, which could have been a factor in non-violence at the march.

#### **4. Protestors and Counter-protestors**

The Nation of Islam claimed protestors supporting the Million Man March were comprised of “all creeds and classes,” including “Christians, Muslims, Hebrews, Agnostics, nationalists, and pan-Africanists” and men came from around the country to participate.<sup>135</sup> Glenn Towery, a protestor at the march, stated “the march changed my life and my perspective of life in so many ways. I (gained) a tremendous commitment to the betterment of my culture, and a heightened capacity to care to love.”<sup>136</sup> There were no reported counter-protests at the Million Man March.

#### **5. Law Enforcement Presence/Legal Issues**

It appears that all permits and other assembly requirements were met prior to the march. Furthermore, there were no reported incidents or arrests at the Million Man March. It appears many protestors who attended the Million Man March policed themselves and others around them. Leroy Davis reported,

during one of the early speeches, two black youths a few feet behind us started to argue. No more than 10 or 11 years old, they “put up their dukes,” as we used to say, preparing to fight. The brother who first noticed the commotion (a complete stranger to the boys) was outraged at their behavior.... Both boys saw that 20 or 30 angry black men were looking at them, their expressions reinforcing every word of the brother’s demand [to apologize]. The boys’ eyes filled with tears, and they soon shook hands and apologized.<sup>137</sup>

Afterwards, the District of Columbia law enforcement commended the Million Man March Organizers and protestors for a calm march.<sup>138</sup>

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<sup>135</sup> Nation of Islam, “The Million Man March - October 16, 1995 in Washington, DC.”

<sup>136</sup> Nation of Islam.

<sup>137</sup> Leon Davis, “Memories of the ‘Million Man March,’” *The Chronicle of Higher Education* 42, no. 11 (November 1995): B3, ProQuest.<https://search.proquest.com/docview/214731284/fulltextPDF/42DCCA2210F0457APQ/1?accountid=12702>.

<sup>138</sup> Michael Janofsky, “Federal Parks Chief Calls ‘Million Man’ Count Low,” *The New York Times*, last modified October 21, 1995, <https://www.nytimes.com/1995/10/21/us/federal-parks-chief-calls-million-man-count-low.html>.

## 6. Media Coverage

The Million Man March did receive a significant amount of press prior to the march. Many conservative news outlets viewed the march as troubling because of its controversial organizers and believed that it would cause a further divide between Caucasian and African Americans.<sup>139</sup> Furthermore, these opponents argued that Farrakhan's presence alone will bring about violence to the march.<sup>140</sup> In contrast, liberal news outlets praised the Million Man March for bringing attention to the issues within the African-American community.<sup>141</sup>

The Million Man March received a significant amount of new coverage the day the march took place. Cable-Satellite Public Affairs Network (CSPAN) along with other news outlets provided live coverage of the march. Furthermore, it was covered by several print newspapers the day after the march completed. The March was praised for its display of solidarity and non-violence. The *Washington Informer* stated, "Never before has so many Black men gathered together—in peace and harmony—for one cause. Never before have we witnessed such solidarity, one that we hope would go a long ways."<sup>142</sup>

In the years following the Million Man March, it became a culturally important event for the African-American community. The movie "Get on the Bus," directed by Spike Lee, was created a year following the march and told the story of a group of men traveling by bus to the Million Man March from Los Angeles. Furthermore, the march has been heavily discussed in academic journals and books. On the twentieth anniversary of the Million Man March, the *Washington Post* released an article stating, "What is unquestionable is the march's symbolic importance. It has become a cultural touchstone, like the much smaller March on Washington was for an earlier generation. The difference

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<sup>139</sup> Gibson, *A History of the Nation of Islam*, 127.

<sup>140</sup> Haki R. Madhubuti and Maulana Karenga, eds., *Million Man March/Day of Absence, A Commemorative Anthology: Speeches, Commentary, Photography, Poetry, Illustrations, Documents* (Chicago: Third World Press, 1996), 128.

<sup>141</sup> Madhubuti and Karenga, 128.

<sup>142</sup> "Million Man March," *The Washington Informer*, July 18, 2018, <http://libproxy.nps.edu/login?url=https://search.proquest.com/docview/367724388?accountid=12702>.

is that the Million Man March was not a demand on government but a call for introspection, one that many black men continue to cite as a seminal moment in contemporary history.”<sup>143</sup>

### **C. MILLION MAN MARCH ANALYSIS**

Non-violence at the Million Man March could be attributed to these three factors: the speeches that called for peace and unity, the presence of religious figures and politicians as both speakers and protestors, and the fact that the event wanted to change the portrayal of African-American men. The strict preset themes of atonement, reconciliation, and responsibility gave speakers at the Million Man March a specific set of guidelines on which to base their speeches. The majority of the speeches and performances at the march address the three themes, and called for unity within African-American communities.

Many of the speakers at the Million Man March were religious leaders, which could factor into this peaceful assembly. With the exception of march organizers, religious leaders at the Million Man March were Christian or Muslim, both traditionally peaceful religions that do not condone violence. Therefore, it was unlikely for these speakers and protestors to incite violence because it goes against their religious ideology. Furthermore, a wide range of politicians present at the March it made violence unlikely because it would not be advantageous for them to be associated with unruly protestors. In a year before a major presidential and congressional elections, politicians could not afford to be associated with a violent, race-based demonstration.

Arguably the single most important factor into peace at this march was the march’s focus on changing the negative portrayal of an African-American man in the American news media. In the years leading up to the march, African-American men had received significant amounts of criticism and bad press due the Rodney King riots, domestic violence claims against Mike Tyson, and the OJ Simpson murder trial. Furthermore, many stereotypes about African-American men were being perpetuated through the entertainment and music industry, giving them a bad reputation. The Million

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<sup>143</sup> “The Million Man March: Its Effect May be Debatable. Its Significance is Not.,” Mitchell A. Fletcher, *The Washington Post*, July 18, 2018, [https://www.washingtonpost.com/business/economy/the-million-man-march-its-effect-may-be-debatable-its-significance-is-not/2015/10/09/5fde11cc-67a4-11e5-8325-a42b5a459b1e\\_story.html?utm\\_term=.2fcb5fd3b0b8](https://www.washingtonpost.com/business/economy/the-million-man-march-its-effect-may-be-debatable-its-significance-is-not/2015/10/09/5fde11cc-67a4-11e5-8325-a42b5a459b1e_story.html?utm_term=.2fcb5fd3b0b8).

Man March provided African-American men the opportunity to display to the country and world that they could come together peacefully to bring attention to issues faced by African-American men and their communities. Furthermore, the Million Man March received a lot of media attention because it was one of the largest marches in American history.

Due to this attention, African-American men understood that their behavior at the march reflected not only on the men marching, but on African-American men as a whole. Due to these factors, the protestors who attended the march appeared to police themselves. Leon Davis' account of the two young men arguing and attempting to fight is an example of that. The men who came to the march were trying to make a societal change in the perception of African-American men and knew that fighting and violence would only perpetuate these stereotypes; this was a critical factor in keeping the Million Man March peaceful.

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## **IV. THE UNITE THE RIGHT RALLY: WHAT MOTIVATED VIOLENCE?**

The Unite the Right rally held in Charlottesville, Virginia, in August 2017, to demonstrate against the removal of a Confederate Statue has been one of the most controversial race-based public assemblies since the Million Man March. The violence that broke out at the Unite the Right rally came as surprise to many Americans, and was unfathomable that such a demonstration would take place in modern America because it was believed that racial demonstrations, specifically for white nationalists were no longer prevalent in America. This chapter demonstrates that public official and law enforcement preparation and intervention are determining factors for violence at demonstrations, and if not addressed appropriately could lead to several injuries or even death.

This chapter will discuss the Unite the Right rally by first focusing on the establishment of the Alternative Right (alt-right) and the timeline of events during the Unite the Right rally. Then there will be an examination of the Unite the Right rally sponsor's organizational efforts, key participating protesting and counter-protesting organizations, speeches and speakers, behavior of protestors and counter protestors, media coverage, law enforcement actions, and legal cases that resulted from the rally. The chapter will conclude with an analysis of the factors that led to violence at the Unite the Right rally focusing on the failures of the Charlottesville public officials and law enforcement.

### **A. ESTABLISHMENT OF THE ALTERNATIVE-RIGHT (ALT-RIGHT)**

The alt-right is a term created by white nationalist Richard Spencer in 2008 and describes a movement that focused on the “white identity” and the “preservation of Western values.”<sup>144</sup> The Anti-Defamation League (ADL) explains that this latter term refers to “the cultural and genetic heritage that makes us who we are.”<sup>145</sup> This movement promotes itself through presentations on college campuses, demonstrating the removal of

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<sup>144</sup> “Alt-Right,” Southern Poverty Law Center, accessed July 23, 2018, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/alt-right>.

<sup>145</sup> “Alt Right: A Primer about the New White Supremacy,” Anti-Defamation League, accessed July 27, 2018, <https://www.adl.org/resources/backgrounders/alt-right-a-primer-about-the-new-white-supremacy>.

Confederate statues, and discrediting governmental policies that support minorities to display a public resistance to political correctness.

Through the use of social media and several high-profile speaking events, the alt-right was able to gain popularity in both the United States and United Kingdom.<sup>146</sup> Over the past decade, the alt-right has gained the support of several white nationalist groups, blogs, and social media accounts that have given its racist, anti-Semitic, and anti-immigration ideals a national platform. The National Policy Institute, an alt-right organization, has stated, “Immigration is a kind of proxy war—and maybe a last stand—for White Americans, who are undergoing a painful recognition that, unless dramatic action is taken, their grandchildren will live in a country that is alien and hostile.”<sup>147</sup> Moreover, several members of the alt-right have felt as though the government shifted from a democratic one to a socialist one that promotes immigration and diversity, and is conspiring with the “liberal left” to diminish European white heritage. Leaders of the alt-right movement heavily encouraged their supporters to vote for Donald Trump during the 2016 Presidential election because of his stances on restricting immigration and promoting gun rights.

## **B. UNITE THE RIGHT RALLY**

The torch-lit march and Unite the Right rally that took place August 11 and 12, 2018, ended in disaster with three deaths and over 30 injuries, and displayed determining factors for violence in a demonstration can be attributed to the lack of preparation by public officials and law enforcement. The Unite the Right rally took place on August 12, 2017; however, events for the rally started the evening of August 11, 2017, when approximately a thousand white-nationalist protesters, led by Richard Spencer, gathered at an intramural field on the campus of the University of Virginia (UVA) at ten o’clock at night with the intent of marching to the Thomas Jefferson statue located in the middle of campus.<sup>148</sup> This

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<sup>146</sup> Anti-Defamation League.

<sup>147</sup> Anti-Defamation League.

<sup>148</sup> Stefan Becket, “Torch-Wielding White Nationalists March Through University of Virginia Campus,” last modified August 12, 2017, <https://www.cbsnews.com/news/torch-carrying-white-nationalists-march-through-university-of-virginia-ahead-of-rally/>.

unplanned march did not have a permit nor did it have the permission of UVA to conduct a demonstration on campus.<sup>149</sup> White supremacists marched in white collared shirts and khaki pants carrying tiki torches.<sup>150</sup> When they marched they chanted several sayings such as “blood and soil,” “you will not replace us,” and “white lives matters.”<sup>151</sup> Once the white supremacists arrived at the Thomas Jefferson statue, they were met by a group of approximately 30 UVA student counter-protestors who had locked arms around the statue.<sup>152</sup> The *Washington Post* reported, “Shoves. Punches. Both groups sprayed chemical irritants. Many marchers threw their torches toward the statue and the students. Other than one university police officer, there was no sign of law enforcement along the march, and it was several minutes before police intervened. Both sides suffered injuries.”<sup>153</sup>

On August 12, 2017, the Unite the Right rally was supposed to take place, but ultimately it did not because of the violent clashes between protestors and counter-protestors. White-nationalists and counter-protestors began to line the streets around Market Street Park (formerly Emancipation Park) at eight-thirty in the morning, even though the rally was not scheduled to start until eleven o’clock.<sup>154</sup> Protestors and counter-protestors begin to clash and violence broke out right outside Market Street Park, the location Unite the Right rally and confederate statue being removed.<sup>155</sup> As the violence intensified, the protest shifted from outside the park to the street, and was deemed an unlawful assembly by law enforcement at approximately eight-thirty am.<sup>156</sup> Following the declaration of unlawful assembly by law enforcement, Governor Terry McAuliffe declared a state of emergency in Charlottesville to assist local law enforcement with ending violence

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<sup>149</sup> Becket.

<sup>150</sup> Joe Heim, “Recounting a Day of Rage, Hate, Violence and Death,” last modified August 14 2017, [https://www.washingtonpost.com/graphics/2017/local/charlottesvilletimeline/?noredirect=on&utm\\_term=.a6acb5f92587](https://www.washingtonpost.com/graphics/2017/local/charlottesvilletimeline/?noredirect=on&utm_term=.a6acb5f92587).

<sup>151</sup> Heim.

<sup>152</sup> Heim.

<sup>153</sup> Heim.

<sup>154</sup> “Timeline of the Deadly Weekend in Charlottesville, Virginia,” ABC7, accessed July 19, 2018, <http://keptrtv.com/news/nation-world/timeline-of-events-for-unite-the-right-rally-in-charolettesville>.

<sup>155</sup> ABC7.

<sup>156</sup> ABC7.

between protestors and counter-protestors.<sup>157</sup> Two hours after the Governor McAuliffe declared a state of emergency, self-proclaimed white-nationalist James Alex Fields drove his car at a high rate of speed into a crowd of counter-protestors, killing Heather Heyer and injuring 19 others.<sup>158</sup> Additionally, Fields fled the scene, which started a manhunt for his location and arrest.<sup>159</sup> At approximately five pm, a helicopter carrying two police officers responding to the day's events crashed just outside of Charlottesville, killing both.<sup>160</sup> The day ended with the arrest of two alt-right protestors for assault and battery as well as Fields being arrested and charged with second-degree murder.<sup>161</sup> Ultimately, the Unite the Right rally was responsible for the death of three (one counter-protestor and two police officers) and injury of more than 30 protestors and counter-protestors.<sup>162</sup>

### **1. Organizational Efforts and Funding**

The primary organizer and sponsor for the Unite the Right rally was Jason Kessler, a well-known member of the white nationalist alt-right movement who created the white nationalist organization Unity and Security for America, to provide protection for alt-right members at protests and counter-protests.<sup>163</sup> The Southern Poverty Law Center reported, “a GoFundMe [was] started by one of Kessler’s Unity & Security for America cohort[s] to fund the ‘man hours to prepare for [demonstrations], body armor to protect our journalist from a knife to the ribs, a professional quality microphone for interviewer [sic] the protestors and much more.’”<sup>164</sup>

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<sup>157</sup> ABC7.

<sup>158</sup> ABC7.

<sup>159</sup> ABC7.

<sup>160</sup> ABC7.

<sup>161</sup> ABC7.

<sup>162</sup> ABC7.

<sup>163</sup> Spencer Sunshine, “A Guide to Who’s Coming to the Largest White Nationalist Rally in a Decade,” last modified August 10, 2017, <https://www.politicalresearch.org/2017/08/10/a-guide-to-whos-coming-to-the-largest-white-nationalist-rally-in-a-decade/>.

<sup>164</sup> “Jason Kessler,” Southern Poverty Law Center, accessed July 19, 2018, <https://www.splcenter.org/fighting-hate/extremist-files/individual/jason-kessler>.

In the months leading up to the Unite the Right rally, Kessler planned and organized a demonstration in Charlottesville, Virginia on May, 14, 2017 to dispute the removal of two confederate statues. The all-day event was a series of demonstrations that “culminated in a torch-lit march to the statue of Robert E. Lee, which generated a great deal of coverage noting the visual similarities between the torch-lit rally and cross-lightings at Ku Klux Klan gatherings where Civil War veterans gathered to strike back against Reconstruction.”<sup>165</sup> During the event, Kessler was arrested by police for “failure to obey an officer’s commands,” which happened only weeks after he pled guilty for “misdemeanor assault” for his actions at a white-nationalist rally earlier in the year.<sup>166</sup>

Although complete funding information for the rally is unknown, Kessler did provide the primary source of income to sponsor the rally.<sup>167</sup> Months before the rally, Kessler applied for the necessary permit needed to conduct the rally in Market Street Park. However, a week before the rally, the permit was denied by the city of Charlottesville for “safety concerns” unless the rally was moved to McIntire Park.<sup>168</sup> Kessler petitioned to have the rally in Market Street Park because that was the location of the General Lee statue. City officials stated, “the city has serious concerns about ensuring the safety of the expected demonstrators in the park, expected counter demonstrators in the public, and to protect against public and private damage among other concerns.”<sup>169</sup> However, Kessler asserted, “the fact that they’d try and move it away from the statue is, in itself, a violation of our free speech rights.”<sup>170</sup> In response to the city’s ultimatum, Kessler, with council from the American Civil Liberties Union (ACLU) and Rutherford Institute, sued the city of

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<sup>165</sup> Southern Poverty Law Center.

<sup>166</sup> Southern Poverty Law Center.

<sup>167</sup> Sunshine, “A Guide to Who’s Coming to the Largest White Nationalist Rally in a Decade.”

<sup>168</sup> Bryan McKenzie, “City Says Permit Will Only Be Ok’d if Rally is Moved to McIntire Park,” Daily Progress, last modified August 7, 2017, [https://dailyprogress.com/news/local/city-says-permit-will-only-be-ok-d-if-rally/article\\_29f8e566-7baa-11e7-906d-63c9ea503128.html](https://dailyprogress.com/news/local/city-says-permit-will-only-be-ok-d-if-rally/article_29f8e566-7baa-11e7-906d-63c9ea503128.html).

<sup>169</sup> “Updated: Charlottesville Leaders Ask Kessler to Move Unite the Right Rally,” NBC29, August 7, 2017,” <http://www.nbc29.com/story/36079665/charlottesville-press-conference-8-7-2017>.

<sup>170</sup> McKenzie, “City Says Permit Will Only Be Ok’d if Rally is Moved to McIntire Park.”

Charlottesville for violating his First Amendment rights.<sup>171</sup> On August 11, 2017, the night before the rally, United States District Judge Glen E. Conrad granted an emergency injunction allowing the rally to take place in Market Street Park.<sup>172</sup> In the ruling, Judge Conrad asserts, “Given the timing of the City’s decision, the court is of the opinion that the balance of the equities favors the plaintiff in the instant case. The court further concludes that an injunction protecting the plaintiff’s rights under the First Amendment is in the public interest.”<sup>173</sup> The counter-protestors were granted a permit to demonstrate in McGuffey Park and Jackson Park, which were near Market Street Park.<sup>174</sup> Figure 1 displays the quarter-mile distance between McGuffey Park and Market Street Park. According to Google Maps, the distance between these parks is a two-minute walk and one-minute drive.



The blue square represents the counter-protesting location McGuffey Park and the red square represents where the Alt-Right protesters were demonstrating in Market Street Park

Figure 1. Map of McGuffey Park and Market Street Park.<sup>175</sup>

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<sup>171</sup> “Judge Grants Injunction, Jason Kessler Can Have Unite the Right Rally at Emancipation Park,” NBC29, August 11, 2017, <http://www.nbc29.com/story/36115819/judge-grants-injunction-jason-kessler-can-have-unite-the-right-rally-at-emancipation-park>.

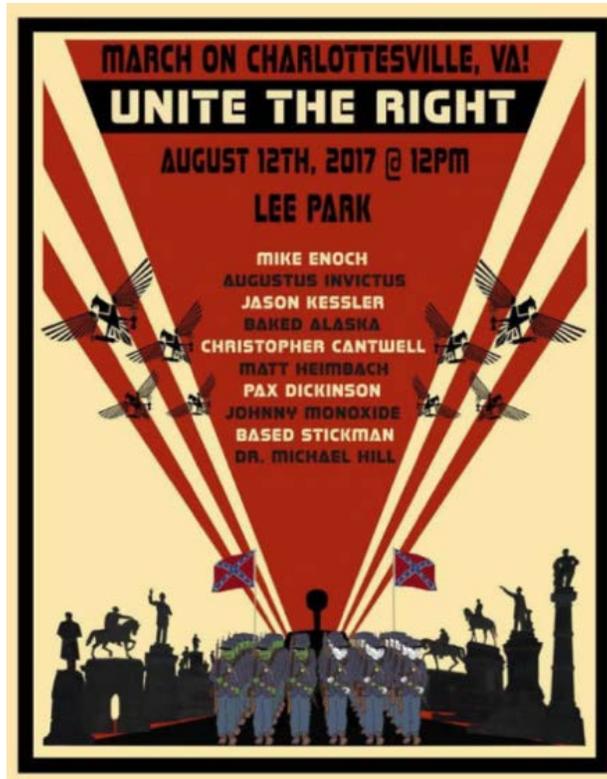
<sup>172</sup> NBC29.

<sup>173</sup> NBC29.

<sup>174</sup> McKenzie, “City says permit will only be OK’d if rally is moved to McIntire Park.”

<sup>175</sup> Source: “Charlottesville, VA,” Google Maps, accessed August 1, 2018, <https://www.google.com/maps/@38.0324991,-78.4813368,17z>.

Figure 2 displays a poster used on social media to promote the Unite the Right rally. To increase support and attendance for the demonstration, Jason Kessler and other white nationalists attending the event utilized social media, specifically Twitter and Facebook. Many of the posters had a militaristic theme and utilized Nazi symbols, confederate flags and statues, and other white nationalist pictures.



Alt-Right created poster used to promote the Unite the Right Rally

Figure 2. Unite the Right Rally Poster<sup>176</sup>

## 2. Key Participating Organizations

Several controversial organizations participated in the Unite the Right rally and counter-protests. Protestors and counter-protestors often have membership in multiple social action organizations because they are promoted through social media, blogs, and

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<sup>176</sup> Source: Sunshine, "A Guide to Who's Coming to the Largest White Nationalist Rally in a Decade."

websites. Furthermore, many of the groups often do not have formal membership requirements, and rely on social media to garner support. Both groups on the extreme left and right have been of controversial because many Americans believe they are divisive.

*a. Alt-Right Participating Organizations*

Three noteworthy alt-right groups that attended the rally were Fraternal Order of the Alt-Knights (FOAK), National Socialist Movement (NSM), and Knights of the Ku Klux Klan (KKK). These alt-right groups believe in professing white nationalism ideologies and anti-immigration policies. FOAK was founded in early 2017 by Kyle Chapman, a member of the alt-right group the Proud Boys.<sup>177</sup> Chapman has discussed his respect for the actions of a group of Ukrainian men who went to a Muslim neighborhood with AR-15s and “shot it the hell up” after a group of Muslim men beat a white Ukrainian man to death.<sup>178</sup> FOAK advocates violence at demonstrations as a means of protection against what they perceive as liberal leaning government and justice system.<sup>179</sup> Additionally, FOAK members use social media to mobilize for demonstrations, and are known to arrive at demonstrations in riot gear as well as carry weapons such as batons and shields.<sup>180</sup>

The NSM was founded in 1959, and, as of 2009, is estimated to have 61 chapters in 35 states.<sup>181</sup> This neo-Nazi organization’s values are centered on the protection of European white culture and heritage by supporting governmental policies that endorse anti-immigration, segregation, and withdrawal from the Middle East.<sup>182</sup> According to the Southern Poverty Law Center, the NSM is currently the largest Neo-Nazi organization in the United States and has been tied to many violent acts specifically against the Jewish

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<sup>177</sup> “Fraternal Order of the Alt-Knight (FOAK),” Southern Poverty Law Center, accessed July 19, 2018, <https://www.splcenter.org/fighting-hate/extremist-files/group/fraternal-order-alt-knights-foak>.

<sup>178</sup> Southern Poverty Law Center.

<sup>179</sup> Southern Poverty Law Center.

<sup>180</sup> Southern Poverty Law Center.

<sup>181</sup> Southern Poverty Law Center.

<sup>182</sup> “America’s National Socialist Party,” National Socialist Movement, accessed July 19, 2018, <http://www.nsm88.org/aboutus.html>.

community.<sup>183</sup> J. T. Ready, a prominent member of the NSM, stated, “I do not see the niggers, homosexuals, Mexicans, Jews, or even child molesters ashamed or afraid to speak their minds and rally, march, post, and be activists for their sick cause. And too many brave men and women died to give me the chance to fight now. I will honor their blood and fight for soil.”<sup>184</sup> Blood and soil is in reference to a Nazi chant with the meaning “ethnic identity is based on only blood descent and the territory in which an individual lives—and it celebrated rural farmers and peasants as virtuous Germans.”<sup>185</sup> Unlike FOAK, this group is known to arrive at demonstrations in either Nazi uniforms or all black attire known as “Battle Dress Attire.”<sup>186</sup>

The KKK was also present at the Unite the Right rally. This organization is a spinoff of the original Ku Klux Klan and has had a long history of violence against African-American and Jewish communities. A major difference between the KKK and other organizations discussed is that its beliefs are rooted in Christianity. Furthermore, this organization believes in uniting “White Christians through the bond of brotherhood and aid their awareness of the problems facing our country.”<sup>187</sup> Other organizations that participated in support of the Unite the Right rally were Identity Evropa, League of the South, Patriot Movement and the Militias, Traditionalist Worker Party, Unity and Security for America, and the Patriot Front.

#### ***b. Counter-Protesting Participating Organizations***

The counter-protesting contingent also had several notable demonstrating organizations participate. Four of the most notable counter-protesting groups were Redneck Revolt, Black Lives Matter (BLM), Socialist Rifle Association (SRA), and Anti-fascists (also known as Antifa). In contrast to the alt-right organizations involved in the

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<sup>183</sup> “National Socialist Movement,” Southern Poverty Law Center, accessed July 19, 2018, <https://www.splcenter.org/fighting-hate/extremist-files/group/national-socialist-movement>.

<sup>184</sup> Southern Poverty Law Center.

<sup>185</sup> Meg Wagner, “‘Blood and Soil’: Protesters Chant Nazi Slogan in Charlottesville,” last modified August 12, 2017, <https://www.cnn.com/2017/08/12/us/charlottesville-unite-the-right-rally/index.html>.

<sup>186</sup> Wagner.

<sup>187</sup> “Knights of the Klu, Klux, Klan,” Knights of the Klu, Klux, Klan, accessed July 23, 2018, <https://www.unskkkk.com/>.

Unite the Right rally, these organizations heavily support diversity in the United States and believe their objectives can be achieved through social action. Redneck Revolt, established in 2016, is a progressive pro-gun, anti-racist, anti-capitalist, anti-fascist group that strives to “to dismantle the systemic forms of race and class oppression which have kept us subjugated. We [Redneck Revolt] are ready to learn and work with anyone who recognizes the urgency of building community defense networks to protect each other and strengthen our capacity to resist.”<sup>188</sup> Furthermore, this group is known for carrying weapons, specifically rifles, as a form of self-defense to protect communities against hatred. Members of the Redneck Revolt rely on “any and all means at our [their] disposal to gain our freedom and true liberty,” and do not consider themselves pacifists.<sup>189</sup> Membership numbers for the organization are unknown, however, the organization relies heavily on social media to garner support.

Similar to the Redneck Revolt, the SRA is a pro-gun, anti-fascist organization that carried guns, specifically rifles, at the Unite the Right rally.<sup>190</sup> The SRA claims to be “an educational organization dedicated to providing working class people the information they need to be effectively armed for self and community defense.”<sup>191</sup> Membership numbers for the SRA is unknown, but like many of the groups mentioned previously, they utilize the Internet to promote membership. This organization is known for carrying weapons, specifically guns, to demonstrations and assemblies.

BLM also participated in the Unite the Right counter-demonstration. This organization was formed in 2013 by Alicia Garza, Patrisse Cullors, and Opal Tometi, and has gained significant popularity online.<sup>192</sup> While specific membership numbers are unknown, there are ten chapters spread around Canada and the United States.<sup>193</sup> Unlike the

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<sup>188</sup> “What is Redneck Revolt,” Redneck Revolt, accessed July 19, 2018, <https://www.redneckrevolt.org/about>.

<sup>189</sup> “Redneck Revolt Organizing Principles,” Redneck Revolt, accessed July 19, 2018, <https://www.redneckrevolt.org/principles>.

<sup>190</sup> “Who We Are,” Socialist Rifle Association, accessed July 19, 2018, <https://socialistra.org/about/>.

<sup>191</sup> Socialist Rifle Association.

<sup>192</sup> “About,” Black Lives Matter, accessed July 19, 2018, <https://blacklivesmatter.com/about/>.

<sup>193</sup> Black Lives Matter.

other organizations mentioned, BLM has been heavily supported by celebrities such as Beyoncé, LeBron James, Serena Williams, and Quentin Tarantino. BLM call themselves “a collective of liberators who believe in an inclusive and spacious movement. We also believe that in order to win and bring as many people with us along the way, we must move beyond the narrow nationalism that is all too prevalent in Black communities.”<sup>194</sup> Members of the BLM organization have been arrested both for non-violent and violent acts committed at demonstrations; however, violence at demonstrations and rallies is condemned by the organization because they claim to “embody and practice justice, liberation, and peace in our engagements with one another.”<sup>195</sup> Known for its continual demonstration of police brutality against people of color, this organization has been present at several recent demonstrations, including the Ferguson unrest and the Baltimore riots.

Anti-Fascists, or Antifa, was present at the Unite the Right rally and is “a loose collection of groups, networks and individuals who believe in active, aggressive opposition to far right-wing movements.”<sup>196</sup> This group was established in the 1970s and is known for inciting violence and disruption as counter-protestors at several alt-right events. Furthermore, “their ideology is rooted in the assumption that the Nazi party would never have been able to come to power in Germany if people had more aggressively fought them in the streets in the 1920s and 30s.”<sup>197</sup> This group is extremely active both online and at demonstrations when confronting right-wing extremists.<sup>198</sup> They have become more active following the 2016 presidential election and arrive at demonstrations or riots with their faces covered, wearing helmets and carrying weapons such as batons. Membership numbers for Antifa is unknown because there is no identifiable leader or website with accurate information.

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<sup>194</sup> Black Lives Matter.

<sup>195</sup> “What we Believe,” Black Lives Matter, accessed July 19, 2018, <https://blacklivesmatter.com/Whatwebelieve/>.

<sup>196</sup> “Who are the Antifa,” Anti-Defamation League, accessed July 19, 2018, <https://www.adl.org/resources/backgrounders/who-are-the-antifa>.

<sup>197</sup> Anti-Defamation League.

<sup>198</sup> Anti-Defamation League.

### 3. Speakers and Speeches

The Unite the Right rally was supposed to have ten prominent alt-right supporters speak. However, due to violence breaking out prior to the start of the rally, and Governor McAuliffe declaring a state of emergency, the speakers never took the stage in Market Street Park. These speakers were to include Mike Enoch, Augustus Invictus, Jason Kessler, Baked Alaska, Christopher Cantwell, Matt Heimbach, Pax Dickinson, Johnny Monoxide, Based Stickman, Richard Spencer, and Dr. Michael Hill.<sup>199</sup> Many of these speakers gained popularity and fame through YouTube, Twitter, and Facebook. Furthermore, they primarily fell into three categories: journalists, internet sensations, and academics. The counter-protests did not have any planned speakers.<sup>200</sup>

### 4. Actions of Protestors and Counter-Protestors

Protestors and counter-protestors came to the Unite the Right rally prepared for violence. Both protesting and counter-protesting groups arrived carrying guns, knives, mace, javelins, shields, and helmets. Even though there was no reported gun violence, many members of both the protesters and counter-protesters were seen openly carrying pistols and rifles because Virginia is an open carry state. The violence between counter-protesters and protestors appeared to begin with small fights and escalated as the day continued.<sup>201</sup> In the Vice News documentary *Charlottesville: Race and Terror*, a Vice News reporter stated, “The alt-right is very organized. They have a lot of numbers, they have shields, they have protective gear, like helmets. We’ve seen tear gas, water bottles, eggs thrown.”<sup>202</sup> Additionally, the documentarians filmed a conversation between an alt-right member and the police department, in which the alt-right member threatened to “send at least 200 people with guns to go get them [Unite the Right speakers] out” of Market

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<sup>199</sup> Sunshine, “A Guide to Who’s Coming to the Largest White Nationalist Rally in a Decade.”

<sup>200</sup> *Elizabeth Sines, et al., v. Jason Kessler, et al. (2018)*, [https://scholar.google.com/scholar\\_case?case=13081112698056758367&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholarr](https://scholar.google.com/scholar_case?case=13081112698056758367&hl=en&as_sdt=6&as_vis=1&oi=scholarr).

<sup>201</sup> “Charlottesville: Race and Terror,” Vice News, video, 5:04, August 14, 2017, <https://news.vice.com/video/charlottesville-race-and-terror-vice-news-tonight-on-hbo>.

<sup>202</sup> Vice News.

Street Park near where the dangerous riots were taking place.<sup>203</sup> Moreover, one of the most troubling images that resulted from the Unite the Right rally was of DeAndre Harris, an African American counter-protestor, being beaten by suspected white nationalists in a parking garage.<sup>204</sup>

Both sides used rhetoric in their chants that taunted the other side. Counter-protesters were heard yelling, “We’re here! We’re gay! We fight the KKK!” and the protestors responded with “fuck you faggots” chants.<sup>205</sup> Christopher Cantwell, self-proclaimed white nationalist, was sprayed with Mace twice by the counter-protestors, at both the torch-lit march and the Unite the Right rally itself.<sup>206</sup> During the Unite the Right rally in frustration to the counter-protestors’ aggression, when asked by a Vice News reporter, “So, you’re the true non-violent protestors?” Cantwell responded by stating, “I’m not even saying we are non-violent. I’m fucking saying that we didn’t aggress. We did not initiate force against anyone. We are not non-violent, we’ll fucking kill these people if we have to.”<sup>207</sup> Due to the violent actions of both protestors and counter-protestors, the Governor of Virginia declared a state of emergency before the rally even began.<sup>208</sup> The actions of protestors and counter-protestors culminated when James Fields Jr., a white nationalist, ran his car into a group of counter-protestors marching down the street.<sup>209</sup>

## 5. Law Enforcement Shortcomings and Legal Cases

The lack of intervention by Charlottesville’s law enforcement at the Unite the Right rally led to the three deaths (two police officers and one counter-protestor) and over 30

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<sup>203</sup> Vice News.

<sup>204</sup> Ivan Shapira, “Black Man Beaten in Charlottesville Found Guilty of Assaulting White Supremacist,” *The Washington Post*, last modified March 16, 2018, [https://www.washingtonpost.com/local/black-man-beaten-in-charlottesville-found-not-guilty-of-assaulting-white-supremacist/2018/03/16/92160a88-288f-11e8-b79d-f3d931db7f68\\_story.html?noredirect=on&utm\\_term=.eb3c2081a38a](https://www.washingtonpost.com/local/black-man-beaten-in-charlottesville-found-not-guilty-of-assaulting-white-supremacist/2018/03/16/92160a88-288f-11e8-b79d-f3d931db7f68_story.html?noredirect=on&utm_term=.eb3c2081a38a).

<sup>205</sup> Shapira.

<sup>206</sup> Shapira.

<sup>207</sup> Shapira.

<sup>208</sup> ABC7, “Timeline of the deadly weekend in Charlottesville, Virginia.”

<sup>209</sup> ABC7.

injuries. Furthermore, it highlighted how underprepared Charlottesville’s law enforcement was for the rally, making the city and rally planners vulnerable to lawsuits. Due to the criminal actions that took place at the rally, civil lawsuits were brought against the planners of both the torch-lit march and Unite the Right rally. Furthermore, a civil suit was also brought against Charlottesville law enforcement leaders. The law enforcement failures as well as the legal cases that resulted from the torch-lit march and Unite the Right rally are discussed below.

*a. Law Enforcement Shortcomings*

Charlottesville’s inability to maintain peace highlighted numerous flaws in local law enforcement’s planning and execution of peacekeeping during the Unite the Right rally. Following the violence at the torch-lit march and rally, Timothy Heaphy, a former U.S. attorney in Virginia, was assigned to conduct an independent review of law enforcement’s handling of the events that transpired.<sup>210</sup> In a 222-page report, Heaphy identified several mistakes made by law enforcement, specifically a failure to plan and coordinate for the Unite the Right rally.<sup>211</sup> The first major shortcoming was in the area of communication. Law enforcement failed to establish a working communication channel, which led to officers’ inability to communicate with each other over the radio.<sup>212</sup> Another issue identified was that Charlottesville police commanders “instructed their officers not to intervene in all but the most serious physical confrontations,” leading to confusion and chaos during the rally.<sup>213</sup> Moreover, officers did not have tactical gear accessible to them, leading to many officers posting behind barricades and in non-violent areas making response time slow and ineffective.<sup>214</sup> Finally, “Charlottesville Police received inaccurate information from Commonwealth’s Attorney Dave Chapman regarding the legality of

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<sup>210</sup> “What Went Wrong in Charlottesville? Almost Everything, Says Report,” NPR, accessed July 24, 2018, <https://www.npr.org/sections/thetwo-way/2017/12/01/567824446/charlottesville-made-major-mistakes-in-handling-protest-review-finds>.

<sup>211</sup> NPR.

<sup>212</sup> NPR.

<sup>213</sup> NPR.

<sup>214</sup> NPR.

restricting weapons other than firearms. Chapman told police they could not restrict other weapons, when in fact the city could have prohibited bats, poles and shields.”<sup>215</sup> The errors made by Charlottesville city officials and law enforcement did not instigate violence at the rally, but they contributed to the escalation of violence at the rally because of law enforcements’ failure to maintain peace and keep the two groups separated. Additionally, these mistakes made the city vulnerable to civil lawsuits because of their inaction.

***b. Resulting Legal Cases***

Several civil and criminal legal cases resulted for both protestors and counter-protestors of the Unite the Right rally; however, the four most prominent cases have been *Turner v. Thomas*, *Sines v. Kessler*, the law suit against DeAndre Harris, and the criminal charges against James Fields Jr.. *Turner v. Thomas* was a civil lawsuit from counter-protestor Robert Sanchez Turner who sued Al Thomas Jr., former Chief of the Charlottesville Police Department and W. Stephen Flaherty, Virginia State Police Superintendent, by questioning “whether there is a constitutional duty under the Fourteenth Amendment for the police to intervene to protect a citizen from criminal conduct by their parties.”<sup>216</sup> Furthermore, Turner’s lawsuit claims “police allegedly looked on as protesters, unprovoked, sprayed Turner in his eyes with mace, subsequently beat him with a stick, and threw bottles of urine at him,” which has led to Turner making claims against the Defendants based on the “state-created danger” theory of liability.<sup>217</sup> In the lawsuit, Turner discusses the city of Charlottesville’s decision approve Jason Kessler’s permit and allow him to hold the rally at Market Street Park instead of McIntire Park, thus, causing “state-created danger,” which is a violation of the Due Process Clause.<sup>218</sup> Judge Norman Moon threw out the case because “there is no clearly established constitutional right supporting

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<sup>215</sup> NPR.

<sup>216</sup> *Turner v. Thomas*, 3:17-cv-00064, (U.S. Dist. W. Va. 2018), <https://advance.lexus.com/document/?pdmfid=1000516&crd=b8553549-b8c1-4166-a99c-170aef9d3c8&pddocfullpath=%2Fshared%2Fdocument>.

<sup>217</sup> *Turner*, 3:17-cv-00064.

<sup>218</sup> *Turner*, 3:17-cv-00064.

any of the Plaintiff's claims against Defendants Thomas and Flaherty," meaning the lawsuit could no longer continue.<sup>219</sup>

*Sines v. Kessler* is a lawsuit brought against Jason Kessler, Richard Spencer, and several of the white nationalist organizations that participated in the Friday, August, 11, 2017, night march on the campus of UVA and the Unite the Right rally.<sup>220</sup> Kessler and Spencer are the primary defendants because Spencer planned the August 11 torch-lit march and Kessler organized the Unite the Right rally.<sup>221</sup> The plaintiffs are "ten Charlottesville residents who each allegedly suffered some injury related to the rallies."<sup>222</sup> The plaintiffs are primarily categorized in two groups: counter-protest attendees of the August 11 night march at UVA and those injured when James Fields drove his car into a group of protestors.<sup>223</sup> The defendants attempted to get the case dismissed, however, Judge Norman K. Moon of the United States District Court for the Western District of Virginia decided on July 9, 2018, the case will not be dismissed. He stated,

While the Court acknowledges the weighty First Amendment interests implicated by the "Unite the Right" event, Plaintiffs here have plausibly alleged conduct that lies 'close to the core of the coverage intended by Congress' when it passed the Ku Klux Klan Act to address violence against racial minorities.... According, the Court will largely deny the motion to dismiss.<sup>224</sup>

Furthermore, Judge Moon determined the plaintiffs' counsel sufficiently proved the conspiracy of the defendants to commit violent acts against black and Jewish people simply because of their race during the events of at the Unite the Right rally.<sup>225</sup> Due to Judge Moon's ruling, this case lawsuit will now go to trial and be decided by a jury.

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<sup>219</sup> *Turner*, 3:17-cv-00064.

<sup>220</sup> *Sines et al. v. Kessler et al.* 3:17-cv-00072, (U.S. Dist. W. Va. 2018), <https://advance.lexus.com/document/?pdmfid=1000516&crd=0dd60d2e-08b2-478b-965a-1b262bd219c74&pddocfullpath=%2Fshared%2Fdocument>.

<sup>221</sup> *Sines et al.*, 3:17-cv-00072.

<sup>222</sup> *Sines et al.*, 3:17-cv-00072.

<sup>223</sup> *Sines et al.*, 3:17-cv-00072.

<sup>224</sup> *Sines et al.*, 3:17-cv-00072.

<sup>225</sup> *Sines et al.*, 3:17-cv-00072.

DeAndre Harris was viciously beaten by white nationalists during the Unite the Right rally. He sustained multiple injuries including a spinal injury and head lacerations which required ten stitches.<sup>226</sup> However, white nationalist Harold Crews claimed he had been assaulted by Harris (with a flashlight) and filed a police report in October 2017, and convinced a Charlottesville’s magistrate to issue an arrest warrant for Harris “on the felony charge of unlawful wounding, which carries a five-year minimum sentence.”<sup>227</sup> The charge was later decreased to a misdemeanor (assault and battery).<sup>228</sup> In March of 2018, Judge Robert Downer Jr of the Charlottesville General District Court found Harris not guilty. Judge Downer asserted, “I cannot find beyond a reasonable doubt that [Harris] intended to hit Mr. Crews with [the flashlight].”<sup>229</sup> This case was highly controversial because many believed that Crews was making false accusation about Harris as a form of revenge.

Once James Fields Jr. was caught and arrested by police for driving his car into counter-protesters, killing Heather Heyer and injuring 19 others, he was charged with second-degree murder.<sup>230</sup> His primary charge of murder was upgraded to first-degree murder following a December 2017 preliminary hearing. In June 2018, the United States Justice Department announced “that a grand jury had indicted 21-year-old James Alex Fields Jr. on a total of 30 charges: one count of a hate crime act resulting in the death of 32-year-old Heather Heyer, one count of racially motivated violent interference with a federally protected activity, and 28 counts of hate crime acts causing bodily injury and

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<sup>226</sup> Shapira, “Black Man Beaten in Charlottesville Found Guilty of Assaulting White Supremacist.”

<sup>227</sup> Shapira.

<sup>228</sup> Shapira.

<sup>229</sup> Shapira.

<sup>230</sup> Catherine Doss, “Timeline of events for Unite the Right rally in Charlottesville,” ABC13, last modified August 13, 2017, <https://wset.com/news/local/timeline-of-events-for-unite-the-right-rally-in-charlottesville>.

involving an attempt to kill.”<sup>231</sup> However, in July 2018, Fields entered a plea of not guilty.<sup>232</sup> The trial is not set to start until November 2018.<sup>233</sup>

## 6. Media Coverage

In the days leading up to and following the Unite the Right rally there was a significant amount of media coverage. The news coverage prior to the rally focused on the permit issues Kessler had when trying to gain access to Market Street Park. Furthermore, the media coverage prior to the Unite the Right rally discussed the resurgence of white nationalists and the significance of this event being one of the largest alt-right events so far.

Many news organizations had live coverage of the Unite the Right rally both on television and online. Protestors and counter-protestors were interviewed by news organizations such as BuzzFeed News, Cable News Network (CNN), Fox News, and MSNBC. However, even though each side had violent aggressors, the media focused and reported primarily on the actions of alt-right protestors. After hours of violence, protests, and the report that a counter-protestor had been killed, the president held a press conference.<sup>234</sup> During the press conference, President Trump stated, “We condemn in the strongest possible terms this egregious display of hatred, bigotry, and violence on many sides, on many sides.”<sup>235</sup> His remarks caused a nation-wide debate about who was at fault, leading to extensive coverage by media outlets across the political spectrum.

The uproar over the president’s comments was covered extensively in main stream media. When discussing his displeasure with the president’s words, CNN correspondent

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<sup>231</sup> “James Fields Jr. Could Face Death Penalty from Charges Related to Aug. 12 Rally,” NBC29, accessed July 24, 2018, <http://www.nbc29.com/story/38521974/james-alex-fields-fed-grand-jury-06-27-2018>.

<sup>232</sup> Bob Strickley, “Man Accused of Running Down Protesters with Car at White Supremacist Rally Pleads Not Guilty to Hate Crimes,” *USA Today*, last modified July 5, 2018, <https://www.usatoday.com/story/news/nation-now/2018/07/05/accused-charlottesville-driver-pleads-not-guilty/761133002/>.

<sup>233</sup> NBC29, “James Fields Jr. Could Face Death Penalty from Charges Related to Aug. 12 Rally.”

<sup>234</sup> Doss, “Timeline of events for Unite the Right rally in Charlottesville.”

<sup>235</sup> “Charlottesville: Race and Terror.”

Anderson Cooper stated, “A few hours ago, the President of the United States revealed so clearly who and what he really is....He revealed about whether he can ever be a president for all people or just for white ones, a president for people of all beliefs or just the alt-right.”<sup>236</sup> Whereas, Fox News correspondent Sean Hannity expressed his support for the president’s remarks explaining, “Despite President Trump repeatedly, repeatedly condemning the horrific, inexcusable acts of violence, and of course, white supremacy again and again, all that took place in Charlottesville this weekend, Democrats, the destroy Trump media continue to viciously attack the commander-in-chief and falsely again accusing him of being racist and being bigoted.”<sup>237</sup> Furthermore, the death of Heather Heyer was covered extensively. Susan Bro, Heather Heyer’s mother, was a guest on CNN and the Ellen DeGeneres show to discuss her daughter. Media coverage of the Unite the Right rally continued well into early 2018 because of the completion of the legal cases that resulted from the rally.

Additionally, the day following the Unite the Right rally, Jason Kessler was unable to finish his remarks because he was attacked and ultimately punched in the face by a group of angry counter-protestors.<sup>238</sup> Even though law enforcement was present, officials did not intervene until after he was hit, which displays another law enforcement blunder.

### **C. ANALYSIS OF THE UNITE THE RIGHT RALLY**

Violence at the Unite the Right rally was not caused solely by the organizational efforts of the organizer, Jason Kessler, but rather, the violence was a factor of the poor preparation and implementation of efforts of the city of Charlottesville’s policy makers and law enforcement. Organizational efforts for the Unite the Right rally were extensive. Jason Kessler went to great lengths to ensure that rally not only happened, but was held in Market

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<sup>236</sup> Mehita Gajanan, “Anderson Cooper Says Trump ‘Revealed So Clearly Who and What He Really Is,’” last modified August 16, 2017, <http://time.com/4902793/anderson-cooper-donald-trump-charlottesville/>.

<sup>237</sup> “Newt Gingrich: Elite Media, Left-Wing Democrats Represent a Big Lie; Laura Ingraham: Media torched Trump about Charlottesville,” Fox News, August 15, 2017, <http://www.foxnews.com/transcript/2017/08/15/newt-gingrich-elite-media-left-wing-democrats-represent-big-lie-laura-ingraham-media-torched-trump-about-charlottesville.html>

<sup>238</sup> “Charlottesville: Race and Terror.”

Street Park. However, once the injunction was approved by the Judge the evening before the rally, the city and local law enforcement should have taken all necessary actions to ensure the safety of those participating in both the protest and counter-protest. Furthermore, after the torch-lit march on the evening of August 11, 2017, law enforcement and city officials should have ensured that protestors and counter-protesters stayed within their respective permitted areas of demonstration, allowing little to no contact.

The speakers did not contribute to the violence in the rally because the demonstration got violent before they were able to speak. Both sides were unable to police themselves and each other when the protest and counter-protest began, leading to immediate violence. Protestors and counter-protestors arrived dressed in protective gear and came armed with weapons such as mace, guns, and knives with the intention of intimidating the other side and committing violent acts, which caught law enforcement off-guard leading to failure to maintain peace. Additionally, law enforcement was provided poor guidance by city officials when they were instructed not to intervene, which played a critical role in the prevention of escalated violence between protestors and counter-protestors. Charlottesville city officials feared violating First Amendment rights; thus, they placed both protestors and counter-protestors in danger. Additionally, law enforcements' inability to coordinate communication channels, distribute tactical gear, and properly separate protestors and counter-protestors also played instrumental roles into the violence at the Unite the Right rally.

The media did not play a role in why the rally was violent, but did amplify the attention given to the protesting and counter-protesting contingent. Leading up to the Unite the Right rally, the torch-lit march was heavily covered by media, giving the march national attention. Furthermore, the rally was live-streamed by several major news media organizations, allowing the world to view the actions of both protestors and counter-protestors. As of July 2018, the march is still being discussed in the media because of the ongoing legal cases, especially the one involving the murder trial of James Field Jr.

The Unite the Right rally was a wake-up call for public officials and law enforcement in America because the rally displayed first-hand the effects of lack of preparation and law enforcement intervention. Following the Unite the Right rally, public

officials and law enforcement across the country have increased preparation for such events, thus, preventing violence. It is crucial for public officials and law enforcement nation-wide to learn from the mistakes of the Unite the Right rally to ensure Americans are able to safely and peacefully demonstrate.

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## **V. THE FACTORS OF NON-VIOLENCE AND VIOLENCE AT DEMONSTRATIONS**

The Million Man March was expected to be a violent demonstration due to the controversial background of its organizers; however, the event was non-violent because of the extensive planning by the organizers, the presence of religious leaders and politicians, the rhetoric of the speeches, and the demonstrators' ability to police themselves. Contrarily, the Unite the Right rally broke out in immediate violence due to the lack of preparation and intervention of the Charlottesville public officials and law enforcement. This chapter will analyze the factors determining non-violent and violent demonstrations utilizing the case studies as well as the March for Women's Lives (2004), March for our Lives (2018), Women's March (2017), and the Ferguson Unrest (2014). Additionally, this chapter will discuss the important role public officials and law enforcement play in protecting the protestors, counter-protestors, and bystanders during demonstrations. The chapter and thesis will conclude with a discussion of the implication of the research conducted, and how it could be used to protect the First Amendment rights of Americans.

### **A. FINDINGS**

Non-violent demonstrations share four factors: extensive planning for the demonstration, the presence of religious leaders, the rhetoric of the speeches, and the demonstrators' ability to police themselves. In contrast, violent demonstrations only share two factors: lack of preparation by public officials and improper responses from law enforcement. These findings mostly align with the initial hypothesis. There was one predicted factor that did not apply, however, because the two case studies analyzed did not consider the reason for the demonstration (race, gender, civil-rights); therefore, it could not be proven or disproved.

#### **1. Factors Motivating Non-violence**

The non-violent factors of the Million Man March overlapped with other peaceful demonstrations that have taken place over the two decades. Specifically, extensive planning for the demonstration, the presence of religious leaders and politicians, the

rhetoric of the speeches, and the demonstrators' ability to police themselves. Similar to the Million Man March, the March for Women's Lives planning began a year before the event took place, allowing for organizers to gain the necessary permits and permissions, which allowed city officials and law enforcement enough time to prepare for the event. Additionally, the long lead time of preparation given by the organizers gave city officials and law enforcement time to express and address any concerns they had regarding the event.

Many non-violent demonstrations share the presence of politicians and religious leaders, which appears to be a factor contributing to peace. For example, at the March for our Lives in March 2018, several prominent politicians and churches present. Prior to the march, CNN reported, approximately twenty Democrat policymakers intended to take part in the demonstration. Additionally, the United Church of Christ (UCC) urged its parishioners to participate in the march to "demand that their [children's] lives and safety become a priority and that we end gun violence and mass shootings in our schools today." Politicians and churches are generally individuals and groups that promote social change through non-violent means.

Like the Million Man March, most non-violent demonstrations have speakers who promote peace, unity, and equality. The 2017 Women's March had several high-profile speakers who focused on peaceful resistance through love and the importance of equality. Gloria Steinem stated, "We are united here for bodily integrity.... We are linked. We are not ranked. And this is a day that will change us forever because we are together." Throughout, the speech Steinem focused on the importance of unity and equality. Whereas, Madonna took a different approach to discussing peaceful resistance by discussing her true feeling, but reminding the crowd love is most important. Madonna famously stated, "Yes, I'm angry. Yes, I am outraged. Yes, I have thought an awful lot of blowing up the White House, but I know that this won't change anything. We cannot fall into despair. As the poet, W. H. Auden once wrote on the eve of World War II: We must love one another or die. I choose love. Are you with me? Say this with me: We choose love." Even though, Madonna mentioned violence, she made clear her support for resistance through peace and love.

The last factor for non-violence at demonstrations is the ability of both protestors and counter-protestors to police themselves. All of the marches mentioned above, along with the Million Man March, had protestors who policed themselves, leading to no arrests. When protestors and counter-protestors can hold themselves and fellow demonstrators accountable, law enforcement is not forced to intervene. Further, these action by protestors and counter-protestors display a mutual respect for other citizens invoking their First Amendment rights, even if they do not agree with them. Without self-policing among demonstrators, violence is inevitable because there is no accountability for individuals or groups.

## **2. Factors Motivating Violence**

Factors motivating violence at demonstrations can primarily be attributed to lack of preparation by public officials and improper responses from law enforcement. While there have not been as many violent demonstrations as there have non-violent, these two factors for violence can be identified and applied to other violent demonstrations seen in the United States. Akin to the Unite the Right rally, the Ferguson unrest of 2014 was extremely violent due to public officials' lack of preparation leading to several arrests and injuries. Not only did the Ferguson unrest of August 2014 highlight the United States' sensitivities to race and police brutality, but it also displayed how important it is for public officials and law enforcement to be prepared for mass demonstrations and rioting.

Following the death of Michael Brown, an African-American man shot by a police officer, thousands of people took to the streets to express their outrage, grief, and frustration with the Ferguson police department. Ferguson public officials and law enforcement were severely underprepared for the demonstrations that took place, leading to the activation of the National Guard, city-wide curfew, and an estimated \$5.7 million in damages.<sup>239</sup>

Public officials and law enforcement have a responsibility to ensure the wellbeing of constituents during demonstrations. To do this, it is incumbent on them to ensure proper

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<sup>239</sup> Jessica Chasmar, "Ferguson Unrest Cost Taxpayers \$5.7 Million and Counting: Report," *The Washington Times*, last modified Monday October 20, 2014, <https://www.washingtontimes.com/news/2014/oct/20/ferguson-unrest-costs-taxpayers-57m-and-counting-r/>.

preparation for planned and unplanned demonstrations and a solid understanding of Freedom of Assembly rights. Preparing for planned demonstrations requires public officials to research the organizations involved. Researching the demonstrations' participating organizations will provide public officials with an understanding of what types of groups they are dealing with. Furthermore, it will show if any of the groups or event organizers have a history of violence at protests, allowing public officials and law enforcement to create appropriate preparation strategies to deter violence at the demonstration. If public officials do not have a grasp on the reason for the demonstration or the groups participating, it could lead to them underestimating the amount of support and resources needed.

Additionally, there needs to be coordination between public officials and law enforcement to ensure both government entities are prepared with the appropriate resources (funding, equipment, and training) for both planned demonstrations and unplanned riots. Public officials should be meeting with law enforcement leaders to discuss the strategy for how planned and unplanned demonstrations are handled, furthermore, these discussions should discuss resource shortages of law enforcement to ensure they are addressed. It is imperative for key public officials and law enforcement officers to work closely together to safeguard citizens' First Amendment Rights while enforcing the law to maintain safety at demonstrations.

## **B. THE IMPORTANCE OF PUBLIC OFFICIALS AND LAW ENFORCEMENT**

Analyzing the Million Man March and the Unite the Right rally demonstrates that the actions of public officials and law enforcement are critical to ensuring successful and safe execution of Freedom of Assembly. Furthermore, public officials and law enforcement must handle Freedom of Assembly carefully because it could have several follow-on effects that could determine how the First Amendment is perceived by the public. As Donatella Della Porta and Mario Diani assert, "Government choices on protest policing are sensitive to the pressures of various actors. Political parties, interest groups, and movement organizations express their preferences on protest policing, addressing either their

constituency, the public, or the policy makers directly.”<sup>240</sup> It is imperative for public officials and law enforcement to find a delicate balance of demonstration policing because if handled incorrectly, public officials have to answer to the demonstrating group, their constituency, and other policy makers.

The actions of enforcement during the Ferguson unrest is a perfect display of what could happen if no preparation or training is conducted prior to a planned and unplanned demonstration. A Department of Justice (DOJ) after action assessment of the police response to the events that took place in Ferguson reported, “There were no effective protocols in place to handle an event like this; if such protocols had been in place, they would have identified the appropriate police resources and procedures for the event to accompany the mutual aid agreements.”<sup>241</sup> Additionally, the report discussed “inconsistent training among officers in responding agencies,” further exhibiting law enforcement’s lack of preparation for such an event.<sup>242</sup>

Law enforcement response has the potential to be a major motivator of violence at demonstrations. The Unite the Right rally and the Ferguson unrest show the two extremes of the importance of city official preparation and appropriate police intervention at demonstrations. The lack of intervention at the Unite the Right rally intensified the violence between protestors and counter-protestors, causing numerous injuries. Conversely, improper law enforcement intervention and extreme use of force intensified violence during the Ferguson unrest. The DOJ after action report discusses the improper use of canines for their use for crowd control, and how it may have been a contributing factor to intensifying violence. The report “identified a lack of thorough documentation for the use of CS gas (tear gas), including justification, deployment strategy, and outcomes” by law enforcement increased the amount of injuries during the demonstration.<sup>243</sup> Both the Unite

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<sup>240</sup> Donatella Della Porta and Herbert Reiter, *Policing Protest: The Control of Mass Demonstrations in Western Democracies*, (Minnesota: University of Minnesota Press, 1998), 17–18.

<sup>241</sup> Department of Justice, *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri*, (Washington, DC: Office of Community Oriented Policing Services, 2015), <https://ric-zai-inc.com/Publications/cops-p317-pub.pdf>.

<sup>242</sup> Department of Justice.

<sup>243</sup> Department of Justice.

the Right rally and the Ferguson unrest are examples of the importance of proper preparation by city officials and law enforcement, and display the impacts of what lack of public official preparation and law enforcement intervention could be.

### **C. IMPLICATIONS OF RESEARCH**

The scope of this research exhibits the importance of preparation to ensure public officials and law enforcement can appropriately handle planned and unplanned demonstrations. To ensure proper preparation, legislative public officials at all levels of government must work together to pass legislation that supports formulating plans on how to handle all types of demonstrations. Preparation by public officials should start at the state-level and trickle down to the local-level to ensure it is imposed. This preparation at the state-level includes passing legislation that focuses on increasing resources such as funding, training, and equipment for demonstrations. Following the passage of such legislation, it is imperative for the local-level public officials and law enforcement to utilize the allocated funding in support of planned and unplanned demonstrations.

Moreover, it is critical for law enforcement leadership to place an emphasis on the importance of preparation for all types of demonstrations by training to Freedom of Assembly laws and use of force, specifically focusing de-escalation techniques, proper use of riot equipment, and demonstration preparation. Increased funding from state-level legislatures will assist with law enforcement preparation, and will contribute to keeping protestors, counter-protestors, and bystanders safe. While demonstration preparation is not the only duty of law enforcement, it is a significant one because it assists with guaranteeing Americans' constitutional rights.

This thesis explored the motivating factors for violence and non-violence at demonstrations in America. Through the analysis of the Million Man March and the Unite the Right rally, it was concluded that preparation for demonstrations is critical when deterring violence at such events. Furthermore, it is critical for state legislatures to create and enact laws that assist law enforcement with receiving the appropriate equipment, training, and funding to keep protestors, counter-protestors, and the bystanders safe while still respecting Americans invoking their First Amendment rights. Demonstrations without

the guarantee of safety threaten the Constitution because Americans will no longer be able to express their beliefs through demonstration in a safe and secure manner.

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