

Eureka Police Department

Review of the Eureka Police Department's
Response to California State Polytechnic
University, Humboldt on April 22, 2024

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GROUP

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Introduction

In the late afternoon of Monday, April 22, 2024, a group of pro-Palestinian protestors marched into Siemens Hall, a building with classrooms and administrative offices located on the California State Polytechnic University, Humboldt (“University”) campus. The group’s initial intention, reported one protestor, was to peacefully “sit-in” to protest the war in Gaza.

But those peaceful intentions were soon overshadowed by some protestors’ involvement in vandalism of University property and their decision to barricade entrances and exits, prompting University administration to request a law enforcement intervention. Several local agencies, including the Eureka Police Department (“EPD”) responded to the Cal Poly Humboldt University Police Department’s (“UPD”) call for mutual aid to assist in arresting the protestors for trespassing and clearing the Hall, at the direction of University Administration.

The situation escalated rapidly, resulting in a clash between protestors and law enforcement that was broadcast in real-time on livestreams. This generated concerns about the appropriateness or necessity of law enforcement intervention in general. And for the City of Eureka, the protest response raised questions, in particular about the role of EPD officers who found themselves on the front-line of the incident.

In response to these concerns, City leadership requested that OIR Group, the City’s Independent Police Auditor (“IPA”), examine the involvement of EPD in the larger law enforcement response. In our position as the City of Eureka’s IPA, we regularly review EPD’s administrative investigations into complaints made about officer or Department performance, as well as the Department’s response to critical incidents. Addressing the concerns about EPD’s involvement in the events at Cal Poly on April 22 is a natural extension of this role.

And apart from our regular IPA function, we have significant experience with issues surrounding First Amendment assemblies, including preparation of comprehensive after-action reports of law enforcement's role in handling the protests that stemmed from the murder of George Floyd in 2020 in Iowa City, Iowa¹, Kalamazoo, Michigan², Santa Rosa³, Santa Monica⁴ and San Jose,⁵ California. Those protests were unique in their intensity and anti-law enforcement focus, but also shared many features of the current on-campus protest activities surrounding the war in Gaza. Those include challenges of a multi-agency response; questions about the line between protected First Amendment activity and assemblies deemed to be unlawful; concerns around command and control and effective communication; and issues related to appropriate use of force in a crowd management scenario.

The incident at Siemens Hall highlights the challenges law enforcement faces in balancing the rights of peaceful assembly with the need to maintain public order and safety. EPD's response, alongside other agencies, showcased both the strengths and areas of needed improvement in handling such dynamic situations.

This report provides a detailed incident summary, reviews EPD's actions, and offers recommendations for future considerations in crowd management, mutual aid responses, and After-Action review. By focusing on understanding the complexities of crowd management (including use of force) and mutual aid, this report aims to provide actionable recommendations to enhance EPD's preparedness and effectiveness in similar future incidents, and help the region establish agreements to ensure a cohesive and well-coordinated law enforcement approach.

¹https://www.oirgroup.com/files/ugd/d85a96_c625e0e677774b658f15a22a10939352.pdf

²https://www.oirgroup.com/files/ugd/d85a96_557901f4b9214678a72ce89379ab735e.pdf

³https://www.oirgroup.com/files/ugd/d85a96_20e63413c700461b8f1840ea8e5452f1.pdf

⁴https://www.oirgroup.com/files/ugd/d85a96_9d1c5507a6d245c5a5eb4603c30df8d8.pdf

⁵https://www.oirgroup.com/files/ugd/c0d762_bcaf478d14684b789b81636881e7dd00.pdf

Incident Summary

In the late afternoon of April 22, protestors marched into Siemens Hall, a two-story building with classrooms and administrative offices located on the northwest side of campus in front of the University's main quad with the intention to conduct a peaceful "sit-in."

As UPD and Humboldt County Sheriff's Office ("HCSO") personnel stood by at the second floor's front doors⁶ and in the quad, several more protestors entered Seimens Hall. Protestors set up tents, put up posters and chanted.⁷ Some vandalized administrative offices and hallway walls. Protestors used various pieces of furniture, including cabinets, bookshelves, desks, and chairs to barricade the front door entrance.

Protestors also began to collect outside in the quad area.

Protestors inside discussed their demands, which included that all law enforcement leave the area and allow them to protest. UPD personnel appeared to engage in conversation with several protestors outside the Hall, but it was unclear if any law enforcement communicated with those inside the Hall.

Over the radio, UPD requested a transport van, usually used to transport arrestees.

⁶ The front entrance of Seimens Hall has large, glass double doors that lead into a wider foyer area, followed by a second opening the width of the first double doors.

⁷ We were able to review the activities inside Seimens Hall from video footage recorded by local news outlet Redheaded Blackbelt, which was originally live streamed on Facebook. This footage can be accessed at <https://kymkemp.com/2024/04/22/pro-palestinian-protesters-occupy-siemens-hall-at-cal-poly/>

Approximately one hour into the protest, it was reported that the University leadership had requested that law enforcement enter Siemens Hall and arrest protestors for trespassing.

EPD Responded as Arrest Team

As events were unfolding on campus, EPD received a call from UPD requesting mutual aid.⁸ The operation was to assist UPD in arresting approximately 20-30 protestors who had taken over and were vandalizing Siemens Hall. The call indicated that there were approximately 30 students inside the hall and that they would be arrested for trespassing. HCSO deputies were already on scene, and more were reportedly on the way; UPD had also requested aid from the Arcata Police Department (“APD”) and the California Highway Patrol (“CHP”).

EPD initially sent one sergeant and four officers to this call, in part because this size team would be appropriate for the mission as initially described, and in part because it was the number of personnel that could be sent without having a significant impact on regular patrol operations within Eureka. EPD command advised the officers to bring riot gear such as shields and helmets in case the situation escalated, which they all did.

When the EPD team arrived, it and approximately 15 officers from other responding agencies initially met with a member of UPD’s command staff. The plan, according to one EPD officer’s report, was to enter Siemens Hall from a rear upstairs door and push protestors out the front door, where they would be arrested by waiting officers. EPD requested a map of Siemens Hall and surrounding areas to better learn the architectural layout of the relevant part of the campus but were told that these were not available.

⁸ “Mutual aid” occurs when a chief of police of a local law enforcement agency – in this case, UPD – determines that an unusual occurrence may become or is already beyond the control of its own resources, and contacts neighboring agencies to assist in operations. This is a common practice among law enforcement agencies.

We discuss mutual aid, generally, and our recommendations for EPD and the Humboldt County region in greater detail below.

According to EPD officers, UPD also advised that its advance team had cleared out furniture that the protestors had used to barricade the entrances to the Hall.

But then, instead of walking officers to the rear door as planned, UPD directed the team through the main quad and to the front door of Siemens Hall. Here, the EPD team observed a crowd of protestors in the quad, and what they estimated to be approximately 50 protestors gathered directly inside the front door of Siemens Hall, spanning across the entry way and deep into the hallway.

As the EPD team moved closer to the front doors of Siemens Hall, the crowd in the quad closed in behind them, essentially blocking all egress routes for the officers. The officers observed that the narrow front door foyer area was blocked by furniture of various kinds, including heavy cabinets, bookshelves, desks, and chairs. An EPD officer reported that this was a “surprise,” because, as noted above, UPD had reported that all barricades had been removed.

At this point, the EPD team recognized that law enforcement was significantly outnumbered. The mission as initially described – to arrest 30 peaceful protestors – was not the actual situation faced by EPD officers on the ground. Without a clear path of ingress and egress, there appeared to be no feasible way to accomplish a mass arrest. Moreover, the EPD officers appeared to be the only responding team equipped with shields that were required for effective crowd management.

Orders to Enter Siemens Hall

Despite these circumstances, UPD command gave orders to enter the Hall and begin arresting protestors. An EPD officer advised the assembled team that law enforcement was required to issue a clear dispersal order in both English and Spanish prior to entering the Hall and an HCSO deputy began to do so from the foyer area. Several other deputies began to clear the furniture barricade to make way for an arrest team.

From inside, protestors began to throw full food cans at officers. Others began to jump in unison and chant loudly, saying, “we are not afraid of you!” This activity had the effect of drowning out the dispersal order and officer

commands. A protestor banged an empty water jug with a stick. Still others asserted that they were conducting a prayer ritual that could not be interrupted; one stood on the furniture and burned sage while holding an abalone shell.

Outside, protestors chanted, “let them pray!” One yelled, “they are peaceful!”

Cans struck two EPD officers and a supervisor,⁹ as well as HCSO deputies. Several bounced on the ground near command staff directly outside the foyer. At the request of HCSO deputies, EPD officers equipped with shields stepped forward to block the incoming cans, which ricocheted off the shields.

At that point, HCSO deputies stopped clearing the furniture barricades, leaving several large items in the foyer and doorway between the officers and the crowd inside.¹⁰

Meanwhile, a second dispersal order was issued to the crowd outside using a megaphone. But it was difficult to discern what exactly was being said as the noise of the crowd grew louder. These were the only two dispersal orders given. It is not clear whether any of the assembled protestors were able to hear them.

EPD Assumes a Front-Line Position

Because they had shields, four EPD officers found themselves on the front line in the Siemens Hall foyer, along with at least one HCSO deputy, who also

⁹ The supervisor sustained injuries as a result of being struck by at least two cans; he submitted photos of his injuries, which included bruising to his leg and knee.

¹⁰ It was unclear why the decision was made to stop moving the furniture: some reported that UPD directed HCSO deputies to stop moving it to avoid further damage to University property, while others stated that they did not want to leave the furniture within reach of protestors outside, essentially giving those protestors “ammunition” to throw if they became violent. We noted that deputies were being struck by cans as they cleared the furniture, which also likely contributed to the decision to stop doing so.

assumed this position despite not having a shield.¹¹ The following events occurred over approximately three minutes.

With their shields up, EPD officers stepped toward the crowd of protestors just beyond the foyer, navigating over the remaining barricades. As officers pushed in, the protestors surged forward forcefully, chanting “get the f*** out!” Front-line protestors reached their arms over the shields as others lunged forward or struck the shields.

Video footage from all vantage points suggested that the officers were at a tactical disadvantage, both in sheer numbers and force. The officers appeared to be off balance due to the barricades and their position relative to the doorway, which prevented them from holding a straight, shoulder-to-shoulder skirmish line.¹² The power of the surging crowd appeared to be stronger as the officers lost ground nearly immediately. Still, the officers used their shields to continue to push into the crowd.

Within seconds, according to his report, EPD Officer 1 used his shield to forcefully push a surging protestor in the upper torso and face; this officer was then forced to back off the line as the foyer narrowed at the second doorway.

To the far right of the line,¹³ one protestor pushed through the shields, managing to get his head and shoulders beyond the shield line. EPD Officer 2 first used his flat palm to push this protestor back. When the protestor kicked the officer’s legs and another grabbed his wrist, the officer broke free and delivered at least one closed-fist strike to the protestor’s upper torso. This EPD officer reported that he attempted to pull this specific protestor from the line but was unable to do so.

Meanwhile, down the line to the left of that encounter, a protestor forcefully pushed another EPD officer, Officer 3. This officer, who was smaller in stature

¹¹ Video footage showed HCSO deputies using force on the line, including use of a collapsible baton (asp) and strikes with elbows and hands. Because we only have oversight responsibility over EPD, the scope of this review, however, is focused on the actions of EPD officers.

¹² A “skirmish line” is a tactical formation used by law enforcement during crowd management incidents. It typically involves officers lining up shoulder-to-shoulder facing a crowd to control the crowd’s movement.

¹³ Positions listed are from the perspective of the officers facing inward to Siemens Hall.

than the others on the line, fell backwards. Officer 3's knees buckled against a sideways cabinet, essentially pinning the officer's legs between the crowd and the cabinet. As Officer 3 attempted to get back up, a protestor struck the officer's right leg repeatedly.¹⁴ The officer was forced to remove her helmet due to the force of the chin strap pulling at her neck, restricting her breathing. This officer attempted to kick upward to create distance between herself and the protestors and reported possibly kicking a protestor in the groin.

EPD Officer 4 moved forward to help this officer. The protestor with the water jug used the jug to strike Officer 4's helmet several times. After several seconds, two HCSO deputies grabbed Officer 3 by the external vest and pulled her up to a standing position.

Almost simultaneously, an HCSO deputy reached into the crowd and grabbed a protestor who was prominent on the front line. Deputies pulled this individual from the crowd and laid the protestor prone. EPD Officer 1 (who had stepped off the line) restrained the protestor's hands with flex cuffs and escorted the protestor through the crowd to a police van parked some distance away.¹⁵

At the same time, to the far left of the line, EPD Officer 4 used his Department-issued side-handle baton to deliver two downward strikes as the crowd surged forward while commanding "get back!" As this officer looked to his right, he reported, he observed his EPD Officer 3 pinned between the crowd and the cabinet and being struck by protestors. Officer 4 then delivered two additional downward pokes with his baton, followed by downward strikes aimed at the upper torsos of protestors surging forward. After reviewing video footage from different vantage points, we were unable to determine if these strikes connected to specific targets; the officer reported that his intention was to move back aggressive protestors to make space for the downed officer to stand up.

¹⁴ This officer submitted photos showing significant bruising and swelling of her right knee and upper leg, among other injuries sustained in the incident.

¹⁵ Police records show that three protestors were arrested during this specific altercation on April 22. Two of them were identified as non-students and one was identified as a Cal Poly student; it is unclear from the camera footage which of the three was pulled from the crowd at this specific point. All three arrested were charged with Trespassing (PC 602(m)) and Resisting Arrest (PC 148). As of publication of this report, the District Attorney is still reviewing the cases.

Seeing his fellow officer in continued distress and fearing that she would be drawn underfoot, Officer 4 then used his baton to forcefully jab at the lower torso of the protestor who was striking his partner; video shows the baton pokes landing at least one time. As Officer 3 was being lifted by the deputies, Officer 4 delivered approximately six more jabs into the crowd. The protestor who had been striking Officer 3 then grabbed the Officer 4's baton and held it in a "tug-of-war" until the officer was able to pull it back.¹⁶

An EPD officer radioed "Code-30," calling for backup.

A second protestor was pulled from the crowd and arrested. An EPD supervisor assisted in taking this protestor through the crowd to a parked police vehicle.

The crowd gained more momentum and ground, entering the foyer area. The officers all pulled back and exited Siemens Hall.

Meanwhile, outside in the quad, UPD decided to drive a pickup truck closer to the front entrance of the hall to move the furniture. Creating space to safely drive the truck resulted in several uses of physical force by other responding agencies. An EPD officer and supervisor assisted in holding the crowd away from this activity but did not use any physical force to do so.¹⁷ The EPD supervisor attempted to calm protestors outside and watched for the safety of a media reporter in the crowd. Then, seeing that the crowd inside seemed to be growing, he asked if all entrances to Seimens Hall had been blocked off; learning that they had not (and that protestors who had been outside were now entering the Hall), he attempted to organize teams to stage at other entrances. This supervisor expressed concerns about the mission several times, including concern over not having an effective arrest plan (for example, the two arrested protestors had to be escorted through the crowd in the quad to police vehicles a significant distance away).

¹⁶ As of publication of this report, that protestor has not been identified.

¹⁷ Notably, when non-EPD officers pulled a protestor who had jumped onto the pickup truck off the truck and took him to the ground, several other officers (also non-EPD) approached to assist. But, seeing that enough officers were attending to the situation, the EPD supervisor yelled, "no!" and those additional officers backed off.

EPD Involvement Post-Push

Approximately 45 minutes from the initial arrival of EPD officers to the scene, additional EPD personnel, including commanding officers, responded, as well as more officers from other agencies. For the first time, command staff discussed a cohesive tactical plan for the remainder of the evening. While UPD wanted to issue another dispersal order and begin moving or arresting the crowd in the quad, EPD and others advised to wait. Additional equipment, such as shields, radios, and new batteries, were obtained and disseminated to officers. UPD requested an armored vehicle and Specialized Weapons and Tactics (SWAT) team was requested.¹⁸

As the evening went on, the crowd in the quad grew. Officers were instructed to clear a path in the quad for safe ingress and egress should additional arrests occur, medical aid was needed, or officers had to evacuate. But if the crowd posed any significant resistance, command staff reported, officers were instructed to give up ground rather than engage.

An EPD supervisor organized officers from various agencies to move the protestors in the quad in order to create a path of egress away from Siemens Hall. Under his command, a skirmish line spanning north to south (parallel to the front doors of Seimens Hall) moved east along the quad, opening a clear path between protestors and the Hall. Most protestors complied. A few pushed back: an EPD supervisor reported that he pushed two protestors back to keep his line moving. Other EPD officers stood at the ready but did not directly engage.

At various points in the evening, EPD officers assisted on the line. A protestor spit on one EPD officer, and then at a UPD officer. The EPD officer reported that he did not engage with this protestor.

At approximately 9:20 that evening, University officials issued a statement that the campus, including Seimens Hall, would be closed until Wednesday. By 10:30, the crowd had grown even larger, but remained mostly peaceful. EPD command staff negotiated with protest leaders: if protestors would allow

¹⁸ We did not learn what agency was asked to provide the armored vehicle or if one actually arrived later that evening; EPD did not provide an armored vehicle.

officers to safely walk through the crowd to their patrol vehicles, the officers would disband. They agreed.

By 10:40, EPD had pulled all resources from the campus.

Over the next days, EPD provided officers to assist UPD in patrolling the campus and surrounding area but were not involved in any further arrests or other enforcement activity.

Over the following month, EPD prepared detailed Operations Plans for activity related to the protests, such as the May 11 Cal Poly Humboldt graduation ceremony that was held in the City of Eureka.¹⁹ These plans – which we requested and reviewed – included command post information, designated Incident Commander(s), EPD staffing at various key locations, coordination with other local resources such as facility private security, designating locations for protest activity, and staging response teams and all equipment necessary for effective crowd management should the need arise.

¹⁹ As a result of extended protest activity on campus, the University decided to hold smaller graduation ceremonies at non-University locations throughout Humboldt County. The City of Eureka hosted one such ceremony.

IPA Review and Recommendations

Upon seeing viral video of EPD's response, City leadership raised questions about the force used to manage what appeared to be a crowd of protestors: Did EPD have grounds to respond in the way that they did? Why did this incident unfold the way that it did? And should EPD have responded to protest activity on the Cal Poly campus at all?

Responses to these questions are rooted in principles of crowd management, responses to First Amendment Assemblies, use of force, command and control, as well as the expectations and agreements for Mutual Aid.

Fundamentals of Crowd Management, Unlawful Assembly, and Use of Force

This incident was complicated, as many protest scenarios are. The protestors claimed that they were peacefully assembling, that their assembly was protected speech, and that any intervention by law enforcement was unwarranted.

But media live-feeds from inside the Hall showed that at least some protestors were engaged in vandalism and destruction of University property. And their "takeover" of the Hall without the University's permission (which included placing barricades at entrances to prevent entrance and exit) meant that they were officially trespassing on University property. Strictly speaking, per California law, some of these behaviors moved beyond protected speech into the realm of unlawful activity, and University administration requested that law enforcement arrest the protestors and clear the Hall.²⁰

²⁰ We acknowledge that the diversity of behaviors and intentions among the protestors inside Siemens Hall made it difficult to distinguish between lawful, protected speech, which was certainly the intention of some protestors who were not engaged in overt acts of vandalism or violence, and those involved in illegal activity. This dynamic created a challenging environment for University administration and law enforcement alike.

Even though law enforcement likely had legal authority to arrest protestors for trespassing,²¹ at the urging of an EPD officer, they first declared the event to be an unlawful assembly and issued a dispersal order.²² In our evaluation, the protestors, whether individually engaged in peaceful or violent action, were arguably “on notice” that remaining inside the Hall made them part of an unlawful assembly regardless of their individual behavior or intentions. At the same time, it is not clear whether any of those individuals in the Hall were able to hear the dispersal order. Regardless, the UPD command-level determination about the lawfulness of the protest activities and the decision to clear the building were not within EPD’s span of authority and are not within the scope of our review.

Crowd management best practices advise that law enforcement give a reasonable and sufficient time between issuing a dispersal order and any physical intervention to provide individuals the opportunity to comply and disperse. But here, we noted that some protestors began to throw cans at officers almost simultaneously with the dispersal order, demonstrating their violent intentions and potentially inciting others to engage in similar violence.

At that point – once the determination was made to begin arresting protestors – the actions of law enforcement were governed by their own Use of Force policies.²³ Per those policies, any use of force must be reasonable and necessary, and in response to specific subject behavior. As we described in detail in our Incident Summary, our review suggested that EPD officers used

²¹ California Penal Code Section 602 defines a wide range of activities that can be considered “trespassing.” The arrested protestors in this case were charged with 602(m): entering and occupying real property or structures of any kind without the consent of the owner, the owner’s agent, or the person in lawful possession. In most cases, trespassing in California is misdemeanor crime.

²² An *unlawful assembly* is whenever two or more persons assemble to commit an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner. A *dispersal order* is an announcement given by law enforcement to two or more people who are engaged in an unlawful assembly. The intention of a dispersal order is to inform the crowd that they are engaged in unlawful assembly and to make clear that they must immediately leave the area or be subject to arrest or force.

²³ Recent state laws limits law enforcement in using specific types of force, such as chemical agents (e.g., tear gas) and impact projectiles on an entire crowd during crowd management incidents. But force may still be used on discrete subjects who may be involved in criminality as governed by use of force laws and policies.

force (namely, baton pushes, thrusts, and strikes) in response to active aggressive and assaultive behaviors exhibited by specific protestors.

While the force used by EPD officers appears to have been a measured response to the threat presented, concerns about incident planning and command raise questions about whether law enforcement officers should have been staged at the foyer of Seimens Hall at the time and in the manner they were.

Planning and Command

Law enforcement's clash with protestors on the afternoon of April 22 evidenced a lack of effective planning and command. In contrast, as campus protests continued through the week, UPD and other responders formulated written plans for intervention that resulted in less forceful encounters; for example, the University began to offer protestors a safe surrender period to exit the Hall without being arrested if they chose to do so. EPD's own First Amendment Assembly policy discusses the importance of planning and command at length, and following this policy allowed the Department to successfully manage protest situations within the City later that week.

But on the afternoon of April 22, operational planning was regrettably deficient.²⁴ UPD orally briefed responding officers on their mission and the *potential* plan, but that plan seemed to transform during the short walk from police vehicles to the front doors of Seimens Hall. There was no clear unified Incident Command, and no contingency planning in place if the circumstances changed; for example, how to respond if the crowd size overwhelmed law enforcement's capacity or protestors became violent. Those in command did not account for field operation basics, such as covering all entrances to Seimens Hall, avoiding being surrounded, and providing a safe and clear path of movement for those who left voluntarily as well as arrestees.

Further, there appeared to be no planned risk assessment that balanced the need for intervention with the safety of officers and protestors alike. Based on

²⁴ University leadership has transitioned since this incident: in May, the University named a new Chief of UPD / Associate Vice President for Safety & Community Wellbeing; and, in early July, the University President stepped down (no replacement had been identified as of publication of this report).

our review of available video and other evidence, there was no immediate threat beyond vandalism of University property at the time officers staged in the foyer, and no urgent need for law enforcement intervention. Once protestors began throwing cans, officers could have withdrawn from the foyer to reassess, but were disadvantaged by the absence of a defined plan with tactical contingencies. As a result, EPD officers found themselves reacting to the scene that was unfolding before them in real time as they attempted to execute the original (albeit flawed) mission to enter the Hall and arrest protestors.

Once EPD command arrived on scene, the Chief became a de facto Incident Commander and the involved agencies met to establish a concrete plan with contingencies for the remainder of the evening.

As the lead organization, UPD was responsible for planning and command, and should have created a written Incident Action Plan (also referred to as Operational Plans, or “Ops Plans”) for this event.²⁵ While creating a comprehensive Incident Action Plan can be challenging in the face of more “spontaneous” events such as April 22, agencies can and should establish various plan templates in advance. These generic plans can cover different types and sizes of events to provide general strategy and working tactics. These plans can then be quickly tailored and adjusted when responding spontaneously.

In the University context, these plans should be developed collaboratively with University administrators, so that all involved have a clear understanding of

²⁵ An Incident Action Plan, even one that is generic, provides guidelines regarding incident objectives and response strategies by stage or period, and formally documents procedures and logistics. Several guides and resource handbooks for successful, ongoing planning in advance of protest activity have been generated in the wake of the civil unrest that occurred in 2020 after the George Floyd murder. See, for example, the resources published by the Department of Justice’s COPS Office at: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-p459-pub.pdf>

the goals, intentions, and possible outcomes of requesting a law enforcement intervention.²⁶

Beyond setting a clear command structure and a basic tactical plan, an Incident Action Plan also serves to identify the command post, a field staging area, roles and responsibilities, and logistical needs – other aspects that we noted were missing in the overall response on April 22.

Our review indicated that, once on scene, EPD command staff had the expertise (backed by its own First Amendment Assembly policy) needed to effectively resolve the short-term situation on campus, and to develop effective operations plans for related events that occurred in the following weeks. We advise that EPD use this expertise to lead the region in establishing templates for Incident Action Plans for spontaneous events.

RECOMMENDATION 1

EPD should work with its regional partners to establish templates for Incident Action Plans for various types and sizes of events that provide general strategy and working tactics.

Mutual Aid: Expectations & Agreements

As we noted, UPD was the lead agency in the April 22 incident, and the agency ultimately responsible for planning and command. Despite having concerns with various aspects of the proposed plan and its execution, the lone EPD first-level supervisor and officers on scene were not in a position to assume command, and therefore deployed in the way the lead agency had originally requested.²⁷

²⁶ For additional information on collaboration between campus police and administration, please see the IACP's "Demonstrations on University and College Campuses," available at <https://learn.theiacp.org/products/demonstrations-on-university-and-college-campuses-law-enforcements-role-in-planning-and-response>

²⁷ This was a challenge that we observed in conducting various After-Action Reviews of the civil unrest that occurred in the summer of 2020; lower ranking supervisors (and, at times, even officers) reported that they sensed that what was happening on the ground was problematic or ineffective, but the chain of command structure "prevented" them from taking action at risk of being insubordinate.

To those outside of law enforcement, this may not make sense: why would a knowledgeable supervisor not take the lead of the operation, or at least of his or her own team on the scene? This is due to law enforcement's paramilitary chain of command, which often stands firm even in mutual aid responses.²⁸

Mutual aid is the practice of calling on area partners to assist in a specific operation that has exceeded a law enforcement agency's own capacity. While the concept is simple, execution can be complicated, as we saw here. Agencies must navigate logistical details such as command, planning, equipment, and resource management. Further complicating matters are questions of liability and risk – who is ultimately responsible for what occurs during mutual aid responses?²⁹

Because of these complicated factors, it is important that agencies define their roles in advance of responding to calls for mutual aid. These considerations are all typically defined in a formal Mutual Aid Agreement drafted and agreed upon by all regional partners in advance of deployment.³⁰ The agreement should also prescribe regular joint training where, in addition to the basic benefits of the training itself, agencies can get to know and collaboratively work with each other's personnel.

²⁸ Law enforcement officers also have a "Duty to Intervene" if they observe anyone, even higher-ranking personnel, engaged in misconduct or illegal behavior. As we noted in our Incident Summary, the EPD supervisor did intervene when he saw officers coming to "pile on" to a protestor who had been pulled from the pick-up truck. And the EPD Chief reported that some command staff wanted to use chemical munitions (Pepperball) to disperse the crowd in the quad, a plan that he quickly rejected because in his opinion they did not have legal grounds to use those munitions. We did not observe or hear of any other behavior that would activate a duty to intervene.

²⁹ For a detailed discussion of the liability and risk considerations, see "A Primer on Mutual Aid Agreements" at <https://www.police1.com/mass-casualty/articles/a-primer-on-mutual-aid-agreements-a-few-notes-for-command-and-field-personnel-lbU6ZfCbK15vcFil/>

³⁰ Having a Mutual Aid Agreement or memorandum of understanding is a best practice encouraged by, among others, the International Association of Chiefs of Police (see their guidebook at <https://www.theiacp.org/resources/policy-center-resource/mutual-aid>).

While EPD personnel collaborate regularly with local agencies on discrete teams, such as the Drug Joint Task Force, it does not have a general Mutual Aid Agreement with regional partners such as UPD. We recommend that the relevant regional agencies draft an agreement to establish clear expectations and guidelines and consider creating particular provisions relating to mutual aid responses in the context of First Amendment Assemblies.

Creating a formal written agreement provides the opportunity for agencies, City, County, and University leadership, and the communities that they serve to consider their own policing philosophies and how and when they should respond to requests for mutual aid. These stakeholders may have different beliefs and expectations for policing, even when (or especially when) officers are policing outside their immediate jurisdiction and outside their direct chain of command. This is particularly true for responses involving First Amendment assemblies where, for example, the values, priorities, and expectations of the University community may be distinct from those of the surrounding communities. And any mutual aid agreement should provide any signatory agency the discretion to decline to participate in any operation that may not be consistent with community goals in its objectives and manner.

It is especially important for City, County, and University leaders to communicate with their law enforcement leaders and participate in the development of a Mutual Aid Agreement to ensure they have accurate and realistic understandings about what various responses entail, including the types of vulnerabilities and potential liabilities a particular law enforcement response may create.

RECOMMENDATION 2

EPD should work with its regional partners to establish a Mutual Aid Agreement and a regional training plan to ensure that all parties fully understand the contours of the Agreement.

After Action: Going Forward

As we discussed at length in our Independent Police Auditor Quarterly Report: Q1 2024 (April 23, 2024)³¹, a holistic review that looks at a wide range of tactical concerns and decision-making is an essential component of a law enforcement agency's response to a critical incident.

EPD's own First Amendment Assembly policy contemplates the need for such a review:

467.11.1 AFTER-ACTION REPORTING. The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following: (a) Date, time and description of the event; (b) Actions taken and outcomes (e.g., injuries, property damage, arrests); (c) Problems identified; (d) Significant events; (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

EPD's Internal Review

The Department's efforts to date to investigate and review EPD's involvement in the April 22 incident have been comprehensive. All involved officers and the on-scene supervisor submitted incident reports that thoroughly described their roles and actions taken. Their body-worn cameras were activated throughout their involvement, providing a crucial record of and objective perspective on the event.

The Chief met with his command team in the days after the incident to discuss where things might have gone better and what lessons could be learned about EPD's engagement. They conducted one-on-one debriefing sessions with each involved officer and the on-scene sergeant, to identify areas of concern,

³¹

https://www.oirgroup.com/_files/ugd/95b384_cf705666bdcd4752bdab09a77521613a.pdf

recognize commendable performance, and support them from an officer wellness and safety perspective.

The Chief readily acknowledged to us the concerns identified, particularly in the planning and organization of the response, and the difficulty of negotiating the sometimes-thorny command and control issues that were so problematic in this scenario.

We appreciate the work that has been already undertaken in identifying some of the challenges regarding this deployment as well as the Chief's assessment. Nonetheless, we continue to emphasize the importance of a more formalized, documented review process, as we noted in our April 2024 IPA Quarterly Report. In our view, the April 22 incident would be a perfect candidate for the type of critical incident review process we described in detail and advocated for in that report. In short, an ideal holistic review model involves a meeting of EPD executives and training personnel convened after a critical incident, in which participants identify a broad range of issues, including those that provide a window into a needed policy, training, or equipment change. The meeting should result in formal development and documentation of "action items", with clear expectations regarding thorough and timely completion and an effective mechanism for follow-up and feedback to the group.

We recommend that EPD develop such a formalized critical or major incident review process and look forward to working with Department leaders to develop a format that will work best given the agency's size, culture, structure, and institutional practices.

RECOMMENDATION 3

EPD should develop a formal critical or major incident review process that involves a meeting of Department leaders convened after a critical incident, in which a broad range of issues are considered and identified, and which results in clearly defined and documented action items with expectations for follow-up and effective feedback.

County-wide Collaboration

Because of the significant challenges around planning and command on April 22, a critical piece of EPD's After-Action effort surrounding the incident necessarily involves working with its County-wide law enforcement partners in developing strategies to more effectively confront these challenges moving forward.

As we recommend above, two key components of an improved regional response will be to formalize a Mutual Aid Agreement with regular joint training requirements and to create template Incident Action Plans for various types and sizes of events.

Beyond those two recommendations, we also suggest that EPD engage with the other agencies who responded to Cal Poly on April 22 to facilitate a multi-agency de-brief to discuss the events of that day, and where improvements can be made in future responses. The goal of the debrief would not be to point fingers or apportion blame, but to openly and honestly analyze and discuss organizational processes and performance issues in a constructive way.

RECOMMENDATION 4

EPD should engage with the other agencies who responded to Cal Poly on April 22 to facilitate a multi-agency debrief to discuss where improvements can be made in future responses.

Training for Crowd Management

When we asked about training in crowd control, we were advised that their officers had not held Department-wide training on crowd management

strategies, also known as “Mobile Field Force training”³² in several years, due to staffing, competing commitments, and the absence of a Mobile Field Force expert in-house.³³

In this incident, both EPD command and officers deployed Mobile Field Force tactics as prescribed by best practice models, both in the foyer (though that line was compromised by space and barricades), later in the evening (to move the crowd in the quad), and in preparing for events within Eureka later that week.

The problems with the overall response we note throughout this report are not related to a training deficiency among the responding EPD officers. In our evaluation, the lapse in training did not have a measurable impact on how EPD responded on April 22 (they were, in fact, the only agency that responded with the needed equipment for crowd management).

But crowd control tactics are continually evolving. For example, modern training modules teach an increased focus on negotiation, communication, and de-escalation, skills that are important beyond crowd control. We recommend that when practicable given operational constraints, EPD send at least one supervisor to obtain Mobile Field Force instructor certification in Field Force Operations. Once certified, this trainer should provide a Mobile Field Force training update to all personnel and, if needed, to those from other regional agencies. And, while we understand the challenge of balancing competing training requirements and staffing challenges, EPD should strive to add Mobile Field Force updates to its regular training schedule.

³² “Mobile Field Force” refers to a set of policing tactics designed to provide rapid and organized response to manage crowds. A Mobile Field Force is typically made up of officers structured into “platoons,” or teams, each under the command of one team leader, who are collectively under the command of a Field Incident Commander. In this case, the Mobile Field Force team were the EPD supervisor and the four officers who stood on the line in the Siemens Hall foyer.

³³ Per the California Peace Officer Standards and Training (POST) guidelines, all sworn officers should have received periodic crowd control management, specifically, Mobile Field Force training, as part of their regular Department training. This training teaches tactics for crowd management, both on the supervisory level (for example, creating an action plan and unified chain of command) and line-officer level (for example, mobile tactical formations like skirmish lines and traffic management).

RECOMMENDATION 5

EPD should send at least one supervisor to obtain Mobile Field Force instructor certification in Field Force Operations. Once certified, this trainer should provide a Mobile Field Force training update to all personnel.

RECOMMENDATION 6

EPD should add Mobile Field Force updates to its regular training schedule (while balancing competing training requirements and staffing challenges).

Conclusion

Every crowd management scenario presents uniquely complex challenges for law enforcement agencies tasked with responding. Balancing the First Amendment rights of protestors with the need to maintain safety and order requires a degree of advance preparation and planning for various contingencies and a strong, flexible incident command that can adjust and adapt as situations change and develop.

EPD's role in the law enforcement response to the April 22 protest at Cal Poly was limited and, at least initially, claimed no responsibility over the planning and on-scene command. The officers and supervisor who arrived first at the University were thrust into a difficult task with little or no chance of success. And as we detail above, their use of force to get out of that situation was measured and justified.

Nonetheless, every critical incident provides an opportunity for learning and improvement. We intend this report to be a component of that important after-action effort, and hope it proves useful in assisting EPD's future responses to similar scenarios.

We are grateful for the full cooperation of EPD – for promptly providing us documentation and video footage, and for leadership's candor and generosity with their time and honest assessment of what went right, and what could have gone better, on April 22.

Recommendations

- 1: EPD should work with its regional partners to establish templates for Incident Action Plans for various types and sizes of events that provide general strategy and working tactics.
- 2: EPD should work with its regional partners to establish a Mutual Aid Agreement and a regional training plan to ensure that all parties fully understand the contours of the Agreement.
- 3: EPD should develop a formal critical or major incident review process that involves a meeting of Department leaders convened after a critical incident, in which a broad range of issues are considered and identified, and which results in clearly defined and documented action items with expectations for follow-up and effective feedback.
- 4: EPD should engage with the other agencies who responded to Cal Poly on April 22 to facilitate a multi-agency debrief to discuss where improvements can be made in future responses.
- 5: EPD should send at least one supervisor to obtain Mobile Field Force instructor certification in Field Force Operations. Once certified, this trainer should provide a Mobile Field Force training update to all personnel.
- 6: EPD should add Mobile Field Force updates to its regular training schedule (while balancing competing training requirements and staffing challenges).