

*City of Santa Monica*

INDEPENDENT AFTER ACTION AND  
EVALUATION REGARDING THE  
EVENTS LEADING TO, DURING, AND  
FOLLOWING MAY 31, 2020

May 4, 2021



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# Introduction

The murder of George Floyd in Minneapolis, Minnesota happened on May 25, 2020. As captured by cell phone video that circulated internationally, the tragedy of Mr. Floyd's anguished final minutes – against the backdrop of Officer Derek Chauvin's indifference as he placed his knee for several minutes on the neck of Mr. Floyd – set off a reaction across America that was unprecedented in its scope and intensity. The momentum of it grew steadily and spread to jurisdictions all over the United States.

In retrospect, it is easier to recognize the conditions that fueled the wave of protest. The country was restless, mourning, and deeply uncertain after 10 weeks of the COVID-19 pandemic. The death of Breonna Taylor in Louisville had reignited frustration over police violence and its disproportionate impacts on Black Americans. And the egregious nature of the Floyd case, while all too predictable in the view of many, pushed millions more into a significant reconsideration of race and policing in the United States.

The ensuing reaction took many forms. Policing issues once again moved to the forefront of the political conversation at the federal, state, and local levels. In some instances, outrage and anger over Mr. Floyd's death devolved into destruction; by Thursday night, May 28, protesters had broken into a Minneapolis Police precinct station and set it on fire. But the phenomenon also manifested itself most clearly in a widespread series of public demonstrations that were inspired by the Black Lives Matter movement and committed to reform.

The City of Santa Monica is no stranger to community activism and grassroots reform efforts. Demonstrations of various kinds, and in support of various causes, are a regular part of the landscape, and interest in policing issues included a dedicated group of residents that had been meeting with the Police Department's leadership for several years.

While the days immediately following May 25 had been quiet locally (with much of the official civic attention dedicated to the imminent easing of pandemic restrictions), longtime residents and a range of City officials tracked the national narrative with interest and wondered about its local implications. By and large, though, as the weekend approached, initial expectations were that any protests that did occur in Santa Monica would track the City's history: they would be orderly, constructive, safe, and facilitated as needed by the Police Department ("SMPD" or "the Department").

What happened instead was something very different. From early afternoon until well after dark on May 31, the City found itself reeling in its efforts to deal with a range of challenges. And by the morning of June 1, 2020, a whole series of community expectations and assumptions had been upended by hours of unrest that several of the affected parties described to us as being “completely out of control.”

The forces that converged on the City on May 31, fueling each other and pushing public safety officials beyond their capacity to manage them, are roughly divisible into three. These are the large (and largely peaceful) protest marches that settled into a confrontation with police on Ocean Avenue, the much smaller factions of unlawful protesters who were engaged in scattered acts of vandalism or other aggression, and the proliferation of looting activity – some opportunistic, some decidedly organized – that broke out in multiple locations. Cumulatively, the variety and scale of these proved to be overwhelming to the Police Department and the other law enforcement agencies that had come to provide mutual aid.

Before order was restored, SMPD declared an unlawful assembly and dispersed protesters with chemical munitions, businesses across whole swaths of the city were looted and damaged, and the Fire Department responded to 21 fire calls – at times in the midst of reported assaults and active attempts to disrupt their efforts. Hundreds of people were arrested later in the day for curfew violations and subjected to problematic, makeshift conditions of mass detention; meanwhile frustrated observers (in person and on live television) spent the afternoon watching looters brazenly raid businesses without apparent consequence.

The scale of disruption in Santa Monica on May 31 is difficult to measure or quantify, but one statistic that reflects the day comes from the City’s “Public Safety Communications” (911 Dispatch) center. On an average day, the dispatch team handles approximately 300 or 350 calls. On May 31, it was 12 times that many, with some individual hours reaching a call volume of 600.

It is true, and important to note, that no lives were lost in Santa Monica as a consequence of the May 31 unrest. But the vandalism and property damage, the losses to business, the divisive handling of protesters, and the undermining of confidence in people’s basic security were collectively substantial. And each of these was deeply and understandably troubling to the people who live and work in the City.

By the morning of June 1, the work of addressing the impacts of May 31 had begun. This started with a large-scale and literal cleanup effort for which many people

volunteered. City officials sought – with limited success – to accentuate positive aspects of the response, most notably the preservation of life, and to reassure the public about the Department’s ability to address the crowd management needs that were ongoing as the demonstrations continued.

But even as June progressed in relatively controlled fashion, questions and criticisms about May 31 persisted – all against the backdrop of a heated national dialogue about policing in general and the experience of local communities in particular. The City took a number of responsive steps. One of these was the creation of a 15 member “Public Safety Reform Advisory Committee”; its mandate was to solicit community input and engage in other information-gathering with an eye toward recommended changes to SMPD policy and City budget priorities. That group began its work in July and submitted proposals to the City several months later, including a recommendation for permanent independent oversight over City policing.

Another response was the call for an “independent after action report and evaluation regarding the events leading up to, during, and following May 31, 2020.” The goal was to address questions and concerns about what specifically transpired on that day, as well as to provide an evaluation and recommendations with regard to the various dimensions of the City’s actions at that time.

This Report is the product of that request. It was prepared by OIR Group, a team of police practices experts. Its members have worked in the field of civilian oversight of law enforcement for nearly 20 years, serving in a range of capacities for jurisdictions throughout California and in other states.<sup>1</sup> Specializing in audits of law enforcement internal accountability systems (such as misconduct and use of force investigations and critical incident reviews), OIR Group has also assessed and investigated individual incidents (including officer-involved shootings) involving several different agencies. Most recently, we have evaluated the police response to last summer’s protest activity in Iowa City (IA), and are currently assessing public safety’s response in Kalamazoo (MI), and the California cities of Santa Rosa and San Jose.

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<sup>1</sup> We appreciate the important perspectives and valuable input provided by Sergeant Jody Stiger, a police tactical expert, who currently serves as aide to the Inspector General for the Los Angeles Police Department and who was a key member of our review team for this project.

Led by Michael Gennaco, a former federal prosecutor and nationally recognized authority on police oversight, OIR Group has issued numerous public reports that can be found on our website: [www.OIRGroup.com](http://www.OIRGroup.com).

## Overview and Summary of Findings

With May 31's unrest as its centerpiece, this Report covers several different aspects of the City's response, particularly regarding the performance of SMPD. It starts with an overview of internal dynamics within the Department in the months leading up to the end of May and discusses some of the factors that negatively influenced operational effectiveness. These included lost opportunities for coordination with assets within the City, such as Public Works, the Office of Emergency Management, and the City's business community.

The Report then takes a close look at the Department's intelligence-gathering and decision-making as the George Floyd protest movement grew and began to manifest itself locally – particularly in Beverly Hills on the afternoon and evening of May 30. And it assesses the lack of cohesion that undermined the thoroughness and adequacy of SMPD preparations on that Saturday night and into the first part of Sunday morning.

Turning to the day itself, the Report details the severe limitations of the Department's original plan, and the disarray that quickly resulted from fragmented leadership and inadequate resources. It then portrays the deterioration of conditions as the afternoon devolved, with the large protest on Ocean Avenue lapsing into a prolonged standoff as looting and vandalism sprung up in locations throughout the downtown area. It evaluates the challenges with coordination of mutual aid (including the delayed arrival of National Guard personnel) and the various uses of force that SMPD deployed in furtherance of its enforcement objectives – which the Department was oddly slow to document and evaluate internally. And it explains the different tactical shifts and external factors that allowed the Department to regain control – even as it arrested hundreds of people without the requisite infrastructure for effectively handling their time in custody.

The Report also includes a section about different components of the Department and City response in the aftermath of May 31's demoralizing outcomes. In the short run, this included a revised and greatly enhanced operations plan for securing the City as protest activity continued June 1 and beyond. The Report also discusses the communications issues that compounded frustration among some City stakeholders in the ensuing days



– and caused observers inside and outside the Department to say that flawed messaging to the public was as corrosive to trust as were the beleaguered hours of May 31 themselves.

Our key findings, with attendant recommendations throughout the Report, include the following:

- The Department’s internal dynamics, particularly at the command level, were strained in early 2020 in ways that negatively influenced the response to May 31.
- Some of the internal tensions were focused on budgetary matters, based in part on the Chief’s efforts to address SMPD’s longtime reliance on overtime as a means of ensuring adequate staffing.
- Turnover at the highest levels of the organization resulted in a leadership team whose members lacked tenure at their respective positions and were out of sync with the Chief.
- The Department’s approach to “planning and intelligence” had been restructured in the months leading up to May 31 in ways that belied a significant commitment to their importance.
- The Department was slow to anticipate the burgeoning potential for protest and/or unrest in the City as the reaction to George Floyd’s death grew across the U.S.
- The events in Beverly Hills on May 30, which several SMPD officers and supervisors had experienced firsthand in a mutual aid capacity, raised concern among some SMPD members, but not in a unified or sufficiently influential way.
- The fact of the Chief being out of the City until the late morning of May 31, in conjunction with ambiguous delegation and lack of managerial cohesion, undermined the quality of decision-making and adequacy of preparation on the night of May 30.
- Incomplete and conflicting information about the size and scale of likely activity on May 31, and lack of a structured way to effectively use and share information contributed to the SMPD under-reaction.
- The level of planning, resources, and leadership on the morning of May 31 was deficient in light of the known or knowable circumstances.

- It was a mistake for the Chief to send two captains (including the putative “Incident Commander”) into the field that day to meet with protesters instead of maintaining clear, centralized lines of decision-making.
- By the time the Department began to recognize and contend with its serious shortfall in staffing, harmful delays in getting additional help were inevitable.
- Confusion over the identity of the Incident Commander and the location of SMPD’s decision-making center (or “command post”) hampered the efficient, effective deployment of resources.
- The standoff with protesters on Ocean Avenue was addressed with tear gas and other less lethal tools under circumstances that were internally confused and/or confusing to members of the public.
- The use of traditional large-scale deployment at Ocean Avenue came at the cost of deploying resources to other areas of the City.
- The Department was in reactive mode for hours that afternoon, incapable of addressing the volume and range of unlawful behavior that began to proliferate.
- The mutual aid from other law enforcement agencies, while not without its own frustrating elements, combined with other changes in circumstances on the ground (including the ability to arrest individuals for violation of the curfew imposed by the City) to assist in SMPD’s efforts to regain some control.
- The Department found success in moving away from larger scale deployments and directing smaller teams toward specific problem areas.
- The move toward large-scale arrests, mostly for curfew violations, was another factor in re-establishing control – but one that had its own attendant problems in terms of transportation, care, and custody.
- The Department regrouped considerably in its approach to staffing and planning beginning on June 1, and these shifts helped contribute to improved performance over the several days that protest activity continued.
- The Chief and other City officials struggled to find the right balance between acknowledging shortcomings and providing reassurance in the aftermath of May 31, particularly as criticism grew.

- The Department's internal reckoning with the events of May 31 was plagued by some of the same trust and cohesion issues that had preceded that day.

Lastly, the Report delineates the adjustments that have occurred in SMPD and with other City partners in the time since the protests abated in mid-June. Apart from the departure of the Chief herself in October, these changes include a newly structured intelligence unit within the Department, new training and tactical reinforcement based on "lessons learned" from May 31, and an expanded "Mobile Field Force" unit within SMPD that has several more officers as well as enhanced equipment, and new philosophies for crowd engagement. Importantly, heightened integration with other City departments has also contributed to greater levels of preparedness.

SMPD and the City have already proven the merits of those reforms in the "living laboratory" of current events. They point to Election Day in November 2020 and Inauguration Day in January 2021 – both of which unfolded without incident – as examples of their new approaches to preparation and coordination. Moreover, they recognize that the potential for unrest continues to exist in a time of intense polarization and unresolved equity concerns, and their professed emphasis on preparation seems genuine.

Time and new challenges will, of course, be the best measure of the Department's readiness. But there is value from our perspective to what they have done, and the Recommendations in this Report will ideally supplement and reinforce those positive developments. Certainly, the Department seems to be approaching any future tests in the right frame of mind: with humility about its performance on May 31, with a genuine interest in determining what went wrong and how to adjust, and with confidence in the commitment and abilities of its personnel.

Two additional thoughts at the outset of this Report provide important additional framework:

First, it is only fair to put SMPD's shortcomings on May 31 in context. Law enforcement agencies all over the country, including in other Los Angeles County locations, found themselves overmatched by the size, scale, and complexity of the unrest that followed George Floyd's death. Apart from the inherent difficulty in serving as both the facilitator and the subject of passionate protest, many police agencies found themselves lacking in the experience, resources, and strategies to balance First Amendment rights against unpredictable safety and security concerns. Looting and property damage, as well as concerns about heavy-handed police action and mistreatment of demonstrators, were

widespread phenomena in those weeks. And agencies with considerably more resources and relevant experience than SMPD also found themselves struggling to respond effectively to the challenges of the moment. It is, then, worth remembering that the Department's lapses in preparation and organization, while responsible for the *worsening* of a bad situation, were far from being the entire cause of the harms the City suffered.

Second, we take a moment to mention that the numerous representatives of SMPD whom we met seemed genuinely pained by the experience of May 31. There were different reasons for this, including the unparalleled intensity of the day, the vehemence with which they were excoriated by protesters, and the frustrations over internal confusion that had undermined their efforts. But a common theme was their regret over having "failed" the City and having lost the confidence of a community that they care about. And for the Department's leaders, there is concern that the dedication of line officers under extraordinary circumstances in that period has been overshadowed – in part because of deficiencies in preparation at the management level for which the rank-and-file personnel bear no fault.

The candid acknowledgements that Department members offered to us were in service of what they hope will be a constructive, if difficult, public conversation. We appreciate their insights and share in that goal.

# Methodology

The City framed the scope of work for this project to ensure that a range of perspectives would be included in the development of findings and recommendations. Because the actions of the Police Department were, of course, the central focus of this assessment, SMPD was a major source of raw information across different categories, which we delineate below. But we also benefitted from the insights of others who were connected to the events of May 31 as responders, participants, City officials, business owners, and/or concerned residents of Santa Monica. For understandable reasons, people experienced (and reacted to) that day in distinctive ways, though there was also considerable overlap in the concerns that were expressed and the questions that persisted.

When it came to understanding community sentiments, the more valuable sources of input were the two virtual Listening Sessions that were sponsored by the City and which we hosted on November 17, 2020 and January 19, 2021.<sup>2</sup> We also talked to the leadership of Downtown Santa Monica, a group of business leaders and Black Agenda, a newly formed group sponsored by the City to further dialogue among City residents of color. Importantly, this public outreach also prompted a significant amount of additional correspondence. People sent along written narratives as well as videos, photographs, and relevant social media postings. We also talked by phone to residents who requested follow up.

See the “Community Input” section of this Report, below, for further details on these valuable sources of information and perspective.

## Interviews with SMPD Sources

The Santa Monica Police Department cooperated fully with our requests for information of various kinds. Foremost among these was a series of interviews with Department members, including current and former leadership of the Department.

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<sup>2</sup> Recordings of the public Listening Sessions may be viewed on the City of Santa Monica’s YouTube channel at the following links:

November 17, 2020: <https://www.youtube.com/watch?v=ny9ntDdr-E>  
January 19, 2021: <https://www.youtube.com/watch?v=mo1tY0x3vFI>

In all, we met with 15 different SMPD representatives.

We reiterate our appreciation here for each of their perspectives and willingness to participate in this review.

## SMPD Documentary & Digital Evidence

At our request, SMPD provided an extensive amount of relevant documentary evidence related to the day of and the days leading up to and immediately following May 31. The documents included:

- Emails and text messages exchanged between involved personnel, both contemporaneous to the civil unrest (e.g., exchanged on May 30 and 31) and in the subsequent days
- “Call for Service Detail Reports” for May 31
- Internal memorandum related to the events of May 31, including timelines, a Tactical Debrief summary, and Incident Review Board summary
- Deployment rosters for May 31
- Training Reports
- Statistics related to May 31, specifically, arrests, citations, Crime Reports, and damages
- An internal “After-Action” PowerPoint presentation prepared by the Chief’s office, which included a timeline of events and clips from radio broadcast and media footage
- A PowerPoint presentation of intelligence gathering efforts by day and time, as well as screenshots from social media sources
- Operational materials, including Operation Plans, related to other City events from May 30 to June 6
- All relevant Department policies regarding uses of force, tactics, and First Amendment assemblies
- Use of Force Reports submitted by SMPD officers detailing their uses of force on May 31 and the reports submitted by some mutual aid partners related to uses of force

OIR Group team members also collected digital evidence from public sources, including both traditional and social media platforms, to better inform our review. OIR Group discovered digital evidence in personal and organizational Facebook and Instagram

pages and Twitter feeds, and we reviewed streaming video footage from local media sources.

OIR Group also reviewed Computer Aided Dispatch (CAD) evidence, including written logs and radio broadcast communications, from May 31 into the early hours of June 1. We used this detailed evidence, plus body-worn camera and media video, to construct the detailed timeline included in this Report.

## Evaluation of Body-Worn Camera Footage

Central to our understanding of what happened were the body-worn camera videos provided by SMPD. We reviewed several hours of footage from officers deployed to various locations of interest throughout the City, focusing on critical moments of SMPD observations and decision-making.

As part of our evaluation of the incident, OIR Group requested the body-worn camera footage of specific officers, but SMPD responded that they did not have footage for nearly half of the specific officers that we requested. Command staff shared that body-worn camera activation was an issue overall on May 31 as many officers did not activate their cameras, in contravention of Department policy. In a rapidly unfolding crowd control situation involving potential force deployment, or when engaged in enforcement of “chaotic” looting or aggressive rioters, an officer’s body-worn camera footage can be invaluable for both recalling the incident (for example, to report force) and documentation for an After Action Report.

It is disappointing that many SMPD officers did not activate their body-worn cameras during their response to protest (and other activity) on May 31. A reminder from SMPD leadership during the morning briefing that stressed the importance of activating body-worn cameras might have improved these numbers. It is equally disappointing that SMPD took no apparent corrective action with regard to those officers who failed to meet Departmental expectations with regard to activation of their body-worn cameras. We urge that SMPD do so, even at this late juncture.

We address the issue of officers’ body-worn camera activation and present recommendations regarding this topic later in this Report.

## Additional Documentary Evidence

As part of our evaluation, the City Attorney’s office also provided all records related to civil litigation, complaints and other related lawsuits. The City Manager’s Office also

provided all materials that were made public or examined as a result of Public Records Requests.

## Outreach to City Council & Other City Officials

As part of our outreach, we also invited all current or recent City Council members to share their experiences and perspectives with us; each had helpful insight into the events of May 31 and its aftermath. We also reached out to other City officials who were particularly relevant to our inquiry and we appreciated the perceptions and viewpoints each had to offer.

## Community Input

A key element of our assignment was to engage with the Santa Monica community and listen to voices from all perspectives, to gain insight into both the events of May 31 and the reaction to those events from various segments of the community.

There were several different aspects to our engagement effort.

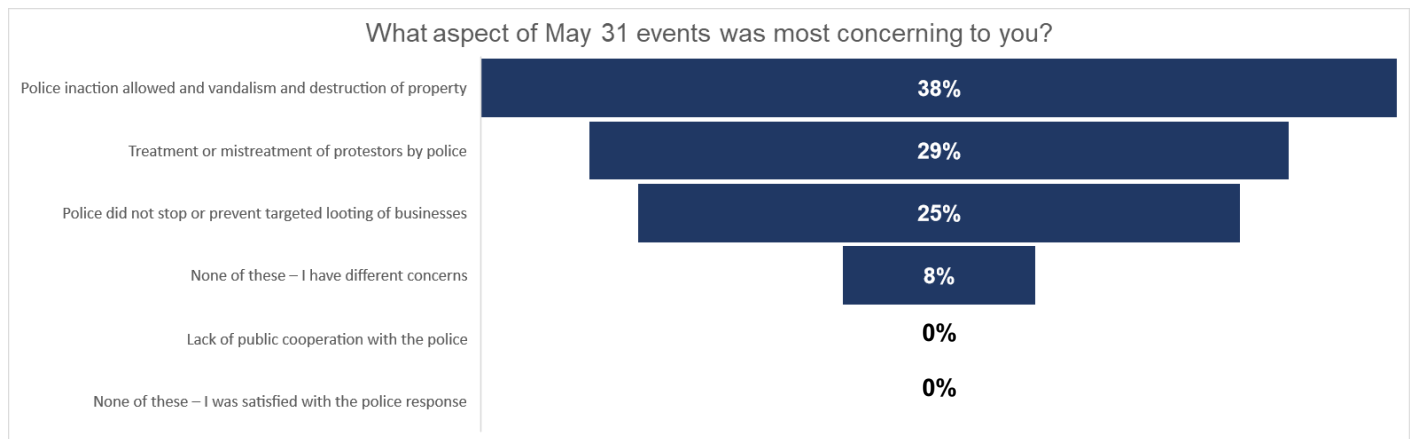
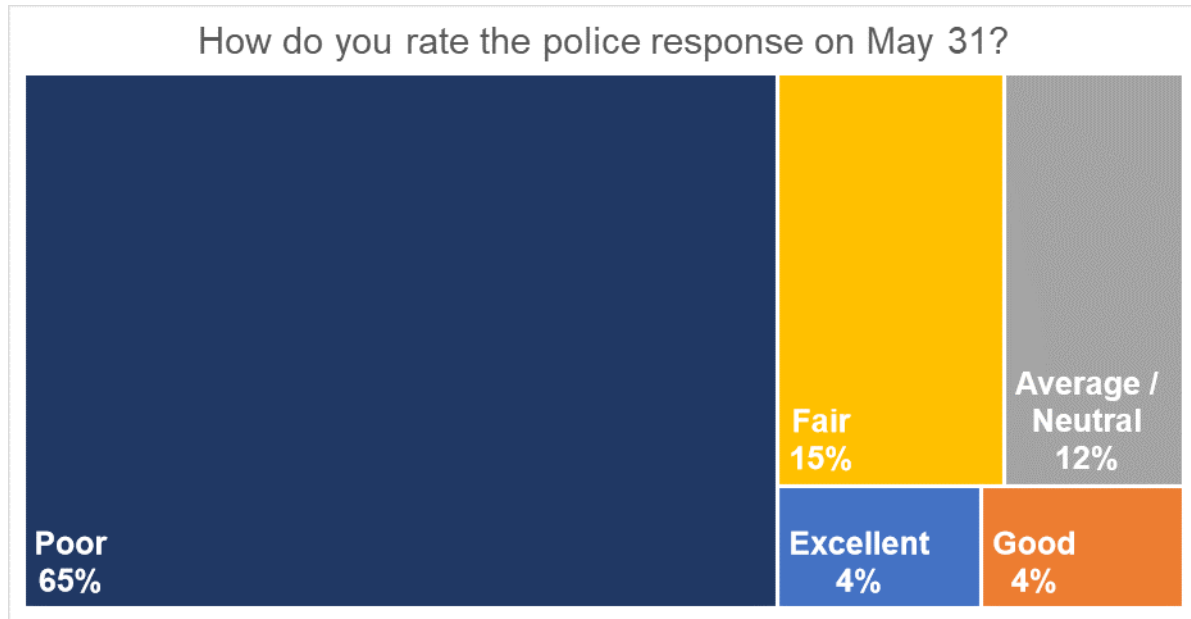
We conducted two public listening sessions open to all participants.<sup>3</sup> Numerous public speakers shared their views and observations in sessions that were live streamed on the City's CityTV 16 YouTube channel and recorded. Some participated in our virtual polls (see Chart below). City personnel provided invaluable technical support and other facilitation for these efforts.

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<sup>3</sup> Due to COVID-19 protocols, this and all other public engagement efforts were conducted virtually – either through the City's BlueJeans application, Zoom, or telephone.



## Results of Virtual Poll, Nov. 17, 2020 Listening Session



We also conducted two additional, more targeted listening sessions with the Board of Directors of Downtown Santa Monica, Inc., and Black Agenda, a City-sponsored program focused on racial equity issues in Santa Monica. Members of each group had their own distinctive perspectives on May 31 and the aftermath which were important to our understanding of the day's events and various responses from the police and City.

The listening sessions prompted further outreach and engagement. We received nearly 100 email messages from people wanting to express their views, some of which were about the police response to the events of May 31, and some which were broader commentaries on the performance of SMPD and City leadership in various contexts. Many people shared photographs and videos with us, depicting their experiences and observations on May 31.

We also participated in direct conversations with over 20 individuals connected to the City and events of May 31 in various ways (apart from the numerous interviews of SMPD personnel and others who played official roles in the events that we reference elsewhere in this report). These external stakeholders included longtime Santa Monica residents, those with connections to different activist organizations, members of the downtown Santa Monica business community, individuals who attended the protests over the summer, and some who watched the events unfold over their television screens.

People talked to us about their concerns about the SMPD police response on May 31, but also about broader issues of race and policing, homelessness, and matters of City governance. One frequently expressed view was that the City and Department leadership's response in the aftermath of May 31 increased the community's distrust and anger about the events because it did not empathetically acknowledge the extent of the damage to businesses nor sufficiently accept responsibility for the Department's shortcomings. Through these conversations, we gained insight into SMPD history, the status of police community relations, and recent reform efforts that was important to our broader understanding.

The views expressed to us throughout these various engagement efforts were diverse and wide-ranging. While nearly everyone expressed some level of disappointment about the police response to the summer's events, there certainly was no "consensus" view about what went wrong or why, who was to blame, or how to correct things. Those who believe looters and violent protesters bear all responsibility were matched by those who found fault with police overreaction or underreaction, and those who blame City leadership for the Department's failure to act. For every person who told us they believe that City Council is too beholden to police, there was another who said City leadership does not adequately support the Department.

For all their distinctive experiences and opinions, though, all of those who reached out to us clearly shared a deep commitment to the City and a hope that the information they provided would assist in our efforts to provide a comprehensive, constructive report. All

of this public input framed our detailed review of the events of the past summer and reinforced the impact of the City and Department's responses. The information provided helped us create a more complete picture of May 31 as it was experienced by people who felt adversely effected, including protesters who thought the police tactics were unjustified, residents and business owners who found themselves perplexed at unchecked vandalism and looting, and observers who were trying to understand the Department's decision-making as the day progressed.

We are grateful to all of those who shared their experiences, views, and insights, and we hope this Report matches their expectations for a complete, thorough review of the events surrounding May 31.

## SMPD Internal Draft After-Action Report

We also reviewed the Department's initial draft After-Action Report as part of our review. This internal report of the police response on May 31 was prepared with the assistance of an outside consulting group engaged by SMPD that was headed by a colleague of the then-Chief.

As it turned out, the information provided to the consulting group for review was apparently channeled through the then Chief and one SMPD lieutenant. As a result, the consultant had limited access to sources of information within the Department. More significantly, editorial control over the draft report and decisions about what information would be included and which critiques would survive the editing process were lodged within the Office of the Chief.

As significantly as the substantive issues in the original scope and design of the project was the lack of transparency to City residents about the process. It was concerning that details surrounding the retention of a consultant to assist with the Department's after-action report only became known as a result of a media report. This lack of transparency in the aftermath of May 31 understandably increased the community's skepticism of SMPD's response to events of that day.

In the future, if SMPD engages outside assistance to review significant events, the City and the Department should carefully and deliberately consider the scope and terms of that engagement, as well as how information about the retention will be communicated to the public.

Particularly following a highly-charged event such as this, the Department's credibility and standing with the community requires openness and clearly-established expectations for dialogue and reform.

#### RECOMMENDATION 1

When engaging outside assistance to review significant events, SMPD and the City should carefully and deliberately consider the scope and terms of that review and should be open and transparent about the engagement.

# SMPD in Spring 2020: Internal Challenges

When Santa Monica, like the rest of the U.S., began to confront the many implications of the COVID-19 pandemic in mid-March of 2020, the Chief had been the head of the Police Department for nearly two years. Positive things had happened during her tenure – most notably, a significant statistical decrease in the City’s crime rate across certain key categories. And we spoke to several City officials who described her as collaborative and engaged in ways that they appreciated. There were also individuals within the Department that connected well with her and endorsed her priorities and leadership style.

In spite of these attributes, though, an important element of effectiveness had yet to come together under the Chief: namely, the development of a strong and cohesive leadership team at the highest levels of the organization.

Undoubtedly, different factors contributed to this, and individual perceptions of the same events can be as subjective as they are sincere. We also did not speak directly to the members of the executive team who left the organization after the Chief’s arrival and within months of each other, leaving simultaneous vacancies in 2019 at the rank of Deputy Chief and three Captains – four of the five highest positions below the Chief in the agency’s organizational structure. Regardless of the reasons why this occurred, though, the impacts were inherently de-stabilizing. Several decades’ worth of collective experience and leadership had left in relatively short order. And while adjusting to turnover is a familiar necessity in law enforcement, this was an extreme example of the phenomenon.

Moreover, the Chief’s approach to strengthening the SMPD command level became a subject of further internal consternation. She took the step of creating a new position, that of “Assistant Chief,” and filling it with a former colleague of hers from a prior agency. Current Department members who spoke to us about this move had some common reactions to it. For one, they expressed regard for this individual’s qualifications and experience, and considered his presence to be a potential asset to the agency – at least in the short term. They also acknowledged the legitimacy of the Chief’s inclination to turn to a known and trusted entity in establishing her administration. But, as the Assistant Chief’s time with the agency continued beyond people’s original understanding of his role, concerns arose that the Chief’s reliance on this individual was coming at the expense of cultivating relationships, defining roles, and

appropriately delegating among the Department's existing cadre of higher-ranking supervisors.

This perception was compounded by the Chief's inaction regarding the promotion process for the vacated spots at the Captain level. These delays eventually resulted in formal prompting from the officers' labor association, and the process did eventually begin. Three new captains were promoted in early 2020. Then, in April, the Assistant Chief was re-assigned to the City Manager's Office to serve as a public safety liaison for the City's Emergency Operations Center, which had been activated in March in response to the pandemic and its various health and infrastructure challenges.

This was progress, but strains still existed, and Department's new leadership had yet to feel fully integrated into the Chief's vision by the time the pandemic created its own disruptions. One of the major friction points related to budget issues – particularly with regard to staffing and overtime.

Several longtime members of SMPD shared the same fundamental description of the Department's traditional financial profile. In so many words, they called it an agency that has historically been short on staff but able to rely on City funding as needed. Its 220 sworn officers for a population of 90,000 is adequate (or even ample) for many circumstances – but that ratio looks radically different when Santa Monica's profile as a major tourist and visitor destination is taken into consideration. Department personnel cited the summer "Twilight Concert Series" as a good example: when tens of thousands are congregating for an outdoor event, normal shift staffing of 10 or 15 patrol officers clearly fell short of appropriate security. Accordingly, SMPD would press officers into service on a (more costly) overtime basis, and the City would also turn to outside agencies (notably the LA County Sheriff's Department) for additional assistance.

As it was described to us, SMPD also developed the habit of using overtime money to staff programs – such as the Department's Mounted Unit, the Explorers, and DARE – that the City supported but that were not delineated in the base budget.

This past practice was not without its critics or downsides. Rank and file officers can come to resent being forced into overtime slots, for example, and SMPD representatives acknowledged to us that there was "room for improvement" and

reconsideration in its spending practices.<sup>4</sup> However, as the Chief began to take a stringent interest in budget matters, finding a happy medium proved difficult. Several people spoke of the genuine tension that arose from line item disputes over small amounts of approved overtime, or disagreements about parameters for “sufficient” staffing of particular assignments. The Department’s new leadership did not feel particularly trusted or heard, and this dynamic was exacerbated by the pandemic – when budgets, and concerns about huge impending revenue shortfalls, became even more constrained throughout City government.

City officials outside the Department, and with whom we spoke, were consistent in rejecting the idea that the Chief had received direction about the need for draconian reductions. They pointed out that, even as the pandemic’s dire financial consequences were becoming clear, SMPD received a significantly lower proportional cut than other City departments. And they flatly rejected the notion that City government explicitly or implicitly encouraged a financial approach that sacrificed public safety as a means of coping with losses.

It is, of course, conceivable that these assertions are true *and* that the Chief’s re-evaluation of longstanding SMPD practices – prior to and apart from the pandemic – was at least partly a reflection of outside influence. Either way, though, the internal tensions over budget and resource allocation, in conjunction with the command staff’s inexperience and uncertainty, created a precarious foundation for contending with the multi-faceted demands that emerged on May 31. And the focus on staffing was realized during communications in the lead up to May 31, when the Chief and her leadership team debated the number and start time of deployment of additional officers for the impending protests.

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<sup>4</sup> We heard interesting examples from the Department’s recent (but pre-2020) history of *very* large-scale “ramping up” of capacity in anticipation of specific events – including a potential clash between activists and counter-protesters that fizzled, thereby obviating the need for the more than 200 officers from multiple agencies who had staged. There are, of course, two sides to this coin: that it is better to be over-prepared than not prepared enough, but that the expense incurred by such a massive (and here, ultimately unnecessary) response is a commitment of resources from within a finite pool of City dollars.

# Late May 2020: Silos, Information Gaps, and a Halting Response

## A Growing National Movement: May 25 to May 29

As the last week of May progressed from Memorial Day – when George Floyd was murdered – toward the weekend, the circumstances of Mr. Floyd’s death were slowly but steadily galvanizing widespread attention and outrage across the country. Minneapolis was, of course, the epicenter of the initial protest activity, which by Thursday night had culminated in the burning of a Police Department precinct station as television cameras covered the destruction in real time. The momentum of reaction to the Floyd incident and the larger issues of policing and racism in America would only build from there, and significant unrest had reached downtown Los Angeles by Friday.

While officials in Santa Monica were following the news like Americans everywhere, the City’s main preoccupation with current events that week related to the impending loosening of pandemic-driven restrictions on “non-essential” commercial businesses, bars and restaurants, and public activities. This included a potential re-opening of the Pier for the first time in several weeks.

Looking back on their recollections of that Friday, people from SMPD (as well as other City officials) described their own mindsets – and levels of concern about possible issues within Santa Monica – in ways that covered a continuum. Some acknowledged no real recognition of potential issues, while others were thinking that an official response to Mr. Floyd’s death was warranted<sup>5</sup> without connecting it to unrest locally. And some wondered about local demonstrations – and possible attendant problems. No one, however, claimed to us that their speculation or “issue-spotting” rose to anywhere near the level of unrest that ultimately materialized on May 31.

Meanwhile, the Chief had left the area on Thursday for a planned trip to northern California, one that was originally meant to keep her out of town for several days. It is unclear, and a matter of some disagreement, as to whether she had designated one of her Captains to serve as “Acting Chief” for decision-making purposes in her absence –

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<sup>5</sup> Late Friday, SMPD posted a statement about Mr. Floyd’s death that acknowledged the strong emotions it had engendered and the Department’s commitment to “strict, unequivocal standards of conduct.”



a common protocol for such occurrences.<sup>6</sup> At the very least, the scope and nature of that designation was far from well-established; one Captain later professed to be unaware until the weekend that the Chief had left town at all.

Obviously, the impact of the Chief's being away from the City is difficult to quantify and is unfortunate rather than blameworthy. All police executives are of course entitled to personal travel, and the Chief was in touch and engaged on Saturday as concerning circumstances became more defined. Still, it is difficult *not* to assume that this factor added to the disjointed, halting nature of the Department's preparations. That the Chief recognized this on some level is perhaps reflected in her initial lack of clear acknowledgement to City officials or the general public, some of whom later said they were uncertain for days as to when she had left Santa Monica and what time on Sunday she had returned. And other City officials were more direct in their criticism of what they believed to be the Chief's apparent lack of candor to them on this issue.

## RECOMMENDATION 2

The Chief of Police should make clear to the Department and City leadership when they will be out of town and clearly designate an Acting Chief in her or his absence.

## May 30: The Day Before

By Saturday, the local scene had clearly intensified, and individuals both inside and outside SMPD began to focus on Santa Monica as a potential site for protest activity – or more problematic unrest. There was anti-police graffiti found at different locations in the City on Saturday, and Public Works immediately responded to remove it. Meanwhile, a representative from “Downtown Santa Monica”<sup>7</sup> had reached out to SMPD by email at mid-day, offering the assistance of that organization's “Ambassadors”<sup>8</sup> and

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<sup>6</sup> We note a sea change on this issue since the change of leadership at the Department. When the current Chief was out on personal leave recently, it was clear to all that she was away and who was serving as Acting Chief.

<sup>7</sup> This non-profit organization is run by a Board of Directors and, in coordination with the City, engages in several initiatives to support and promote local business in Santa Monica.

<sup>8</sup> The Ambassadors program has several components; in sum, these uniformed employees support the quality of visitor experience in the downtown area by serving as sources of information, assistance, and security.

expressing concerns about the local implications of national developments. She was thanked but not given further direction or feedback.

While indications – and individual apprehensions – about potential large crowd activity were emerging, it is true that the overall picture was still far from definitive. But if social media postings were scattered and somewhat inconclusive, the events in neighboring Beverly Hills – which began in earnest on Saturday afternoon – were a much more noteworthy bellwether.<sup>9</sup>

By early afternoon on Saturday, a protest march had reached Beverly Hills and attracted a crowd that was estimated at 1500 people. Law enforcement was of the belief that the marchers were heading to Rodeo Drive and that some had the intent to engage in looting or vandalism. Accordingly, the SMPD Watch Commander authorized a cadre of one sergeant and five officers to provide mutual aid at 1:30 PM. They were later joined by some 20 other SMPD officers of different ranks as the situation there began to intensify, with many members of the large crowd clashing with police. A significant amount of looting activity occurred in the early evening, as well as vandalism that including the burning of multiple police vehicles. Beverly Hills City officials declared a curfew for 8:00 PM, and enforcement activity persisted for hours as the police responded to crowd aggression with tear gas and other less lethal munitions.<sup>10</sup>

We spoke with SMPD supervisors who were personally involved in this response in Beverly Hills as part of a mutual aid request by Beverly Hills PD. It was clear to them, as the hours passed and they assisted in various capacities and locations, that the scale and complexity of the unrest – including looting, property damage, and the status of law enforcement as a focus of aggressive enmity – were well beyond their past experience. They also considered it in terms of possible implications for Santa Monica in the days to follow. But by the time they had returned to the City, well after midnight, their ability to influence SMPD's plans for the next day was somewhat limited; they were

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<sup>9</sup> Below, we cover in more detail the issue of SMPD's "intelligence-gathering" efforts in relation to this incident.

<sup>10</sup> As further discussed elsewhere, Santa Monica also followed the lead of its neighboring cities and declared a curfew for 8:00 PM on Saturday evening. Additionally, a manager from the City's Office of Emergency Management who was involved in this process also contacted SMPD officials late Saturday to offer various resources for Sunday – including barricades and the possible uses of "Big Blue Bus" vehicles for crowd management. These are two further indications that clearly suggest the extent to which SMPD's overall alert level should have been higher.

not asked about their experience and insight by those police officials in Santa Monica planning for the next day. This was yet another example of the absence of a clear, coordinated, and proactive vision for the gathering and processing of intelligence.

Meanwhile, the Department's own preparations for what might transpire on Sunday had taken their tentative shape by approximately 10:00 PM on Saturday night. They were the result of a few different developments at the executive level. By now, further but undefined information had begun to circulate on social media regarding a protest being set for May 31 at noon in Santa Monica. The organizers were not known entities, and participation levels – or even if the march was going to happen at all – were still ambiguous.

The Chief had participated in a conference call with the Department's captains at 4:30 PM, at which point she was apprised of the situation to the limited extent it was understood. Two captains later committed to going to the station in person on Saturday evening to assist with planning as needed. This was the point at which several significant missteps were made that worked to the ultimate disadvantage of the Department's preparedness for the next day's events.

## Saturday Night: Underestimation, Under-Staffing, and a Missing Plan

The first and overarching problem was the collective under-reaction to the various signs suggesting that a much more comprehensive law enforcement presence than usual would be needed to prepare the City for the range of possibilities it could realistically face. Part of this problem was the sluggishness and limitations of the Department's existing mechanisms for tracking social media and other sources of information – an issue that we cover in more detail below. But apart from this, the available updates, observations, and direct experiences of individual SMPD members on Friday and Saturday still did not coalesce into a coherent, agreed-upon assessment that comprehensive and pro-active preparations were warranted.

This took different forms. Significantly and unfortunately, coordination with City partners such as Public Works<sup>11</sup> and the Office of Emergency Management did not happen in a

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<sup>11</sup> We are aware of other jurisdictions who effectively used the resources of their Public Works Department for assistance in crowd control and successfully prevented looters' access to "high value" targets such as shopping malls.

meaningful way. Nor did outreach to potential mutual aid resources. And SMPD's internal staffing plan for Sunday, while expanded from the usual number of officers, was well short of a full-scale, "all hands" activation.<sup>12</sup>

By the time the captains were both at the Public Safety building on Saturday evening, they had determined that the identified noontime protest and overall levels of tension and uncertainty warranted the addition of personnel and spoke with the Chief about it. As reported to us, one of the participants says that the hope was to get approval for as many as 100 extra officers – almost half of the entire Department roster. However, the Chief eventually authorized them to bring in a supplemental force of only 20 with some extra sergeants for supervision – and to have them report at 11:00 AM in response to the potential protest that was scheduled for noon. A sergeant scrambled to contact people on short notice and was able to put a roster together.

This limited boost to normal staffing was the second of the shortcomings in these final hours before Sunday. To be sure, it is important to remember that hindsight is always clearer, that signs were mixed, and information was imperfect. At the same time, though, it seems relevant to frame this approach in comparison to the Department's past inclination to treat overtime as an expected cost of the City's model, and to provide generous staffing to ensure readiness as circumstances might require. Similarly, the lack of well-established lines of trust and communication at the executive level also contributed to this outcome.

When the captains finally left for the evening on Saturday, they did so in the knowledge that the other two captains would be on hand Sunday morning to provide in-person leadership for whatever arose. What they did not do, though, was ensure that even the rudiments of an "operations plan" were in place. Nor did they clearly designate a particular individual to be the "incident commander" who would be entrusted with coordinating the overall deployment of resources and authorizing specific responsive actions as needed. This was the third lapse in appropriate preparedness.

While formats and levels of detail vary depending on the complexity of the objective in question, it is a routine practice for law enforcement to specifically delineate the intent behind a given operation and the roles that assigned individuals are expected to fill. This pre-planning and internal communication help ensure that contingencies have been considered and that all participants are aware of their expected contributions

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<sup>12</sup> Again, the former Chief, in her early public pronouncements was less than clear on this issue.

within the larger mission. The effectiveness of this begins with the clear designation of the person in charge, so that all subordinates know where to turn and so that information and decision-making flows smoothly.

We spoke to the involved captains about this gap in the arrangements. Each had his own perspective about the importance – or even feasibility – of a particular operations plan for Sunday the 31<sup>st</sup>, given the many variables that remained undefined.<sup>13</sup> While both acknowledged on some level that the omission was a mistake, one explained his belief that an adequate plan could be composed in plenty of time early Sunday, and that it made sense to leave the responsibility in the hands of people who would actually be participating. An additional point worth considering in this regard is that the responsibility for creating such a document does not usually rest with captain-level management; that a sergeant or lieutenant was not assigned the role reflects the piecemeal and haphazard nature of the evolving preparations.<sup>14</sup>

Similarly, the failure to clearly designate an “incident commander” is consistent with the larger mindset that Sunday’s prospective events had not risen to a level where traditional incident command was warranted. Although the “Saturday evening captains” had one of the “Sunday morning captains” in mind for this role, that person was not aware of this potential responsibility until her arrival on Sunday, at which point she was left to adapt quickly and without the infrastructure of a detailed plan. In a span of

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<sup>13</sup> To reiterate, the command was not even sure that the protest referenced on social media was actually going to occur; nor was there conclusive indication that prospective looters were targeting Santa Monica in particular. On the other hand, there *had* been relevant postings about threatened unrest that the Crime Analyst circulated as early as Thursday – to the point where SMPD had assigned officers to the Promenade shopping area as extra security. Specifically, the assigned Crime Analyst circulated messages from Twitter calling for looting, such as the following: user @Mr.Rawtehnic stated, “If LA Start Looting And Rioting Please Take It To Santa Monica Beverly Hills Hollywood Etc.. Don’t Mess Up Our Community.. Make Them Have to Rebuild They Shit”; user @thepizzadevil stated, “You swear, it’s going to be peaceful, the promenade will get hit.”

<sup>14</sup> In an email that went out to sergeant-level supervisors at 10:18 PM on Saturday evening, the on-duty Watch Commander (a lieutenant) provided a useful overview as to the name and number of the newly assigned officers for Sunday and the basic known parameters of the anticipated protest march. Without a specific reference to an “incident commander,” he stated that two Captains would be there “in the late morning” on Sunday to provide “executive oversight.” A specific supervisor was designated as the “point Sergeant” for the planned march at noon.

minutes, the captain attempted to cobble together an “operations plan”; its brevity and limited scope were far from an adequate match for the circumstances.

Standard operations plans also require submission of the plan up the chain of command and since, in this case, the “plan” was written by a Captain, it should have been reviewed and approved by the Chief. However, because the Chief was out of town and no Acting Chief had been officially designated, what constituted the operations plan in this case was not reviewed by anyone beyond the Captain who wrote it.

Establishing an incident commander is, again, a fundamental step with which the agency was well-accustomed. Here, the hesitancy and ambiguity that persisted into Sunday shows the impact both of mixed information and uncertain leadership within SMPD. Both of these problems were further manifested in the processes of SMPD’s intelligence gathering and planning as they existed in the period prior to and during the early days of the George Floyd protest movement.

### RECOMMENDATION 3

SMPD should develop written protocols to ensure that an operations plan is developed in advance of all potential crowd control situations, establishing expectations for the depth and inclusion as well as a chain of command approval mechanism.

### RECOMMENDATION 4

SMPD should develop written protocols to ensure timely and thoughtful designation of an incident commander for special operations.

## Intelligence Issues

As the City recovered from the upheaval of May 31, an underlying question emerged in the reaction of residents, business owners, elected officials and other interested observers as they sought to understand and to make their own judgements about SMPD’s performance. In effect, it was this: What had the Department known *prior to* the hours on Sunday when unrest levels vastly exceeded the capacity to control it?

The question was particularly vexing to individuals with whom we spoke in preparing this Report. They mentioned the developing protests and related tensions being on their own respective “radar screens” to varying degrees as early as May 28 – and said they had reached out to the Department accordingly. That the Department had

seemingly not heeded their warning efforts was particularly discouraging as they watched events unfold and unravel over their television screens on May 31.

In her own efforts to address these issues in the aftermath of May 31, the Chief repeatedly stated that SMPD had no advance intelligence as to what might occur in Santa Monica, indicating instead that both the protests and the looting were a surprise to an understandably unprepared Department. She explained that SMPD Command only had information about one planned protest via social media – and that this protest was rumored to be canceled. As for the other indications of potential problem activity that existed on social media, the Chief insisted that this information had not been shared with Command. The Chief also pointed to how, when the Department received intelligence regarding possible violence on the 3<sup>rd</sup> Street Promenade on May 30, she deployed officers to the location and prevented any incident; the clear implication was that she would have taken further action if equipped with appropriate knowledge.

The reality seems to have been more complex. It is true there was a lack of definitive information about what might transpire in Santa Monica or other communities as the protests gained momentum, and it is likely the Chief herself had not been briefed on particularized concerns. However, there was in fact relevant information that was made available to parts of the chain of command, but it remained siloed or insufficiently regarded – a symptom of flaws in SMPD internal communications and structures.

One issue was that SMPD did not have any resources dedicated to intelligence-gathering, such as data-mining social media, and no clear system for sharing important intelligence, especially as events unfolded from May 28 to 31.

Prior to May 31, SMPD did not have a formal intelligence analyst or team set up to monitor and mine social media and other Internet sources. In April 2020, with unrest growing nationwide, a sergeant was given the assignment to create an Ad Hoc Intelligence Unit to search for and brief command staff on any issues that might impact Santa Monica. This individual replaced the previous “Planning and Intelligence” sergeant, but apparently without effectuating a formal handoff or otherwise embracing the role in the midst of his other assigned duties. Additionally, the new intelligence sergeant had extremely limited experience with social media platforms; it seemed to some in the agency to be a re-organization based more on providing this individual with a suitable workload than matching duties to established skills. The sergeant in turn assigned the job of social media “data mining” to a Crime Analyst who had other full-time duties and similar limited background in social media intelligence.

The Crime Analyst took on this extra assignment and, with little experience and time, began to search social media outlets that she was familiar with, including Facebook and Twitter. She began sharing information via email and text message with her commanding Sergeant about possible protest activity and threats of looting as early as May 28. Again, though, in part because of the press of other job demands,<sup>15</sup> the sergeant in charge of intelligence did little with this information – if he saw it at all. Meanwhile, the Crime Analyst continued to share intel of possible protest activities and looting targets in the City up to and during the unrest on May 31.

Command seemingly either dismissed or ignored this intelligence except the aforementioned threat to the 3<sup>rd</sup> Street Promenade on May 30. One Lieutenant who had attended a regional briefing at the Los Angeles Hall of Justice stated that the area intelligence pointed to threats in Burbank and Glendale, not Santa Monica. Captains stated that message(s) claiming that riots were moving from downtown and West Los Angeles into Santa Monica were unsubstantiated. The Crime Analyst sensed a disconnect between her own monitoring of the information and the command staff's seeming confidence that threat levels were low.

The Analyst received little to no communication from command staff until May 30, when rioting occurred in neighboring Beverly Hills. From this point forward, the Analyst was instructed to “share everything,” but was not given a clear platform for how to do so. As she found data, including a flyer for a planned protest at Ocean Avenue and Montana, the names of possible protest organizers and specific looting targets in Santa Monica, she shared it via email, text message, and/or telephonically with various members of the command staff.

On the early morning of May 31, the Crime Analyst found and shared a post that the largest protest had been cancelled and, later, that the protest had seemingly gained traction. The former information was briefly reassuring, but reaction to the latter remained tentative. As the morning proceeded, the Crime Analyst uncovered more posts and tweets regarding potential violence in Santa Monica that had been posted as early as 1:00 PM on May 30.<sup>16</sup>

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<sup>15</sup> The sergeant was deployed in a mutual aid capacity for several hours in Beverly Hills on the 30<sup>th</sup>, for example, placing the Department's intelligence coordinator out of pocket.

<sup>16</sup> For example, the Crime Analyst discovered a tweet shared on May 30 that stated: “Thinking of going to the march tomorrow in Santa Monica. I wonder how violent it'll get? I'm down for a riot! Things could get extra messy though because of people being locked in for so long.”



On May 31 around 10:15 AM, the Chief received an email from a reporter with an attachment of a highly-viewed social media post regarding planned looting in Santa Monica. (A screenshot of the social media post is included here.) The reporter's email advised the Chief that his son had seen a number of posts similar to the one shared in the attachment. The Chief forwarded the email to a Santa Monica captain asking if there was any "intel" on the posting and asking whether the intelligence sergeant should come in and liaise to compile intelligence reports. But by this point, the captain was assigned elsewhere, and the Department was already well behind the curve in terms of planning. There is no apparent response to this email nor any apparent outreach to the reporter's son to learn about other posts.

Meanwhile, the Analyst continued to monitor events online throughout the day, but the command staff had become too preoccupied with real-time challenges to actively respond.

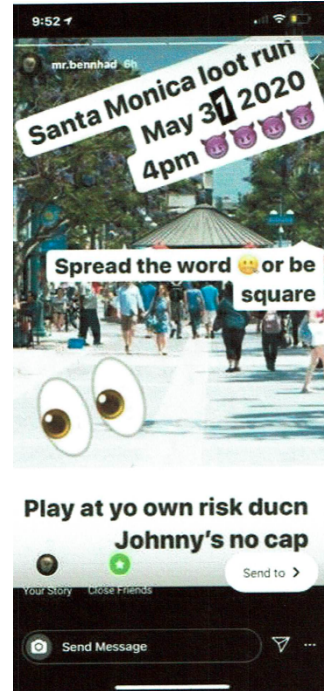
To its credit, SMPD worked in the aftermath of May 31 to strengthen its systems for the gathering, dissemination, and utilization of potentially actionable information from a variety of sources. It has now established a dedicated intelligence unit, made up of two Sergeants, one Intelligence Analyst, and an Information Technology resource. This Intelligence Unit is now committed to data mining for possible threats and activity and collaborating with local Departments and national sources such as the FBI.

## RECOMMENDATION 5

SMPD should ensure that critical personnel, including those tasked with intelligence gathering and other crucial functions, remain in the City prior to a major incident and are not sent out as part of a mutual aid response or otherwise assigned supplementary duties.

## RECOMMENDATION 6

SMPD should establish a dedicated listserv with "read receipt" functionality for command to receive intelligence briefings in a formal and timely manner and confirm receipt of such information.



*Screenshot of social media post/email attachment forwarded by Chief on Sunday morning.*

# May 31: Summary of Key Events

## Morning Preparations and Communications: Last-Minute Lapses

The longtime “tactical commander” of the SMPD SWAT unit was a lieutenant who spent several hours in Beverly Hills on Saturday, and arrived back in Santa Monica well after midnight on the morning of May 31. In his mind, and given his experience in the field in Beverly Hills, it seemed clear that the City was very likely to be challenged on Sunday. One of his thoughts was that the Big Blue Bus garage should serve as the “rally point,” or staging area, for the coordination of any mutual aid resources and the centralized deployment of personnel as needed. But, to his surprise, the Department had yet to reach that level of concern and attendant preparation. He went home and – within hours – turned back around, arriving at approximately noon to find that conditions were worsening while SMPD remained behind the curve in its operational posture.

The SWAT lieutenant was not alone in thinking ahead – or in feeling concerned about readiness. One of the sergeants who had stayed late to assist the Watch Commander in summoning the cadre of extra personnel for overtime shifts decided to return to work at 6:30 AM to assist as needed. Another lieutenant, who had been tracking developments around the County quite closely for days and with growing apprehension, described himself as “stunned” when he arrived that morning and realized that no operations plan had been established. And the lieutenant who had been the previous day’s Watch Commander was off from work, but nonetheless began making phone calls to contacts in the City in the early morning in search of additional information.<sup>17</sup>

At 6:57 AM, a fourth lieutenant sent an email to one of the two captains who were designated to report to duty. This email was a brief but extremely incisive document that highlighted an “ever-growing to-do list that we should touch base on.” It set defined clear, simple objectives that touched on officer safety and headquarters security, and highlighted “protection of community,” “protection of City’s critical assets,” and “protection of property/prevention of looting” as overarching goals. The email then listed a combination of questions and suggestions for ensuring readiness and making use of

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<sup>17</sup> One of the things he learned – and passed on to several colleagues in an email at 9:04 AM – was that a commercial management company had taken the initiative to begin putting up private fencing in an effort to block entrances to the Santa Monica Place mall.

available personnel, and recommended “roving patrols” for three key areas in the City. While short on detail, the email was very much the potential foundation for a thoughtful, coherent, and attainable operations plan.

Unfortunately, though, it was nearly 9:30 AM before the other captain, who had just been casually appointed as the “incident commander,” saw the email for the first time and began considering how to actualize it. The City had seemed calm during her initial driving trips through it that morning, and she was still operating on the assumption that a *possible* protest march at noon was the major, if not sole, concern.

The “briefing” that eventually took place at approximately 11:20 AM was far from comprehensive, clear, or confidence-inducing.<sup>18</sup> As described to us later by an attendee, the focus was solely on the protest march and lacked the layers or acknowledgment of contingencies that would normally be expected. No one was given direct responsibility for handling certain aspects of the response, and assignments of available officers were characterized as “haphazard.” One sergeant of a special assignment team was working in her office and didn’t even realize that her cadre of officers had been appropriated from their usual roles.

Other supervisors in attendance sought to pick up some of the slack. One lieutenant reached out to the Assistant Chief who was no longer directly assigned to the Department, though his work as liaison for the Emergency Operations Center was relevant to the day’s potential needs. This same lieutenant reached out to the City’s communications center to ensure that a specially trained “tactical dispatcher” would be summoned to work. And other sergeant-level personnel met quickly among themselves to discuss options and fallback plans.

As for the Chief, she had secured a flight on a state-owned plane from northern California on Sunday morning, and arrived at the Public Safety Facility from the airport at approximately 11:30 AM. Earlier, she had, of course, been in communication with Department leadership. And she sent an email to the City’s elected officials just before 7:00 AM that provided updates and described an engaged, prepared SMPD. She cited the mutual aid resources that the Department had contributed to both Beverly Hills and

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<sup>18</sup> In an interview to the media, the Chief, by implication, suggested that she had been in attendance at the briefing. As this narrative indicates, she had apparently not yet arrived back in the City when the briefing was given.

Culver City, and described enforcement activity that her own agency had taken that she credited with dispersing potential issues in Santa Monica on Saturday.<sup>19</sup>

One of the Chief's first actions upon reaching headquarters was to send the two captains – including the supposedly designated “incident commander” – into the field with the idea of identifying and connecting with protest organizers. While this was a potentially worthy idea in the substantive sense, given that such efforts at outreach can yield worthwhile information and collaboration, it was misguided here for a few reasons. First, it was very late in the proceedings, and a misreading of the extent to which the protest activity was coherent and susceptible to effective interaction of this kind. But more significantly, it was a serious misallocation of executive-level personnel. To send two captains – including the person who was supposedly managing the entire SMPD response – into the field together was unorthodox to the point where many participants, including the captains themselves, remain baffled by the decision months later.

The captains arrived at Ocean Avenue, at which point they were quickly surrounded by protesters. The crowd was large, energetic, and well past the point of designating organizers to meet with police representatives for planning purposes. Instead, the two SMPD executives were quickly consumed by the direct enforcement challenges that were all around them.

It would be hours before either returned to the Public Safety Facility. In their absence, and to his credit, one of the lieutenants turned himself into the de facto incident commander by beginning to get on the radio and coordinate specific deployments as noontime approached and the pace of challenges accelerated. He established himself in the Department Operations Center (“DOC”), where he had access to technology and media of various kinds. He was joined there by the Chief and, later, the acting City Manager as SMPD started reacting to the day's events in earnest.

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<sup>19</sup> The email also made reference to two Santa Monica businesses that had experienced vandalism and/or attempted looting on Saturday – in what seemed to be a significant precursor to Sunday's developments.

## Late Morning to Early Afternoon: Protest Activity Converges on Ocean Avenue as Other Unrest Begins

While the Department continued to struggle with its enhanced but still limited resources<sup>20</sup> and disjointed vision for deployment and incident management, the activity level in the street began to rise in earnest. As early as 10:15 AM, a sergeant responded to a gathering of 20 residents who had come together for a peaceful, uneventful demonstration that dispersed on its own.

Another group came together at about 11:00 AM for a march on Wilshire Boulevard toward Palisades Park that proved to be more substantial. The organizer of this gathering had contacted SMPD earlier that morning to say that he expected about 50 people and that they planned to remain on the sidewalk. But the march gathered additional people as it progressed in the direction of Ocean Avenue, and by noon numbered 200 to 300 – many of whom were in the roadway.

An additional march – the one that had come closest to being a focal point for SMPD on Saturday evening – was designed to originate at the intersection of Montana Avenue and Ocean Avenue at 12:00 PM. This march, which was connected to an individual who called herself “Jennifer G.” on social media, had been publicized on flyers and via social media starting May 30, or possibly earlier. In spite of the social media posts that left the Department with uncertainty as to whether the march was even occurring, a large crowd began to gather and march westbound on Montana Avenue to Ocean Avenue at approximately 12:00 PM.

In an interview, a march participant reported that this march was largely peaceful as it traveled westbound on Montana, included families with children, and that the crowd grew larger as individuals organically seemed to join the group. She reported that the march did sometimes spill from the sidewalk into the roadway.

When the march began to approach Ocean Avenue, this participant observed several individuals on bicycles suddenly join the front of the protest line. Turning southbound from Montana, she then observed a line of SMPD officers standing on Ocean Avenue. At this point, she observed the new group of males begin to engage with the officers in

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<sup>20</sup> Department records indicate that SMPD had 70 sworn (out of 176 total available) and 40 civilian personnel on duty at 11:00 AM on May 31. Typical patrol staffing on a Sunday would have been 8-12 officers.

an adversarial way. She noted that several participants turned away to travel eastbound back up Montana Avenue; she, too, left the march eastbound on Montana Avenue for fear that it might devolve into a clash.

This split into sub-groups – with differing motivations and levels of unified organization – typified the shifting circumstances that characterized the demonstration activity in and just north of Ocean Avenue for the next several hours. The large numbers of people who remained on Ocean Avenue were themselves a mix of peaceful (if often animated) supporters of the Black Lives Matter movement with more aggressive individuals whose focus was confrontation with law enforcement. Meanwhile, portions of the crowd moved north, away from the ocean, for different reasons and in different directions: some out of concern for potential unrest, some to pursue other activity away from the concentration of police, and some to circle around and eventually return to Ocean Avenue at a new vantage point – which later became the scene of a standoff with staged officers.

The map below shows an *approximate* visual of the activity in the early to mid-afternoon hours of May 31.





Qiana P.  
@Q\_i\_a\_n\_a

I'm helping with a walk for justice today - we're starting at 11 am at 20th and Wilshire in Santa Monica. Come in solidarity with meaningful reconciliation.

Masks, signs, social distancing and a lot of love. #longLA #justice #opportunity

See you there?

7:49 AM · 31 May 20 · Twitter for iPhone

At 12:05 PM, officers manning the SMPD aerial drone, SKY1, reported that they now observed a crowd of 200-300 people traveling southbound on Ocean Avenue from Wilshire Boulevard as the two “parallel” marches converged on Ocean Avenue. SKY1 reported that people were marching in Palisades Park and in the roadway, blocking traffic and the bicycle lane on Ocean Avenue as they marched southbound toward the Pier.<sup>21</sup>

Back at the Department’s Operations Center (“DOC”) in the Public Safety Facility, the lieutenant who had taken impromptu responsibility for coordinating the SMPD response began to make deployment decisions. At approximately 12:10 PM, he instructed units to respond to the Santa Monica Pier ramp, located at the intersection of Ocean Avenue and Colorado Boulevard, to support the squad that had already been routinely deployed to the closed Pier to block the entrance, or “Pier Ramp.” He also directed motorcycle (or “motor”) units to deploy one block north of the march on Ocean Avenue to stop any oncoming southbound traffic from traveling on Ocean Avenue and deployed a Mobile Field Force squad to assist the motor units.

As the crowd swelled, it prevented all traffic flow along Ocean Avenue and surrounded a marked police vehicle that was responding to the area. At 12:15 PM, the Metro Line stopped all service into Santa Monica. At 12:20 PM, the Chief initiated a “Tactical Alert” for the entire Department.<sup>22</sup> Doing so was the formal way to announce that SMPD was

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<sup>21</sup> Around this time, the SKY1 aerial drone stopped transmitting live feed footage to the EOC. Typically, SKY1 footage can be directly viewed on large monitors in the DOC via a live feed. The officers who were controlling SKY1 *verbally reported* what they were seeing via the radio and, to get at least some visual, DOC monitors played live feeds from news media helicopters (which SMPD was, obviously, not controlling).

To their credit, the officers manning the SKY1 drone did their best to articulate what they were seeing on the ground, especially as it pertained to the activity on Ocean and Colorado and looting of larger locations, such as the Vans Store and Santa Monica Place Mall. But the time lag and lack of direct footage hampered Command’s ability understand conditions on the ground.

This mechanical failure was cited to us by several members of the City’s response as a significant disadvantage that compromised deployment decisions: because the “big picture” perspective was missing, it was even more difficult to ascertain where and how to prioritize the various problems SMPD needed to address. This magnified the problem dynamics that planning deficiencies had already created.

<sup>22</sup> “Tactical Alert” is an announcement of the anticipated redistribution of on-duty officers to achieve personnel levels necessary for controlling an emergency, and typically the preliminary step taken to mobilize personnel to an incident of significance.



now engaged in a “major police incident” – the situation developing on Ocean Avenue – and prioritizing response to this emergent situation over other, usual policing duties (ongoing investigations, for example, or ordinary traffic enforcement activities). Had the Chief anticipated the potential levels of unrest and damage that would occur, she could have initiated Tactical Alert earlier, which may have increased deployment and preparation levels earlier that day.

The crowd marched southbound on Ocean Avenue until the leaders reached Ocean Avenue and Colorado Boulevard, the Pier Ramp, and converged. At 12:23 PM, all responding police units were advised to avoid Ocean Avenue as a route of travel. By now, at 12:25 PM, SMPD estimated the crowd had grown to approximately 500 people. For approximately 15 minutes, the crowd stood and chanted.

Around this time, the lieutenant at the DOC requested Air Support from neighboring Hawthorne Police Department. He was advised that Air Support would arrive at 1:00 PM.

At 12:40 PM, SMPD activated their SWAT units. A SWAT team was deployed to assist the Pier Unit<sup>23</sup> in securing the Pier Ramp.<sup>24</sup>

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<sup>23</sup> The Pier Unit refers to the officers assigned to the Pier entrance to enforce the COVID-19-related closure in effect since March 2020.

<sup>24</sup> The allocation of resources at this location became a discussion point in the aftermath of the day. Officers who were there felt significantly *under*-resourced as they tried to gauge the crowd’s intentions and level of hostility. They used bicycle racks as improvised barricades at the Pier’s entrance and worried about the limited munitions with which they were equipped.

Conversely, there was later criticism of the Department for committing *so much* of its energy and attention to “protecting” the Pier – while acts of vandalism and looting began to proliferate throughout other parts of the City, often with late or minimal police response. There were questions as to whether and to what extent the damaging of the Pier was a priority for whatever participants were inclined toward vandalism, and whether the risk outweighed cost in terms of vulnerability in other parts of the City.

This assessment is, of course, speculative and to some extent unsatisfying for both critics and defenders of the decision-making. Officials who spoke with us described the Pier as an iconic symbol of the City that warranted the Department’s attention. It was also a focal point in the first geographic location to intensify as the large protest groups finally converged. And the fact that the Pier was not “overrun” or damaged on May 31 is, in hindsight, equally easy to attribute to both law enforcement’s commitment and the absence of a serious threat. While we cover deployment decisions more generally below, we do not have the definitive sense that the number of officers at the Pier in these hours constituted a major miscalculation by SMPD.

At 12:45 PM, a “splinter group” of protesters seemingly turned around and began to travel northbound in the Ocean Avenue bike lane toward the “California Incline,” or the intersection of California and Ocean Avenues; this group was estimated to be anywhere from 50 to 300 participants. Upon seeing this direction change, the de facto Incident Commander instructed that officers stop eastbound traffic up California Avenue from the Pacific Coast Highway to protect protesters. SMPD units responded for traffic control.

Around this time, the lieutenant who was coordinating SMPD’s activities from the DOC made the day’s first request for mutual aid – to the Culver City Police Department.

At approximately 1:00 PM, a SMPD motor unit and a Culver City PD team responded to Alley 1 and Ocean Avenue and formed a west-facing skirmish line blocking the Alley 1 entrance. Another squad deployed a west-facing skirmish line across Montana Avenue at 2<sup>nd</sup> Street. Units reported that the crowd in this area of Ocean Avenue was “peaceful.” At some point, because the crowd was peaceful, the Incident Commander re-deployed these units to locations in downtown Santa Monica as Mobile Field Force units to secure other intersections.

But as the other section of the crowd moved southbound and grew, so too did its intensity. By 1:00 PM, nearly all of Ocean Avenue, from California Avenue to Colorado Boulevard, was full of protesters. And at one point, protesters were reported to be verbally berating officers at the Pier.

At 1:14 PM, the coordinating lieutenant activated an “Area A response,” which formally requested mutual aid from all local, neighboring law enforcement agencies, requesting that all mutual aid partners from the area respond to Santa Monica.<sup>25</sup>

Meanwhile, the protest activity had physically divided. One element, referred to as a “more aggressive” splinter group and estimated to be 250-300 persons, was observed marching from the main Ocean Avenue protest eastbound up Santa Monica Boulevard, moving to 4<sup>th</sup> Street. Some of these protesters were said to be striking at civilian vehicles with fists and throwing objects at police vehicles. Officers reported this crowd

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<sup>25</sup> According to a SMPD timeline, the IC requested mutual aid from neighboring Departments at approximately 12:50 PM, prior to Area A activation. At that time, Manhattan Beach and Torrance Police Departments responded that they could not fulfill the request for aid. Redondo Beach reported that it dispatched one Sergeant and five Officers to Santa Monica. Beverly Hills responded that it deployed one Sergeant and three Officers.

was an “aggravated group” while others reported that some of the group was agitating the crowd and “antagonizing police officers.”

Noting this crowd movement, the lieutenant deployed a Santa Monica College Police Department unit to 3<sup>rd</sup> Street and Arizona and requested that SMPD SWAT units put up pedestrian gates to secure the 3<sup>rd</sup> Street Promenade.<sup>26</sup> The Incident Commander also deployed motor units to secure 2<sup>nd</sup> Street and Broadway.

But this splinter group of protesters seemed to be one step ahead of incident command. The protesters moved southbound on 2<sup>nd</sup> Street toward Colorado, where a group of approximately 200 protested in front of the Public Safety Facility and City Hall. The DOC lieutenant redeployed the motor unit to City Hall in response, and did the same with the SWAT team that had been securing the 3<sup>rd</sup> Street Promenade.

However, by the time additional units arrived to City Hall, only approximately 25 protesters remained at that location; the marchers had moved westbound on Main Street to Olympic Boulevard. That group, now reported to be 200-500 protesters, then moved west on Olympic and turned northbound on Ocean Avenue.

The *remaining* element at Ocean Avenue was reported to be more peaceful than the crowd that had splintered off. At this point, a captain in the field determined that some of this element could march eastbound on Montana Avenue to 2<sup>nd</sup> Street. This group was allowed to move eastbound on Montana Avenue, reportedly past the skirmish line at Montana and 2<sup>nd</sup> Street.<sup>27</sup>

As a function of these separate movement patterns, different combinations of protest groups surrounded the Pier Unit and SWAT team’s skirmish line at Colorado and Ocean. Some remained north of the Pier Ramp on Ocean Avenue while others were moving northbound toward the Pier Ramp from Olympic. And the line of officers was in the middle.

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<sup>26</sup> The SWAT team leader reported that his team did not have access to solid barriers to secure the Promenade. Instead, his team used orange cones and yellow tape. We discuss this failed barrier in Intra-Agency Cooperation, later in this Report.

<sup>27</sup> In an effort to prevent those protesters from doubling back to Ocean Avenue, the Incident Commander requested that officers respond to and form a skirmish line at Lincoln and Montana; but no officers responded to that location.

As protest activity was intensifying in the early afternoon on Ocean Avenue and beyond, criminal activity began to break out elsewhere in the City. At 1:34 PM, the officers manning SKY1 reported that a group of approximately 50 people broke into and were looting the Vans store, located at 4<sup>th</sup> Street and Broadway Avenue, the first documented looting to occur in the City on May 31. The coordinating lieutenant then redeployed the SWAT team from City Hall to the Vans store.

Soon thereafter, at 1:45 PM, dispatch received reports of looters at the now-unsecured Santa Monica Place Mall (recall that motor units originally at this location were moved to respond to the City Hall protest). The lieutenant requested that more units respond to Arizona Avenue, Santa Monica Boulevard, and Broadway in an attempt to regain some semblance of control over looters; but few, if any, units were available. Shortly before 2:00 PM, a SWAT team and a Patrol Squad were deployed to 2<sup>nd</sup> Street and Broadway and a Culver City team was sent to 4<sup>th</sup> Street and Broadway to secure the Mall.

Around this time, additional off-duty SMPD personnel began to arrive to the Public Safety Facility and deploy to the field. By 2:00 PM, the Department reported, staffing levels were 120 sworn and 40 civilian personnel.

Reports of additional mass looting came in rapid sequence starting with the 2:00 PM report of looting at Bloomingdales, located at 4<sup>th</sup> Street and Colorado. A SWAT team was deployed to, and cleared, the location. But as quickly as a unit arrived at a location, another was hit. Both of the SMPD captains who had left the Public Safety Facility before noon (at the Chief's direction), and thereby contributed to the breakdown in centralized command that the lieutenant was scrambling to fill back at the DOC, responded to the Mall in response to an "officer needs assistance" call. They were occupied there for hours, engaged in what was essentially "line level" enforcement and supervision while draining the situation of higher-level leadership.

The need for responses to both protesters and looting activity quickly exhausted the Department's available resources and command's capabilities. The intensity of both protest and looting was ever-increasing. Requests for Hawthorne PD's Air Support were reported to be delayed because of that Department's own needs.<sup>28</sup> And, to make matters worse, there was a period in which responding mutual aid units did not know where to report for deployment.

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<sup>28</sup> We discuss this and other deficiencies in mutual aid response later in this Report.

This was another breakdown in the cohesion and clarity of the command decision-making. The initial staging area for mutual aid was determined by later-arriving tactical leadership to be flawed in its location and exposure. But moving it to the Big Blue Bus garage area, where a field “command post” was established in the early afternoon, created transitional issues. There was a confusing bifurcation in leadership that took a couple of hours to resolve. The DOC had emerged as the de facto command post in the late morning; that was where the Chief was located, and where the lieutenant had stepped into the breach that was created when the two captains were caught up in the protests. But the other lieutenant, assembling resources at the Big Blue Bus garage and with little direction from the DOC, simply began sending cadres of officers to needed locations. What was gained in direct efficiency was lost in the confusion as to the overall picture of available personnel and their assignments.<sup>29</sup>

At 2:09 PM, the City of Santa Monica declared that a City-wide curfew would go into effect at 4:00 PM. At 2:10 PM, the Incident Commander requested that the California Highway Patrol (CHP) close all freeway off ramps into Santa Monica and that the Big Blue Bus shut down all bus service west of Lincoln Boulevard.

## The Afternoon: Overtaken by Events

The convergence of large protest groups on both sides of the Pier Ramp, several protest “splinter groups” marching through City streets, and seemingly “sudden” influx of looters<sup>30</sup> overwhelmed the Department.

Reports of looting continued to flood dispatch in rapid sequence: looting at the Santa Monica Place Mall, the Vans store (for a second time) and a jewelry store on Broadway, the REI store at 402 Santa Monica Blvd., the Vons at 710 Broadway, and CVS at 500 Wilshire Blvd. Units were dispatched to some locations. But responding to a new location often meant that those units were leaving their previous location unguarded, and the volume of looting activity exceeded the capacity to respond.

Around this time, a unit at 4<sup>th</sup> and Broadway called for backup to combat looting. When the Incident Commander asked what was needed, the officer replied, “whatever we can get.” The Incident Commander responded that they had no units, and then asked

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<sup>29</sup> We discuss broader issues of “command and control” in more detail below.

<sup>30</sup> As discussed above, SMPD’s gathering, internal circulation, and effective utilization of available intelligence was problematic in this regard.

Dispatch if there were any units available to deploy to looting locations. Dispatch replied, “I’m trying.” The officers manning SKY1 reported that, at that point, over 100 looters had overtaken the Santa Monica Place Mall.

Meanwhile, mutual aid units from other agencies **were** arriving to the City but did not know where to go or how to communicate, failures that we discuss in greater detail later in this report.

At the same time, the DOC received reports of heightened tensions from protesters at the Pier. A SWAT unit on Ocean Avenue reported that they observed that **new** protesters were being dropped off on the corner of Wilshire Boulevard and Ocean Avenue. Protesters on Ocean Avenue north of the Pier Ramp again moved southbound toward the Pier Ramp. At 2:14 PM, SMPD units at the Pier Ramp reported that members of the crowd were throwing bottles at them.<sup>31</sup>

In response to reports of violence from the Pier Ramp, the DOC lieutenant requested that additional SWAT teams and their armored vehicle, the Bearcat, respond to the Pier. Motor units were redeployed from City Hall to the Pier, where they quickly joined the Pier Unit behind the barricade blocking the Pier entrance. Traffic Security Officers were deployed to stop northbound traffic on Colorado Boulevard. The Traffic Security Officers set up Jersey barriers<sup>32</sup> spanning across Ocean Avenue south of Colorado to slow down traffic.

At 2:17 PM, the DOC lieutenant requested that the SWAT team on scene form a south-facing skirmish line at the 1500 block of Ocean Avenue to push the crowd southbound on Ocean Avenue. The team lead responded that they needed more units to effectively span the street and push the crowd. Around this time, the Incident Commander suggested a plan to disperse the protest activity: once additional resources arrived at the location, SMPD would declare an unlawful assembly and issue a dispersal order. Whoever remained, stated the Incident Commander, would be arrested. The SWAT

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<sup>31</sup> Around this time, a unit far north of the Pier on Ocean Avenue reported that they were holding the north end of Ocean Avenue with a north-facing skirmish line. This unit reported that the crowd was “peaceful so far.” This was a microcosm of a larger series of challenges when it came to the protesters – how to engage with peaceful demonstrators while responding to other factions engaged in unlawful or assaultive behavior, all against a backdrop of considerable demands in other locations.

<sup>32</sup> A Jersey Barrier is a temporary and mobile sloped concrete or plastic barricade, approximately 30 inches tall and 10 -30 feet long, typically used to block or direct traffic.

leader responded that it would take many more resources to effect arrests. The arrest plan was seemingly abandoned.

At 2:18 PM, the Chief requested that National Guard personnel respond to Santa Monica, a request that, due to bureaucracy and deployment issues that we discuss in detail later in this Report, took nearly seven hours to fulfill.

By 2:30 PM, units at the Pier reported that the protesters at the Pier were “getting some traction,” stating that the crowd was growing and overtaking them, and that they would “lose this.” The crowd was reported to be 300-350 protesters.

Not having effective aerial visual, the Incident Commander requested LAPD air support, and an LAPD helicopter responded at 2:31 PM.

Meanwhile, despite CHP closures of the Interstate-10 freeway offramps at 2:36 PM, the looting continued. Looting was reported throughout downtown and continued in the Santa Monica Place Mall. The lieutenant redeployed the motorcycle units from the Pier to the Mall and requested that an LAPD unit and Redondo Beach PD units respond to secure the Mall. Around 2:40 PM, other units were reassigned from one location to another to respond to looting. As occurred earlier that afternoon, when officers responded to new locations, they left other locations unsecured.

By 3:00 PM, downtown Santa Monica was also chaotic. Looting continued at locations such as The Gap on the 3<sup>rd</sup> Street Promenade. Dispatch received calls of shots fired from the public at 4<sup>th</sup> and Broadway and a structure fire at the Shoe Palace at 210 Santa Monica Blvd., both of which were later determined to be inaccurate, but which contributed to the flurry of reassignments and confusion.

At this same time, the officers manning SKY1 reported that a group of approximately 100 protesters was marching westbound on Colorado approaching 2<sup>nd</sup> Street. Now, three sides of the Pier Ramp were surrounded by protest activity.

By now, the SWAT team with the Bearcat and Los Angeles County Sheriff’s Department personnel had responded to the 1500 block of Ocean Avenue. These officers formed two skirmish lines at Ocean Avenue: one, a formal line, south-facing at 1500 Ocean Avenue. The second was a less structured north-facing group of officers in the vicinity of Broadway and Ocean Avenue behind (or in front of) parked police vehicles; they were meant to protect the vehicles and the flank of the main skirmish line from additional protesters.

The SWAT team leader, along with the SWAT officers who made up the south-facing line reported, together, that they formed a plan to issue a dispersal order, wait five minutes, and deploy chemical munitions to disperse the crowd in a southern direction. They had determined that deployment of chemical munitions (specifically, types of tear gas that we describe in detail in Appendix B) would be an effective tool to disperse what they believed to be a crowd that was threatening the Pier.<sup>33</sup> A SWAT team leader communicated this plan to the lieutenant at the DOC, who verbally approved the plan via the radio.<sup>34</sup> The lieutenant stated that the line officers must give a five minute “waiting period” between the dispersal order and deployment of tear gas.

At 3:09 PM, SMPD declared Ocean and Colorado to be an unlawful assembly and issued two dispersal orders from the Bearcat’s loudspeaker system. As discussed in detail later in this report, the dispersal order did not inform people of the impending use of chemical munitions:

*This is a police officer of the City of Santa Monica. This is hereby an unlawful assembly. In the name of the people of the State of California, I command all those present at Ocean and Colorado to immediately disperse. If you do not do so, you will be arrested under section 409 of the United States Penal Code, which prohibits remaining at an unlawful assembly. The following routes are available: south on Ocean Avenue only.*

*You have [one] minute to leave the area.*

After SMPD announced the dispersal order, some protesters left Ocean Avenue, but the majority remained. Some challenged the dispersal order, stating that the protest was

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<sup>33</sup> As discussed above (see footnote 24), SMPD was, perhaps, *overly* concerned about protecting the Pier, to the extent that reports of the crowd “overtaking” the officers at the Pier created a sense of urgency over dispersing this element that might harm the iconic landmark. The lieutenant in the DOC repeated via the radio in several instances that the units must prevent protesters from getting on the Pier. Officers blocking the Pier Ramp made reports of taking rocks and bottles from the crowd and of the crowd size swelling. We discuss if tear gas was the appropriate methodology for effectuating crowd dispersal in greater detail later in this Report.

<sup>34</sup> There are some reports that the decision to use tear gas at this point was not unanimously accepted among the command staff.



being peaceful and questioning why protesters were being instructed to walk into oncoming traffic on Ocean Avenue.

Around this time, several LAPD units were deployed to join the skirmish lines at the Pier.

At 3:16 PM, SWAT team officers on the south-facing skirmish line threw two “tear gas” grenades<sup>35</sup> southbound onto an open area in front of the crowd of protesters facing north on Ocean Avenue. According to an officer, one grenade was ineffective and did not disperse the intended chemical munitions. Immediately, the officers reported that some members of the crowd began throwing water bottles and/or rocks at the officers. One SWAT officer deployed a third, and then a fourth, tear gas grenade. Another SWAT officer deployed impact rounds using a 37mm launcher at specific individuals who appeared to be throwing rocks at the skirmish line. A third SWAT officer deployed rounds of Pepperball at the ground around the deployed grenades to prevent individuals in the crowd from picking up and tossing the gas grenades back at the line of officers.

Around this time, there was concern that responding mutual aid partners located at 2<sup>nd</sup> and Colorado did not have gas masks, and officers were instructed to not deploy additional chemical munitions.

Following deployment of less lethal and chemical munitions, the majority of the crowd to the south of the skirmish line dispersed, mostly moving southbound on Ocean Avenue toward Colorado as instructed by the dispersal order. There were, however, reports from officers via the radio of numerous other individuals from this location who headed east toward downtown and contributed to the vandalism and agitation that was occurring in other parts of the City.

At this same time, officers in the north-facing group began to negotiate with protest leaders who were standing north of the line. In one scene that went viral, one officer removed his gas mask and hugged a protester. This officer, without consulting with the command and in contradiction to the dispersal order, then told protesters that they could stay on Ocean Avenue if they moved into Palisades Park. These protesters cheered and mostly moved into the park. While the gesture was welcome in many circles, and while it exemplifies the difficult balance between positive community relations and

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<sup>35</sup> Tear gas grenades are chemical gas delivery systems utilized by some law enforcement in a crowd control context. We define all less lethal munitions used by SMPD on May 31 in Appendix B: Less Lethal Defined.

coherent enforcement in a crowd management context, perhaps its greatest significance in this context is as a reflection of the disjunction that continued to define aspects of the SMPD response.

Around 3:20 PM, the south-facing skirmish line began to push southbound on Ocean Avenue until the line was perpendicular to the Pier Ramp. There, officers reported that they observed some of the crowd reassemble at Moomat Ahiko Way, approximately 150 feet from the skirmish line. The movements of a notably aggressive “splinter group” had had also brought many of them back to that general vicinity.

The crowd was, for the most part, standing behind the Jersey barriers that the Traffic Security Officers had placed earlier for traffic control. However, officers observed some individuals enter a vacant building at 1616 Ocean Ave. These individuals, they reported, were using the building and construction materials to “fortify” their attack against officers. These and others sporadically threw glass, bottles or other objects at the officers, and created their own improvised barricades in the street. The “peaceful protest” had now morphed into more of an unambiguous confrontation between the police and individuals who were openly resistant.

In response to this new tactic from the crowd, officers deployed various less-lethal munitions at intervals, from hand-thrown tear gas canisters toward the crowd in general to targeted impact munitions at individuals that they believed to be aggressive. Individuals attempted to throw back gas canisters or cover them with traffic cones; officers targeted them with Pepperball rounds.

Around 4:20 PM, the command instructed officers to enforce the City’s curfew. After issuing another series of dispersal orders, this time under the auspices of the curfew ordinance, officers deployed a light-sound diversionary device, or “flashbang” and one slow-burning smoke canister in the direction of the crowd. Moments after, a projectile was thrown at the officers, and the officers deployed two additional smoke rounds toward the crowd. While some protesters dispersed, most remained. Officers continued to deploy irritant gas and targeted impact munitions.

The skirmish line moved southbound again, this time reaching the Jersey barriers, some of which were knocked over, at Moomat Ahiko Way. A squad of officers entered Tongva Park, on the east side of Ocean Avenue, to gain “high ground” on the remaining protesters. From here, these officers deployed additional chemical and targeted munitions. The officers held the skirmish line.

Meanwhile, looting and vandalism had increased throughout downtown Santa Monica despite the City's curfew. A group of looters was observed traveling up and down Santa Monica Boulevard, and dispatch received several looting calls at locations along Santa Monica Boulevard. Units at various locations reported that individuals were lighting fireworks and, in some locations, throwing them at officers.

While the command reported that the National Guard was en route, there was still no estimated time of arrival.

Around 4:45 PM, a large group was reported to be marching eastbound on Olympic Boulevard toward the Public Safety Facility. Two teams of officers who had reported to this location for duty deployed to the front of the Public Safety Facility equipped with less lethal tools. The Incident Commander discussed the possibility of using chemical munitions to disperse this crowd. According to one of these officers, the protesters seemed to be deterred by the officers' presence, but it is also possible that chemical munitions were deployed to effectuate the clearing of the crowd.<sup>36</sup>

The marching group spread into downtown. At least some of this group moved to the vicinity of 11<sup>th</sup> Street and Broadway Avenue. The LAPD helicopter observed that members of this group had lit a vehicle on fire. The SMPD Fire Department responded and were assaulted in performing their duties. Two Strike Force teams deployed from City Hall to the intersection of 11<sup>th</sup> and Broadway to assist Fire Department personnel. Upon their arrival, the officers deployed targeted less lethal munitions, including Pepperball rounds, to disperse the aggressive individuals. Command discussed the possibility of containing and arresting agitators but officers on the ground reported that they did not have sufficient resources to affect arrests. Some officers executed targeted takedowns of individuals as they cleared the street.

At the same time, some of the crowd had joined the existing, more aggressive looting crowd in the vicinity of 4<sup>th</sup> Street and Santa Monica Boulevard. Officers responded to the intersection to a call of shots fired. A member of the crowd threw an explosive device at officers, which, an officer reported, detonated at the feet of an officer. Additional officers arrived to secure the scene from looters and rioters.

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<sup>36</sup> This gap in definitive information about the use of a high-profile force option is itself a reflection of two things: unprecedented activity levels, to be sure, but also the lack of a firm organizational grasp of all events during – or even after – the May 31 operations and potential shortcomings in force reporting.

It became abundantly clear that a more strategic and systematic plan was needed to secure City streets.

## Evening of May 31: Turning the Tide

By 6:00 PM, SMPD began to execute a more coordinated plan to contain the City. Now with more mutual aid resources and nearly full deployment,<sup>37</sup> and with much of the activity on Ocean and Colorado contained, SMPD deployed “Rapid Response Teams” to systematically clear the streets. Some teams were deployed to specific looting calls.

Other teams employed skirmish lines to push people east out of downtown starting in the vicinity of 4<sup>th</sup> Street and Santa Monica Boulevard. Mutual aid partners from both Los Angeles and Santa Barbara County Sheriffs and LAPD assisted by blocking intersections and alleyways to prevent people from doubling back into downtown.

The plan in these early evening hours was to systematically push and contain individuals into intersections to effect mass arrests. From approximately 6:30 to 8:00 PM (and into later evening hours), SMPD units arrested groups of 35 to 50 people at a time at various locations throughout downtown. This in itself became problematic, as we discuss in detail later in the Report, but served to contain some of the chaos. Some remaining individuals continued to attack officers by throwing rocks at units, though most of these individuals fled.

In these evening hours, City residents informed us that some people engaged in the activity in downtown Santa Monica entered residential neighborhoods as the police pushed them away from downtown.

At 8:16 PM, the National Guard arrived to the Command Post. At approximately 8:55pm, they were deployed to the Mall, City Hall, Public Safety Facility, and the Pier to support and relieve units. While some sporadic looting and arrests continued well into the early morning hours of June 1, the City had largely re-established control.

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<sup>37</sup> By 6:00 PM, Department records show staffing levels of 160 sworn and 40 civilian personnel. In total, when accounting for officers on IOD or other leave or on other duty assignments, SMPD had 176 sworn police employees available for duty on May 31.

## June 1 and Following Weeks

By the early morning hours of June 1, the City had endured the worst of the unrest. Such intensity levels – and problems – would not be replicated in the days that followed. However, the protests and attendant challenges were far from done, and SMPD remained on tactical alert well into the month of June. On June 1, as the City worked through a huge cleanup effort and prepared for further demonstrations, SMPD was prepared. A detailed, printed “operations plan” designated assignments for the large numbers of additional personnel who were back on duty, put specific people in identifiable roles with defined responsibilities, and covered a range of contingencies with clarity.

The toll, however, was considerable. In the weeks following May 31, SMPD’s Criminal Investigation Division compiled a crime report of May 31 to “take stock” of the damage to the City. They reported 178 counts of non-residential looting and over \$75,000 in damages from vandalism to vehicles alone. Table 1 lists the incidents reported by crime category.

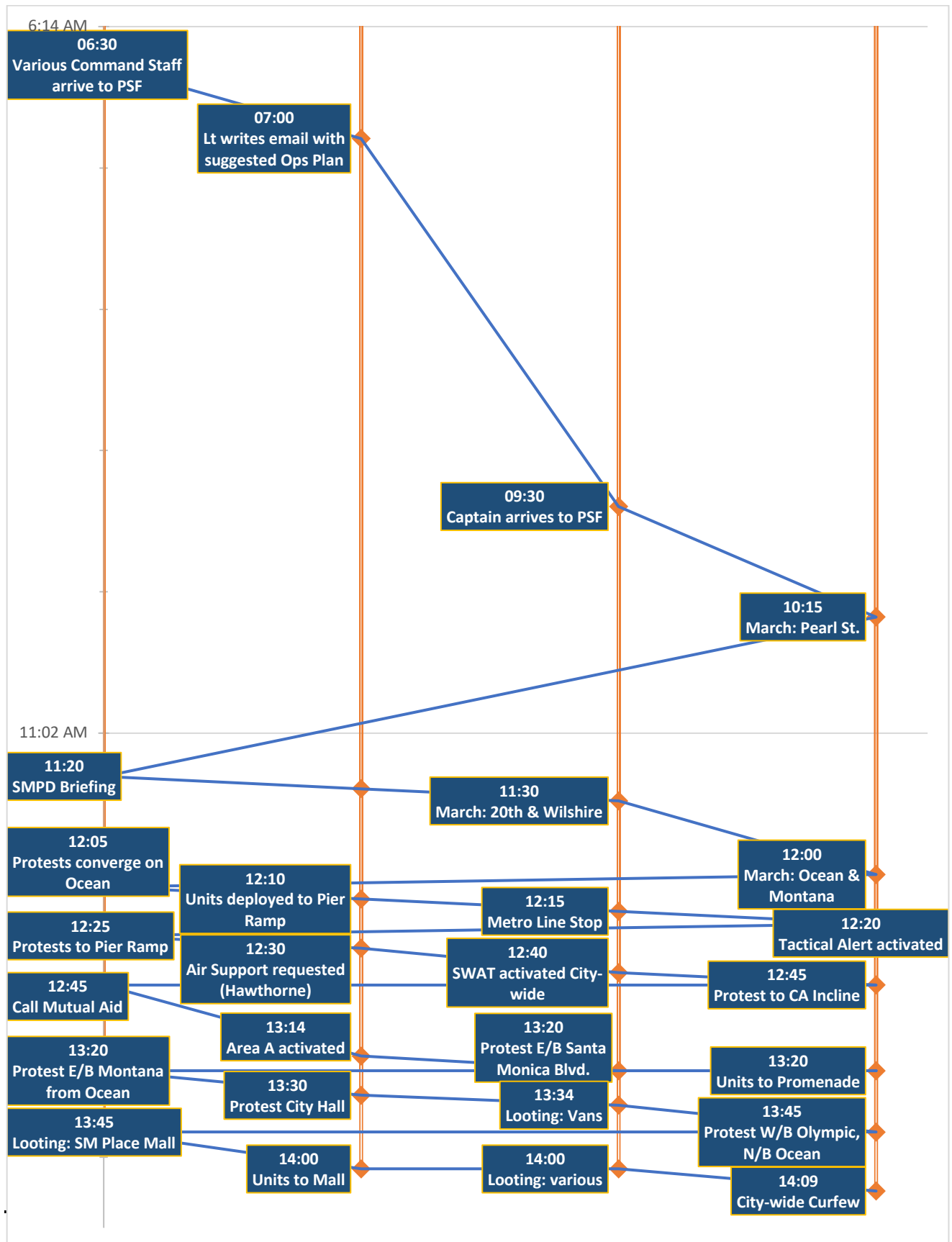
**TABLE 1: Incidents by Crime Category from May 31, 2020**

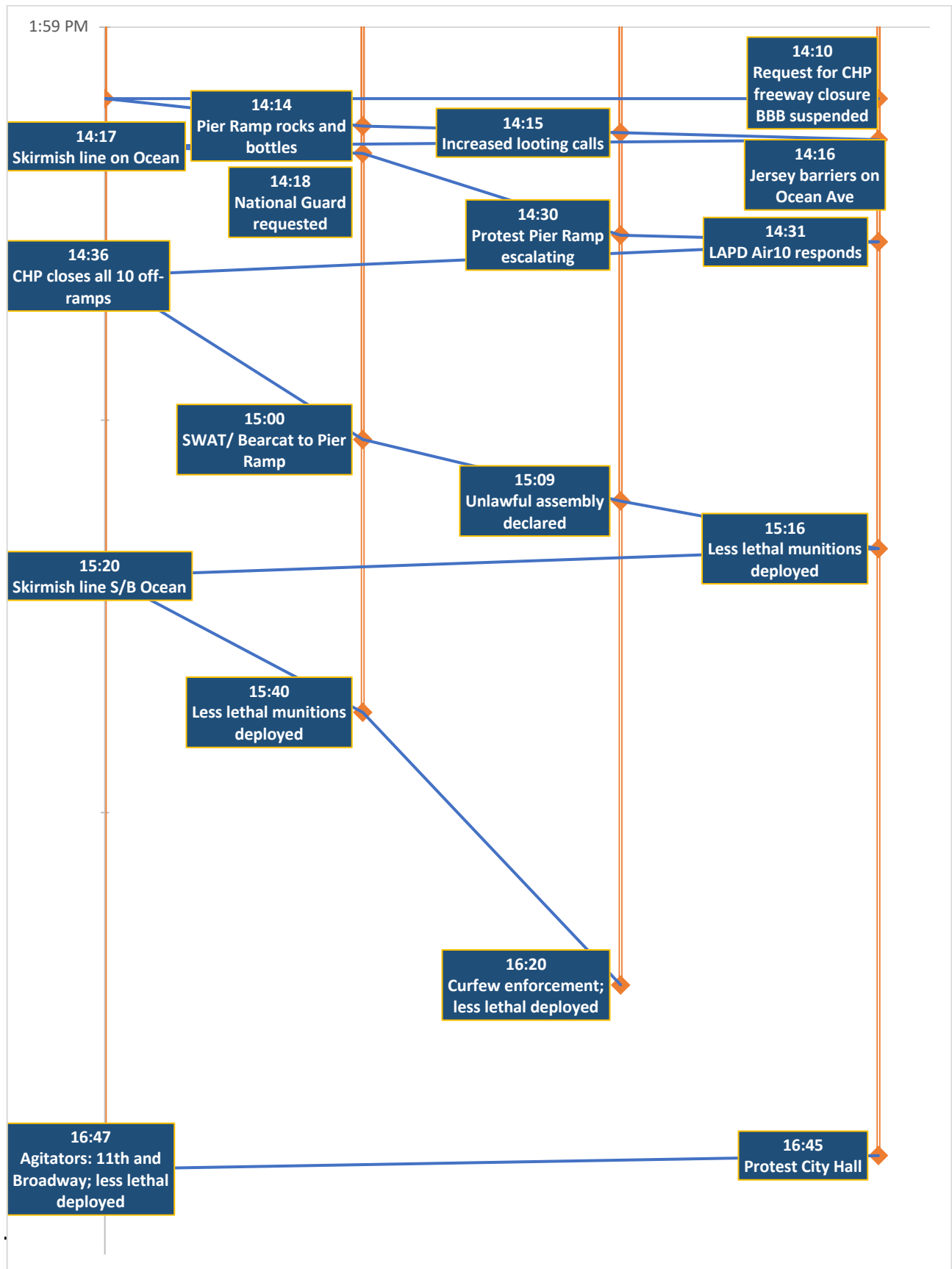
Crime Category	Count
Non-residential Looting	178
Residential Burglaries	2
Robbery	9
Aggravated Assault	17
Theft from Vehicle	2
Grand Theft Auto	9
Arson	12
Damaged Police Vehicles	18
Assault with a Deadly Weapon against a Police Officer	10
Vandalism	49

Criminal Investigation detectives reviewed and analyzed the reports identifying a total of 120 active cases with workable leads. The cases were disseminated amongst the Detectives of the Criminal Investigation Division and the Special Investigations Unit and as discussed later in this Report, resulted in 34 search warrants and 22 felony arrests.

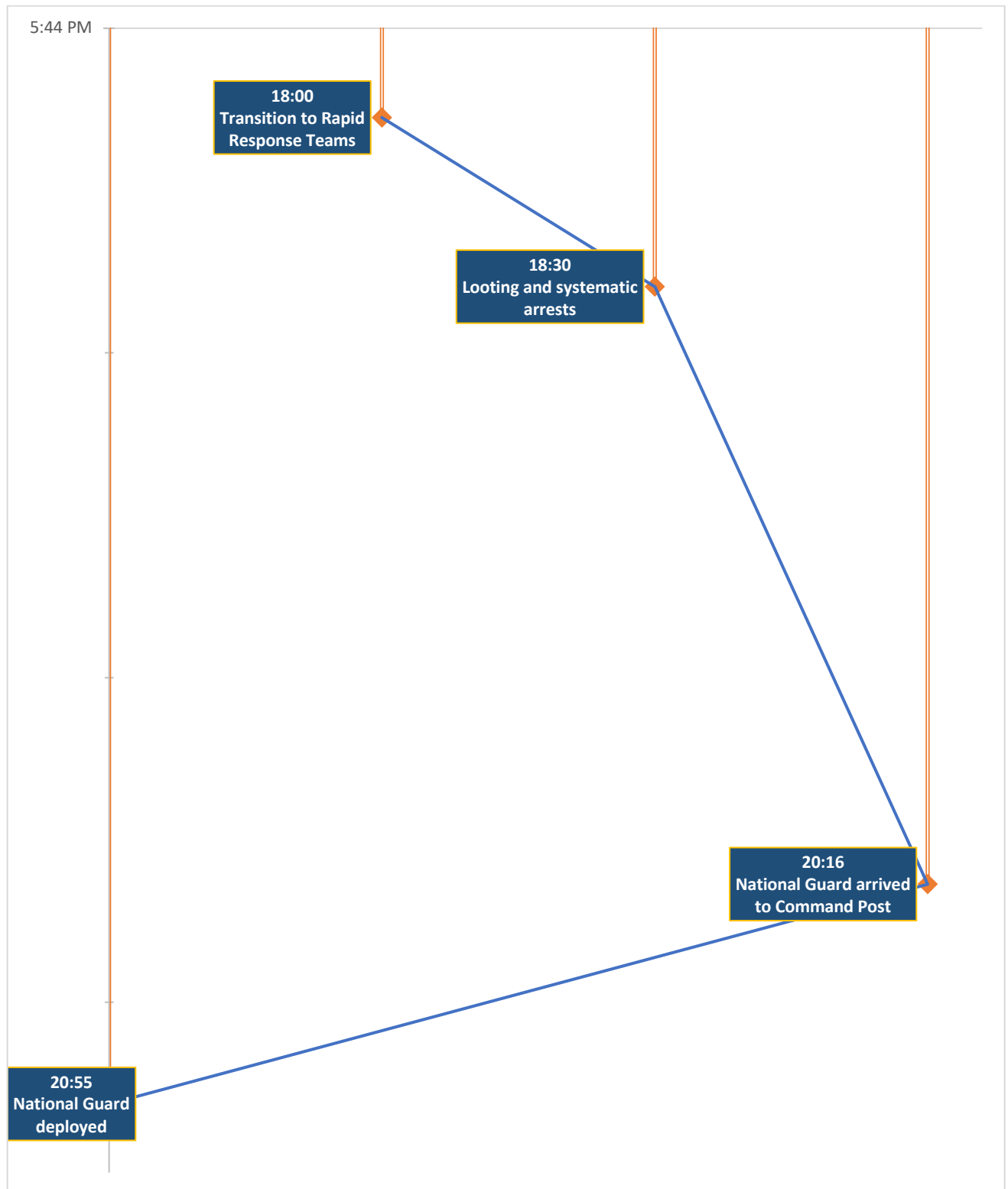
# Timeline

Part of our Scope of Work for this evaluation was to create a detailed timeline of the events of May 31. We prepared the following timeline using the documentary and digital evidence sources listed in our Methodology section as well as information gathered in our numerous interviews.









# Assessment & Analysis: Day of May 31

## Mass Arrests: Slow to Develop, Flawed in Execution

SMPD and its mutual aid partners made approximately 298 arrests on May 31.<sup>38</sup> Transporting, booking, and safely and humanely detaining that many individuals would have been challenging for the Department under even the best of circumstances, with adequate preparation and planning. As it was, though, the Department had never arrested so many people in a given day, and was regrettably underprepared to process them. It had no policy governing mass bookings, no written guidance for establishing a field jail, no formal agreements with transportation providers, and its officers were not equipped with mass arrest kits containing supplies necessary for detaining large groups of individuals.

As those who would assume command for the day were heading into the briefing on Sunday morning, they realized they had no meaningful strategy for mass bookings and detentions. They scrambled to come up with a makeshift plan, which included three main challenges – establishing a mobile field jail (which they decided to locate at the Santa Monica Airport), arranging for transportation from the field to the jail site, and managing citations, booking, and associated paperwork. While Department leaders are careful to acknowledge that the individual efforts of the various involved personnel were saddled with a very difficult set of circumstances, one person we spoke with creditably described the entire situation as a “debacle.”

To the Department’s credit, it recognized many of its systemic failures on May 31 and has already addressed many of the concerns that we identified in our evaluation. In this section we detail several areas of concern and SMPD’s proposed, or, in some cases, already implemented, solutions.

## Officer Preparedness & Resources

The effort to effectuate large-scale arrests suffered from a similar lack of preparation and planning as other areas of operation addressed in this report. There was, for

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<sup>38</sup> Officers made an additional 70 arrests on June 1, some of which were in the early morning hours.

example, confusion about how to identify arrestees, and document the charges for which arrests were made. Officers can be heard on body-worn camera recordings looking for additional flex cuffs to restrain people and turning to mutual aid partners who came better equipped.<sup>39</sup>

The confusion and lack of resources also impacted operational command decisions. Some Department executives had wanted to address the spiraling conditions on the streets with arrests much earlier in the day, but here again the lack of resources limited options and undermined effectiveness. There were long stretches in which, lacking the ability to “corral” problematic individuals (those throwing bottles and rocks, for example) and remove them from the scene through arrest, SMPD essentially pushed agitators from one part of the City to another. Similarly, looters who were chased away from one store moved freely on to another because officers didn’t have the capacity to make arrests.

Command team members may have recognized what was happening, but the Department was overwhelmed and incapable of nimbly adjusting to the situation. At one point, radio transmissions indicate that one acting incident commander wanted officers to arrest rioters, but the line command vetoed that decision because their capacity to take people into custody was already over-taxed.

## Transportation and Associated Delays

As officers did arrest individuals at various locations around the City,<sup>40</sup> they restricted the detainees’ hands behind their backs with flex cuffs and instructed them to sit on curbs. Body-worn camera footage shows officers at some locations confused about what to do next. With resources stretched thin across the County and no pre-existing arrangement with transportation partners for handling this situation, field supervisors struggled to coordinate a plan for handling arrestees. The single SMPD jail van that can seat 12 individuals was clearly insufficient. The result was restrained arrestees left

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<sup>39</sup> We even heard of personnel making a trip to Home Depot to purchase zip ties to serve as flex cuffs.

<sup>40</sup> In the early afternoon, most arrests were of individuals or small groups at locations that had been looted. Later, after the curfew order was in effect and SMPD was attempting to clear the streets, officers moved to strike teams that arrested groups of 35-50 people at a time, in the area around 6<sup>th</sup> & Santa Monica and 3<sup>rd</sup> and Wilshire.

sitting on curbs for extended periods of time with officers standing guard, unable to move on and respond to additional service needs.

A well-coordinated plan for a potential mass arrest situation would have included a means of transporting large numbers of detained individuals to a mobile field jail. Here, as the SMPD command team cobbled together a plan on May 31, they contacted the Los Angeles County Sheriff's Department ("LASD") (which has a fleet of buses to transport inmates to and from court and in between its various jail facilities). LASD indicated it could send a bus, but not security personnel to staff it. Ultimately, LASD sent one bus to the City to assist with transportation.

Commanders also contacted Big Blue Bus, but leaders of that City department were initially reluctant to deploy its buses, in part out of concern for the safety of its drivers (due both to potential COVID-19 exposure and the nature of transporting arrested individuals) and in part due to the public relations aspect of being aligned with police in confrontation with protesters. Eventually, SMPD did secure some Big Blue buses and drivers to transport arrestees, but those actions came with delays that are the consequence of trying to make decisions in the heat of a crisis without sufficient preparation or any guiding policies or protocols.

The delays in finding transport for arrestees led to understandable complaints. Arrestees were forced to sit for long periods of time (up to an hour or more) in uncomfortable positions, and can be heard on various body-worn camera recordings complaining about their cuffs being too tight, the need to use the restroom, and the desire for water.

## Field Jail

Early in the day, commanders realized the jail facilities at the Public Safety Facility would not be sufficient to detain the anticipated large number of arrestees. They put together a plan to create a makeshift jail, and after weighing different options, decided to locate it at the Santa Monica Airport. While this setting had some advantages – it was on the edge of the City and could be at least minimally secured – it also had some significant downsides – no bathrooms or running water, no phone lines, and no space to separate different classifications of arrestees.

The jail supervisor, along with a lieutenant who formally worked for LASD and had custody experience, took over management of the effort to establish and run the field jail. With no established precedent or protocols, they deployed to the airport and set up

a mobile booking center within a hangar. LASD helped staff the jail with a mobile booking team. That the mobile field jail was a source of post-event criticism and complaints was neither surprising nor unpredictable, given the ad hoc nature of the operation.

Operational problems were numerous:

- The area designated for holding arrestees was inadequate: no bathrooms (for staff or arrestees), no running water, no phones, insufficient space to separate males and females, or adults and juveniles, or to allow for appropriate physical distancing.
- Officers staffing the jails lacked protective equipment (such as helmets and Tasers).
- Insufficient number of personnel created significant officer safety concerns, in terms of numbers and ability to thoroughly search detainees.
- Officers did not have shears capable of safely cutting flex cuffs.

These conditions would have been problematic even if this event had not occurred in the midst of a public health pandemic. As it was, transporting individuals in crowded buses and holding them for hours in the makeshift jail heightened the risk of coronavirus spread – among arrestees, officers, and the broader community. The airport location had the benefit of being outside, which may have mitigated the risk to some extent (compared to some large cities where arrested demonstrators were held in crowded jail cells). Unfortunately, SMPD did not have sufficient personal protective equipment, such as masks, available to hand out to all arrestees who were not wearing their own.

## Booking, Processing, and Citations

Issues with operation of the jail were compounded by significant challenges with how arrestees were booked and processed. Officers making arrests in the field had no access to systems to verify identification. As some officers waited in the field for buses to transport arrestees, other officers, most commonly mutual aid partners who had patrol vehicles, drove arrestees to the airport, so that the field jail had multiple agencies literally dropping people off at the gate for processing. In many cases, jail personnel were unable to determine what individuals had been arrested for, where, or by whom.

Largely as a result of this booking chaos, nearly all of the arrests made on May 31 (289 out of 298) were processed as violations of the City's curfew order.<sup>41</sup> This was despite the fact that many people had been detained for looting and possessed presumably stolen property at the time they were arrested. The paperwork accompanying arrestees was inconsistent and insufficient to process them on more serious charges, where appropriate, and the staffing demands of maintaining distinctions between busloads of arrestees were beyond the Department's capabilities. The lack of organization or control was exemplified by an exchange captured on one officer's body-worn camera recording, when he effectively gave an arrestee responsibility for presenting his own identification and informing officials what he had been arrested for. These irregularities in processing may have been one factor in the City's subsequent decision to dismiss all of these curfew-based citations.

The desire and need to expeditiously release people from the jail created another set of problems. Everyone arrested was ultimately "cited out" that night, meaning they were given a citation and admonition to appear in court on a later date. But the field jail was not staffed with SMPD personnel authorized to write citations, so they had to rely on the LASD mobile booking team, which turned out to be a lengthy and onerous process.

Other issues complicated the release process.

- In many cases, jail staff was unable to locate personal property which had been taken from arrestees when they arrived at the field jail. Nor was there an efficient means to reunite arrestees with their property once they were cited out. Many left without being able to reclaim their phones, keys, or wallets, and there was lingering uncertainty about how and how quickly this could be accomplished.
- The jail did not have a sufficient number of shears to safely remove flex cuffs binding arrestees hands, which resulted in some injuries to arrestees as officers used knives or other makeshift tools in an attempt to cut the cuffs.
- Finally, because the field jail was located adjacent to a residential neighborhood and far from any bus or train routes, jail staff had to transport people away from the field jail prior to release. This resulted in further delays, because the same transportation challenges that existed in the field at the beginning of the arrest and detention process also plagued mobile field jail operations.

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<sup>41</sup> Municipal Code sec. 2.16.100(1).

These complications compounded the sense of injustice felt by many of the arrestees, some of whom insisted later that they were simply protesting peacefully and were unaware of a legal need to be off the streets.

## Corrective Action

To the Department's credit, it recognized its systemic failures on May 31 – while emphasizing that those who staffed the mobile field jail had done their best under highly adverse circumstances – and quickly sought remedies. As it regrouped from the days of unrest and had time to meaningfully evaluate its own performance across several categories, SMPD gave appropriate attention to this element of the response. It prepared a comprehensive list of “May 31, 2020 Deficiencies” that included the issues we discuss above, and worked on systemic reforms accordingly.

Among the highlights of this effort was a new policy governing Mass Booking Procedures; it was accompanied by a detailed PowerPoint file that was used in a Department-wide training and exists as a comprehensive resource for anyone tasked with establishing a mobile field jail in the future. The new policy is an eight-page document that addresses the location of booking facilities, arrest and booking procedures, staffing and personnel, property handling, and equipment (down to the minutiae of stocking pens, clipboards, and a long list of other supplies in transportable storage bins to have at the ready if needed). It sets out expectations and processes for procurement of temporary restrooms and handwashing stations. It includes the assembly and distribution of field jail kits that include property bags and information forms to provide documentation of arrest charges and evidence. It details responsibilities for sworn personnel and a long list of non-sworn personnel relating to arrest, booking, detention, and property maintenance. It also includes detailed COVID guidelines setting out requirements for masks, distancing, and sanitation.

The Department also has addressed transportation issues with Big Blue Bus administration, and the new policy sets out emergency provisions for use and staffing of buses that should eliminate the conflict and logistical confusion that existed on May 31.

The new Mass Booking Procedures policy and associated PowerPoint establish a clearly articulated plan for how to handle the various issues related to mass arrests. The Department has finalized this policy and trained its personnel by October 2020 (in advance of the November elections and concerns about possible demonstrations). We have no additional recommendations regarding this new policy, other than a reminder to the Department to regularly update it and ensure ongoing training and compliance. This

is particularly important because of its specificity and requirements that certain equipment be immediately available and accessible.

#### RECOMMENDATION 7

The Department should regularly review and update its Mass Booking Procedures policy to ensure that the listed contact information and location and availability of all itemized equipment is current and correct.

### Subsequent Criminal Investigations

Many people in the Santa Monica community who we heard from during our various outreach efforts were frustrated by what seemed to be complete lack of accountability for looting and the widescale theft and other damage to businesses that occurred on May 31. While the vast majority of those engaged in theft activity that day in Santa Monica undoubtedly escaped apprehension and consequences, it is important to note the proactive investigative efforts taken by SMPD since May 31.

Many people were, in fact, detained for looting – made clear through body-worn camera footage and officer accounts. We noted, however, that virtually all of the citations issued were for violation of the curfew order, a result of the flawed booking system that we addressed above, and citations that were never processed. Certainly, this added to the public perception that the SMPD’s focus had been in the wrong place, and that protesters were wrongly targeted while serious crime was largely ignored. Public concerns about accountability were also presumably heightened when the City Attorney – for a variety of reasons – decided to dismiss all the citations related to curfew violations (and the few other infractions individuals were cited for on May 31).<sup>42</sup>

In the days following May 31, SMPD continued in a defensive posture and was largely effective at preventing further looting. As the immediate crisis subsided and the Department regained its footing, SMPD’s Criminal Investigation Division (“CID”) began quantifying, cataloging, and organizing the large amount of evidence related to a variety of crimes. As mentioned earlier in this Report, CID tallied hundreds of crime reports related to May 31, including 178 reports of non-residential looting, two residential burglaries, nine robberies, 17 aggravated assaults, 12 arsons, and 49 accounts of

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<sup>42</sup> Our understanding is that flaws in the booking process, especially lack of supportive documentation, were a key factor in this outcome.



vandalism. CID compiled witness statements and video evidence to identify 120 active cases with workable leads.

Detectives with CID and the Special Investigations Unit spent the next six months working these cases, partnering with other regional law enforcement agencies and analyzing hundreds of photographs and videos. They served over 30 search warrants that resulted in 22 felony arrests. Of those, two suspects are being prosecuted by the U.S. Attorney's office on federal arson-related charges. Los Angeles County's District Attorney filed charges on 19 of the remaining 20 cases. All cases are still pending. The remaining cases remain open, but detectives have no active leads to pursue.

Clearly, an effective mass arrest strategy on May 31 would have resulted in many more prosecutions for criminal activity, and those impacted by the looters were understandably dismayed by the Department's failures in this regard. However, the dogged efforts to bring a small percentage of offenders to account after the fact is some solace, and a testament to SMPD's resolve to address this community concern.

## Less Lethal Deployment

SMPD used various “less lethal” force tools throughout the afternoon and evening of May 31. Less lethal force is defined by Department policy as “force that is not reasonably anticipated and intended to create a substantial likelihood of causing death or serious injury.” (Appendix B provides descriptions of the various less lethal force tools used on May 31.) Fortunately, SMPD appears to have avoided a major problem that arose with dismayingly frequency in other jurisdictions that encountered large protest movements: the misapplication of certain munitions that caused unjustified physical harm to members of the public.<sup>43</sup> Nonetheless, law enforcement use of force in any context is inherently worthy of consideration, and the unique issues presented on May 31 are additional cause for careful analysis.

## Force Deployment Counts

SMPD officers deployed various less lethal force tools on May 31, ranging from baton strikes and takedowns to use of a Taser and chemical and impact munitions. These tools were used in three general areas of the City: (1) the vicinity of Ocean Avenue and Colorado Boulevard to disperse people from the area between the 1500 block of Ocean Avenue to the intersection of Ocean Avenue and Olympic Boulevard, and into Tongva Park; (2) the vicinity of 11<sup>th</sup> Street and Broadway, to disperse people attempting to prevent the Fire Department from putting out a vehicle fire; and, (3) throughout the Downtown Santa Monica Business District to combat looting.

Notably, and extremely disappointingly, when asked about the use of less lethal tools on May 31, SMPD Command responded that they did not have a count or log of deployed munitions. SMPD reported that it did not have a methodology for documenting uses of force in crowd control situations and did not have a clear count of less lethal inventory, who used them, and where.

In fact, as we understood it and as we discuss in more detail later in this Report, there was no mechanism in Santa Monica for tracking less lethal munitions discharged by officers, clearly contrary to general principles of reporting and tracking use of force. Nor was there any expectation articulated by supervisors to ensure that force reporting requirements as set out in Santa Monica’s policy manual were followed.

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<sup>43</sup> An example of this would be projectiles, designed for impact to the torso or legs only, that struck subjects in the face, eyes, or other sensitive areas and caused significant damage.

## RECOMMENDATION 8

SMPD should develop a tracking mechanism, such as a log for less lethal munitions, specifically to track how many of which types of munitions are used and by whom.

OIR Group was able to obtain some semblance of the type, location, and count of at least some of the less lethal force used by reviewing and tabulating information from the Use of Force Reports submitted by officers who administered deploying force; these are detailed in Table 2, below. For the reasons stated above, while these counts are accurate based on the officers' self-reports, one should not conclude that these even begin to approximate the *actual* uses of force on May 31.<sup>44</sup>

**TABLE 2: SMPD Use of Force Summary May 31, 2020**  
*Generated from UOF Reports submitted to Command Staff by SMPD officers*

Type of Force	11th & Broadway	Ocean & Colorado	DTSM Business District	Total
37mm Impact*	19	91	23	133
Baton strikes	3	1	8	12
Flashbang	1	1		2
Grenades	1	29		30
Pepperball*	50	50	5	105
Takedown	1		8	9
Taser			1	1
<b>Total</b>	<b>75</b>	<b>172</b>	<b>45</b>	<b>292</b>

\* *Impact Munitions and Pepperball counts were often estimated by officers in their reports.*

<sup>44</sup> As discussed later in this Report, this is clearly not an accurate or verifiable count of the force deployed due to a delayed and incomplete internal force reporting and review process and officers not having the means or directive to follow Department policy and document all force used on May 31.

## Force Deployment Analysis

SMPD's policy on First Amendment Assemblies address the use of force in crowd control as follows:

*433.7 USE OF FORCE. Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.*

Of concern is that the current SMPD policy set out above limits the use of force to individuals, “unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd” without providing any further definition for what constitutes an “extreme circumstance” or a “riotous” crowd or why it would be impossible under such circumstances to target individuals engaged in assaultive activity. This is a large exception for non-targeted use of less lethal munitions against groups and crowds during “extreme circumstances” such as a “riotous crowd.” This becomes subject to wide variety of interpretations and an exception that could largely swallow the rule. SMPD should amend its policy to either specifically define these circumstances or eliminate the exceptions for the ambiguous “extreme circumstances such as a riotous crowd.”

## Tear Gas

As noted above, the policy on First Amendment Assemblies is troublesome in defining use of force, including the use of OC (a type of chemical munition, or tear gas), on crowds. We also evaluated SMPD's policy on use of tear gas generally, 303.7 TEAR GAS GUIDELINES, and found it to be lacking specific details about its use in crowd control. The policy states:

*Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, or Incident Commander in consult with the Tactical Commander or Special Operations Section Lieutenant may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary to result in the safe control of the suspect(s).*

*When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.*

*Only SWAT team members trained in the use of tactical tear gas weapons should discharge such devices at the scene.*

As noted above, SMPD did not have any method for tracking individual deployment of tear gas on May 31. Aside from the initial two tear gas grenades, which were directed by SWAT supervisors and which followed the authorization to use gas to disperse the crowd, SWAT team members used their individual discretion and training when they deployed gas. As a result, we could not evaluate each instance of tear gas deployment. And, as discussed later, the Department also did not conduct a robust evaluation of each instance of tear gas use.

We did note some deviations from current policy. First, SMPD did not alert fire personnel to the scene prior to deployment of tear gas (though we acknowledge that SMFD was deployed to other calls for service in the City). Second, we noted some circumstances in which officers deployed tear gas from a far distance, where it disseminated in an ineffective way somewhere between the officers and the protesters. In one instance, for example, an officer commented to another, “it is too far for gas” as a gas canister was deployed by a third officer.

### Use of Flashbangs in Crowd Control

SMPD does not, to our knowledge, have a policy for use of flashbangs as a means of crowd control. Typically, these devices are used in tactical situations, such as a barricaded suspect, to distract or disorient a suspect. The use of flashbangs in crowd control has been the subject of much discussion in other jurisdictions, both for their questionable effectiveness in open spaces and high potential for injury.

In discussing the less lethal force plan for Ocean Avenue and Colorado, none of the SWAT leads or the Incident Commander requested the use of flashbangs to disperse the crowd; the focus was on use of chemical munitions. And, we noted one exchange in body-worn camera footage in which one officer reprimanded the officer who deployed a flashbang, and interceded by stating, “don’t do that again [...] don’t [flash]bang again.”

While we discovered this incident and flashbang use, we are not aware of any analysis or remedial SMPD response to its deployment. SMPD should closely examine this incident and assess the advisability of this deployment under the circumstances presented.

### RECOMMENDATION 9

SMPD should examine the use of the flashbang device on May 31 through the lenses of accountability, advisability, and remediation.

## Pepperball

SMPD policy allows use of Pepperball in crowd control situations “to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior,” while also noting that “Pepper projectiles [...] should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.” (*Control Devices and Techniques* 303.8)

On May 31, officers deployed Pepperball in all three locations as noted above. One incident involved the use of a Pepperball at a looting suspect who was running away. Various rounds were also deployed on Ocean and Colorado where the “risk to the safety of officers or the public” was not readily cognizable. SMPD did not engage in a detailed force analysis regarding whether these two deployments were in compliance with Department policy and expectations, as it should have done pursuant to its force review policy.

### RECOMMENDATION 10

SMPD should conduct a detailed analysis regarding whether the Pepperball deployments on May 31 were consistent with Department policy and expectations.

## Impact Munitions

SMPD policy<sup>45</sup> allows trained officers to use impact munitions, or “kinetic projectiles,” in crowd situations when “the suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers” (*Control Devices and Techniques* 303.9).

As noted above, SMPD’s First Amendment Assemblies policy allows officers to use force devices against *individuals* while also noting that they should not ordinarily be directed toward groups or crowds. This is due to the potential for striking or causing injury to unintended targets.

Of particular concern again here is the current SMPD force policy set out above that allows use of impact munitions if “the subject is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.”

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<sup>45</sup> In reviewing the Department’s policy, we noted that the Department does not specify where on the suspect’s body to aim the projectile.

Certainly, observations of “throwing rocks, bottles, or other dangerous projectiles” is clear but the policy provides no further guidance on what constitutes “riotous behavior.”

On May 31, officers did use impact munitions against specific suspects that they believed to be directly aggressive. At times though, these suspects were part of the larger crowd; officers’ Use of Force Reports suggest that at least some of these suspects were stepping out from the crowd, for example, to throw a projectile at the skirmish line. We also noted some questionable deployments that, as with the Pepperball deployments, should have prompted a greater degree of internal review by the Department, such as using the impact munitions as “skip rounds” off the ground to prevent protesters in general ( as opposed to a specific subject) from approaching tear gas canisters. The strategy here seems not to take into adequate account the likelihood that protesters reaching down for gas canisters could inadvertently but foreseeably be struck in the head.

Of note is that the majority of officers who reported using impact munitions also reported that they could not confirm if the subject had been hit, or if she or he had been injured. No use of impact munitions was connected with an arrest.

We further note that SMPD’s current policy does not provide any limitations on where to aim the projectiles. Policies of other police agencies limit targets to the torso and instruct officers to avoid the head and other sensitive areas. SMPD’s policy should provide additional guidance regarding appropriate targets.

#### RECOMMENDATION 11

SMPD should revise its use of force policies to either specially define “riotous” or eliminate the terminology from its policies.

#### RECOMMENDATION 12

SMPD should amend its policy to provide further guidance regarding deployment of less lethal munitions, particularly to guard against injuries to the face and head.

#### RECOMMENDATION 13

SMPD should conduct regular and ongoing training on use of impact munitions in crowd situations so that all officers trained in the use of these munitions are advised of how to most effectively deploy them and have a clear understanding of Departmental expectations.

## Force Deployment: Individual Questions or Concerns

Several narratives regarding force deployment or the effectiveness of the police response emerged after May 31, both from the public and internal to the Department. We address some of them here.

### Munitions and Gas in Response to Protest Activity: The Right Tools for Crowd Control?

In response to the police response to protest activity, nationwide, cities and states have undertaken a review of how and when to effectively use less lethal munitions and tear gas against protesters; some have gone as far as to either further limit or prohibit the deployment of these force options. And at least one federal judge has temporarily prohibited the use of certain less lethal munitions in the context of First Amendment activity.

The use of tear gas and pepper spray has proven most effective in barricade situations where individuals are in closed structures and the insertion of the irritant forces them outside where they can be apprehended. When tear gas is deployed outdoors, however, environmental factors such as wind limit its effectiveness and the ability to control who is impacted. As a result, the intended targets of gas are able to fight through its effects, while non-aggressive members of the crowd often feel the effects of the spray as it travels downwind. And, as seen in Santa Monica, as the delivery devices for the chemicals are launched into the crowd, they provide effective and potentially dangerous projectiles to be hurled back at police, resulting in escalation rather than de-escalation of the situation.

The less lethal impact munitions (sometimes referred to as “bean bags” and “rubber bullets”) can be most effective when deployed in encounters with a single individual. However, in the protest activity context, individuals are often not isolated, their activity is frequently less definitively assaultive, and there is greater risk that a less lethal round will either strike the individual in a vital, potentially lethal area or will strike an unintended target. Moreover, in a protest activity context, officers are more prone to “improvise” their deployment of less lethal munitions, as in Santa Monica where they used some munitions as modified “cover fire” to keep individuals away from accessing the gas projectiles.

While “textbook” deployment of gas and less lethal munitions can be effective instruments in crowd control, an increasing number of cities have called for the elimination of or severe restrictions on their use in responding to protests because of



their unintended consequences. While some jurisdictions have banned their use in the First Amendment context entirely, others have or intend to require approval for deployment by the highest levels of the police agency or City leadership.

SMPD, in consultation with its public, should join this discussion and re-evaluate the use of less lethal tools in protest situations. After listening to and weighing the particular needs and desires of the Santa Monica community, the Department should revise its policies to provide additional guidance, including potential restrictions and elimination of munitions in a First Amendment context.<sup>46</sup>

#### RECOMMENDATION 14

SMPD should engage with its community and City leaders to determine whether and to what degree gas and other less lethal munitions should be used in the First Amendment activity context.

#### RECOMMENDATION 15

After having the above discourse, SMPD should revise its use of force policy related to deployment of tear gas and less lethal impact munitions in crowd control situations to specify the circumstances, if any, under which they may be used.

### Dispersal Orders and Force on “Peaceful Crowds”

The most common, and significant, of the criticisms leveled against SMPD (and numerous agencies around the country) as law enforcement addressed unprecedented levels of large, ongoing protest activity in late May and early June of 2020 was the allegation that **“SMPD used too much force against peaceful protesters.”** At its core, it reflects the challenges faced by the police in reconciling the imperatives of the First Amendment with the safety and management challenges posed by unruly – or violent – behavior amidst the massive crowds.

A precisely tailored response is easier to expect than to effectuate. And it is important to remember that circumstances in Santa Monica (as in other locations) were quite variable, adding to the complexity of analysis – and, of course, to the original decision-

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<sup>46</sup> We have been advised that as a result of community engagement, all less than lethal hard projective ammunition have been removed from patrol officers and replaced with foam tipped projectiles. However, the City may want to revisit this issue to see if greater restrictions are in order.

making itself. That said, certain fundamentals guide the evaluation of enforcement activity directed at protest groups. These include the provocation for force, the attempts to tailor its application, and the extent to which clear, audible, and legally authorized warnings were given in the context of large-scale dispersals. We cover these topics in turn.

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.<sup>47</sup>

According to modern crowd control best practices, dispersal orders should be loud, understandable, repeated several times as practicable, and include the following language:

- Declaration of an unlawful assembly and the location
- Order to leave immediately
- Potential for arrest
- Warning of use of less lethal force that may result in injury
- Route(s) for dispersal
- Length of time to disperse

SMPD's policy does not expressly include these details, though most are included in the intent of its provisions. In relevant part, the policy states (see 433.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS).

*Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.*

*When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized*

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<sup>47</sup> Deorle v. Rutherford 272 F.3d 1272, 1284 (9th Cir. 2001).

*announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.*

On May 31, SMPD issued dispersal orders at various points in the afternoon, though there is no evidence that anyone in command, consistent with the above-quoted policy, attempted to persuade event organizers to disperse in the moments before these warnings. The first dispersal order occurred at 3:09 PM at the intersection of Ocean Avenue and Colorado Boulevard, was repeated at least two times in English and, as heard on body-worn camera footage, was as follows:

*This is a police officer of the City of Santa Monica. This is hereby an unlawful assembly. In the name of the people of the State of California, I command all those present at Ocean and Colorado to immediately disperse. If you do not do so, you will be arrested for under section 409 of the United States Penal Code, which prohibits remaining at an unlawful assembly. The following routes are available: south on Ocean Avenue only.*

*You have [one] minute to leave the area.*

A second version of this dispersal order was issued after 4:00 PM, when the City-wide curfew went into effect, warning the crowd that SMPD was now enforcing the curfew and that those who remained were in violation of this curfew order. This was issued both at the Pier Ramp and at other locations in the City.

Unlike in other jurisdictions that we have reviewed, the dispersal orders on May 31, which were mostly issued from the SWAT Bearcat loudspeaker, were clear and repeated. We commend SMPD for using clear language and a sufficiently loud system to make the announcement.

However, we also noted concerns with the dispersal order as issued.

First, the directed route of dispersal, southbound on Ocean Avenue, required protesters to walk toward or into oncoming traffic (northbound traffic on Ocean Avenue was not yet stopped). Upon hearing this route, several protesters yelled that it was unsafe. Movement in other directions was prevented by skirmish lines. In some body-worn camera clips, protesters attempted to leave the area by moving northbound on the sidewalk at Ocean Avenue and were told by officers that they could not cross the line. In essence, protesters were seemingly “stuck” between skirmish lines and traffic, possibly preventing their timely departure from the area. This speaks more to the confusion and mismanagement of the day than to any intention to place protesters in harm’s way.

Second, approximately seven minutes after the dispersal order, at 3:16 PM, and in apparent contravention of the spirit of current Department policy, SMPD officers deployed less lethal munitions without warning the crowd that any force might be used. Including a specific warning that less lethal force, such as chemical munitions, may be used is a best practice in modern crowd control; language such as, “police action could include the use of force which may result in serious injury” is typically included in dispersal orders and current SMPD policy indicates that it is important that the dispersal order “provide information about what law enforcement actions will take place if illegal behavior continues.”

Third, the announcement warned that those who remained would be subject to arrest. While typical language in a dispersal order, we noted that SMPD had already discussed that mass arrest at Ocean Avenue and Colorado Boulevard would not be an option because they had too few units on the ground to effect arrests.

Finally, the dispersal order itself assumed that the crowd in its entirety was an unlawful assembly, which we discuss in more detail below.

## RECOMMENDATION 16

Training for supervisors on unlawful assembly should emphasize the need to follow Department policy and reach out to event organizers or participants with the goal of gaining voluntary dispersal prior to issuing formal dispersal orders.

## RECOMMENDATION 17

In crafting dispersal orders to instruct crowds about the routes of egress from a protest, SMPD policy and training should require officers to consider conditions such as traffic and officer deployment to ensure the feasibility and safety of any direction provided about dispersal routes.

## RECOMMENDATION 18

SMPD policy and training regarding dispersal orders should be revised to require personnel officers to include express warnings about the potential use of force should the order be defied.

## A “Tiered” Approach?

Another narrative we heard repeatedly from SMPD Command was: ***“SMPD used a tiered less lethal approach to disperse protesters on Ocean Avenue and Colorado Boulevard.”*** The assertion was that a “tiered” deployment plan at Ocean and Colorado balanced the need to disperse the crowd with the potentially harmful effects, both physical and political, of deploying tear gas. They reported that officers escalated from the least harmful to the more irritating: they first used non-toxic smoke grenades to “warn” the crowd, followed by tear gas and then impact munitions.

Our review of body-worn camera footage, radio, and officers’ Use of Force Reports, however, suggests that this was not how deployment initially occurred at Ocean Avenue and Colorado.

As noted above, in the first deployment of less lethal munitions near the 1500 block of Ocean Avenue, SWAT officers deployed tear gas canisters immediately followed by use of targeted impact munitions. They ceased use of chemical munitions only when they learned that some officers arriving to the scene did not have gas masks.<sup>48</sup> Once the skirmish line moved further south and all officers had appropriate gear, the officers

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<sup>48</sup> Our understanding from involved supervisors is that this deployment occurred under hectic conditions, with the SWAT commander’s sense of urgency pushing up against insistence from within the Operation Center that announcements be made and other protocols followed prior to authorization. The tense, uncertain communications that preceded the deployment were symptomatic of both the extreme circumstances and the Department’s precarious command structure. Fortunately, the dictates of the Operation Center prevailed in this situation and dispersal announcements were made.

again deployed various chemical and impact munitions at aggressive individuals in the crowd.

It was not until 4:20 PM, when SMPD announced curfew enforcement, that SWAT employed the tiered approach later described by command staff: first a flashbang, followed by non-toxic smoke and then, only after many had left the area, targeted chemical and impact munitions.

One of the attributes of the “tiered” approach is that it reinforces the intent to forcefully disperse in a manner that provides additional warning and opportunity to leave prior to introducing the more intrusive effects of noxious chemical munitions. This technique counters one of the legitimate criticisms of tear gas in a crowd control context: namely, that it indiscriminately ends up impacting individuals who are not only peaceful but also *genuinely unaware* of their own status as “fair targets.”

Given the symbolic and actual implications of tear gas in a protest context, and to the degree that it continues to be authorized in a First Amendment framework, it is particularly important for agencies to initiate such deployments in as measured a manner as possible. The “tiered” approach certainly relates to that goal. Accordingly, the Department’s desire to highlight its use of the technique in defense of its actions is understandable, and justified by the circumstances of the later deployment. But the initial use of gas – for the first time in recent memory for crowd control purposes – was apparently less orderly, and merits attention in terms of “lessons learned” and future adjustments.<sup>49</sup>

## RECOMMENDATION 19

SMPD should continue to impress upon its supervisors the need to follow all dispersal order protocols before any introduction of less lethal munitions.

## The Question of Unlawful Assembly

The distinction between a “lawful” and “unlawful” protest has been the subject of discussions nationwide. In California, it is unlawful for persons to assemble for the

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<sup>49</sup> We have been told that heightened planning continues on an ongoing basis as the Department remains aware of current events with the potential to trigger responsive unrest. Part of this is the designation of one high-level member of the agency to be the necessary “pass-through” for any authorization of chemical munitions for crowd control – a strategy that will focus the decision-making and help ensure that all appropriate steps are taken.

purpose of disturbing the public and then fail to leave after being ordered to do so by the police. The acts of the crowd must be either violent or tending to incite others to violence. Simply assembling, without any violence or intent to commit violent acts, is protected speech. We acknowledge that the diversity of behaviors and intentions within large crowds can make it difficult to distinguish between lawful, protected speech, and an unlawful assembly and create a challenging environment for law enforcement.

On May 31, many in the crowd at the time of the dispersal order were reportedly peacefully demonstrating, chanting and/or holding signs in protest of police or support of the Black Lives Matter movement. These individuals were not engaged in overt acts of violence and reported in interviews that they were surprised and upset that their First Amendment right to protest was, in their experience, prevented.

Conversely, at least some members of the Ocean Avenue and Colorado Boulevard crowd, especially those closer to the Pier Ramp, were reportedly engaged in violent acts such as throwing rocks and bottles at officers staged on the Pier Ramp, starting as early as 2:14 PM. And SWAT units on the ground reported to Incident Command that the crowd was growing in size and intensity as time went on. Personnel staged at the Pier Ramp expressed concern that the crowd would “overtake” the Pier, along with the officers and police vehicles parked at the location.<sup>50</sup>

And when officers deployed the first rounds of tear gas, some in the crowd immediately responded by throwing glass, rocks, and other items at the skirmish line.

In our evaluation, what differentiated this scenario from others nationwide is that the crowd, whether individually engaged in peaceful or violent action, was arguably “on notice” that remaining at the location after 3:09 PM made them part of an unlawful assembly regardless of their individual behavior or intentions. As we noted, the dispersal orders were clear and loud and offered opportunity to leave the area before enforcement action was taken (though we also note that the route of egress was not ideal and there was no express warning that chemical munitions would be deployed).

Later that afternoon on Ocean Avenue and Colorado Boulevard, and in other areas of the City, those assembled were, for the most part, engaged in aggressive or assaultive behavior that warranted the declaration of an unlawful assembly. If some individuals in

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<sup>50</sup> Another concern for command staff was the reported possibility of opportunistic terrorism at the Pier; in interviews after May 31, various personnel reported that there was a fear that the Pier itself was a possible “hard target” that had to be protected. We were not provided nor did we find hard evidence of this threat.

the crowd were engaged in peaceful protest, they were doing so alongside aggressive rioters.

Going forward, especially in the face of possible unrest in the coming months, SMPD and the City should consider what set of circumstances should be required in a public protest setting prior to the declaration of an unlawful assembly. Ideally, the Department should engage with the community as it develops these guidelines, through direct outreach to residents, business owners, and groups most impacted by the events of May 31. The resulting policies and guiding principles should be publicly announced so that City residents and stakeholders understand the “ground rules” in advance of the next protest.

#### RECOMMENDATION 20

SMPD and the City should engage with the community as it considers the circumstances required for a public protest to be declared an unlawful assembly. The resulting guidelines should be publicized in a way that provides City residents and stakeholders a clear understanding of under what circumstances the SMPD will declare an unlawful assembly.

#### The Question of Force Against Looting

While some complained about SMPD using too much force, others promoted a narrative with criticism from the opposite direction: ***“SMPD stood by and took no action while looters ransacked downtown Santa Monica.”*** This concern is not that the Department was problematically heavy-handed but that it *lacked* the requisite assertiveness – including in the force arena – with regard to troubling lawlessness in parts of the City.

While the force count was much higher on Ocean and Colorado, SMPD did report many uses of force throughout the Downtown Santa Monica Business District to combat looting. Officers engaged in force with looting suspects on several occasions, from baton strikes and takedowns to one use of the Taser. As we discuss in the Arrest section of this Report, many of these uses of force did not, surprisingly, result in arrests, as suspects fled from officers who were appropriately hesitant to leave their assigned positions to engage in foot pursuits. In their Use of Force Reports, several officers describe their struggle between the instinct to “give chase” to catch suspects and the need to protect their assigned area. Many commented that, because there was no organized system to arrest and book suspects, they opted to remain at their post, even after using force on looting suspects. Some commented that the use of force alone may have deterred the looters from more criminal activity.



## Issues of “Command and Control”

As noted, while SMPD continued to experience civil unrest from June 1 to 6, the City never reached the level of disorder experienced on May 31. On June 1 and beyond, with clearly defined daily operations plans in place, the Department accomplished everything that had glaringly been missing on Sunday. While other factors certainly contributed to the relatively “managed” conditions on the ensuing days (including the continued presence of the National Guard and the fact that organized looters had largely moved on), SMPD deserves credit for its own role in leading an effective response.

This is commendable, even as it magnifies one of the fundamental questions about May 31: Given the capabilities that it later showed, why did SMPD fall so short on Sunday?

The answer, as established at length above, has numerous component parts. The size and fervor of the crowds, as well as the multi-faceted enforcement challenges they ultimately presented, would have overmatched even a better-prepared version of the Department, and the glitches and competing demands that undermined mutual aid were less prevalent after May 31. But some of the deficiencies were produced internally – a consequence of the aforementioned “disconnects” at the executive level and the absence of a clear, unified approach to sorting through available information and taking decisive, comprehensive action. Instead came limited leadership and frustrations, mostly from individuals who *did* sense the need for greater preparation but went unheard or felt unsure how best to proceed.

The implications for this lack of preparedness were both internal and external. The basic pieces of effective *internal* command and control – clear objectives, strategic resource deployment, and a unified command structure – were missing.

But similarly problematic was the lack of an effective *external* plan that centered public safety priorities while benefitting from the assistance of outside entities – be they other law enforcement partners or fellow City departments – that would have offered help with some of the day’s many infrastructural demands.<sup>51</sup>

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<sup>51</sup> We mention many of these in the Intra-Agency Cooperation section later in this Report including, for example, the use of Public Works to help arrange for suitable resources at the Airport for accommodating mass arrests or help harden soft looting targets by positioning of City vehicles.

This Report's evaluation of the SMPD approach on May 31 reinforces a fundamental concept that public safety agencies – including the Department itself <sup>52</sup> – understand well: the value of the Incident Command System (ICS) as a platform for organizing a large-scale response.

## The Incident Command System

Established in the 1970s, and strongly embraced by the former SMPD Chief, the ICS is a commonly used management response system that allows for multiple agencies to collaborate in emergency situations by establishing a unified command, maintaining clear mission objectives, and sharing logistics and resources. The May 31 early morning email by an SMPD lieutenant reflected those concepts quite well, if in abbreviated fashion, and highlighted the key goals of a potential incident command for the day:

- Protect persons, regardless of their participation in the disturbance;
- Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence; and
- Arrest law violators, including those responsible for property damage, and remove or isolate persons inciting violent behavior.

The response is defined by incident using an Incident Action Plan. Creating a comprehensive Incident Action Plan can be challenging, in the face of spontaneous events such as May 31. In recognition of this reality, some experts recommend that agencies may wish to establish various crowd management plan templates in advance of protest activity. These generic plans can cover various types and sizes of protests to provide general strategy and working tactics. These plans can then be quickly tailored and adjusted when Incident Commanders are responding to a spontaneous event.<sup>53</sup>

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. The plan also serves to identify the command post, a field

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<sup>52</sup> Interestingly, the former Chief was herself someone who had devoted considerable study and professional emphasis to ICS principles. It makes their absence on May 31 all the more striking.

<sup>53</sup> It is our understanding that SMPD has embraced these concepts – both internally and in dealings with other City departments – in the months following May 31's assorted deficiencies.

staging area, the command structure, roles and responsibilities, and logistical needs, such as providing food and water to officers, all aspects that were missing in SMPD's overall response to May 31.<sup>54</sup>

#### RECOMMENDATION 21

SMPD should continue to provide command level staff with updated training on the ICS so that command staff is knowledgeable about its use and benefits.

#### RECOMMENDATION 22

SMPD should ensure that all command staff personnel are well versed in contemporary crowd control responses, particularly in the First Amendment context.

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<sup>54</sup> In reviewing body-camera recordings, we noted one instance in which officers were reduced to sharing the only water bottle available at their location. We also heard that mutual aid officers, some of who traveled great distances were dismayed that they had to figure out how to obtain food and water during their deployment. This was a disservice to SMPD and assisting officers under any circumstances, but the ongoing pandemic magnified the unacceptability.

# Deployment & Training Issues

## Lapse in Mobile Field Force Training

Department-provided records showed that SMPD had not held Department-wide training on crowd management strategies, also known as “Mobile Field Force training”<sup>55</sup> since 2015, a significant lapse in officers’ skills and tactics when they faced the challenging circumstances of May 31.<sup>56</sup> And, SMPD reported that, while at least some officers received Advanced Officer Training on Mobile Field Force tactics, this Department-specific training was also held several years ago.

Command reported that, at some point on May 30, and realizing the long lapse in relevant training, an on-duty watch commander provided a Mobile Field Force training PowerPoint presentation to all on-duty sergeants so that could provide refresher training to their officers prior to deploying to Beverly Hills in response to mutual aid requests. This was a conscientious gesture in a “last minute” timeframe. But a refresher PowerPoint is, of course, no substitution for a properly focused, thorough, and live-action training curriculum.

Further, crowd control tactics, like all policing, are ever-developing; the long lapse in training meant that SMPD officers and command were not taught the newest crowd control techniques, such as an increased focus on negotiation, communication, and de-escalation, that may have resulted in more effective enforcement on May 31.

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<sup>55</sup> “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 “platoons,” or teams, each under the command of one team leader, who are collectively under the command of a Field Incident Commander.

<sup>56</sup> SMPD Command reported that, 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).

## Skirmish Lines versus Strike Teams: Deployment Strategies

As we previously described, SMPD officers, including SWAT teams, were first deployed in traditional Mobile Field Force tactical formations, also known as skirmish lines, to hold intersections and protect assets, like the Pier Ramp. This initial deployment strategy had several ineffective outcomes on May 31.

First, SMPD did not initially have sufficient resources to effectively deploy in traditional skirmish line formations. Skirmish lines are traditionally resource-intensive and require a significant number of officers to effectively execute in large geographical areas (like the entire length of Ocean Avenue with its various alleyways and intersections). In listening to radio from May 31, we heard many instances when team leaders repeatedly requested more resources to effectively span the length of an intersection and, because resources were limited, formation of the skirmish lines was delayed or did not occur at all. For example, early in the afternoon, the Incident Commander called for a skirmish line to form at Lincoln Boulevard and Montana to prevent protesters from looping back into downtown Santa Monica, but resources were not available for this request and the line never materialized.

Second, the Mobile Field Force approach tied up already-limited resources for hours. We noted that at least some of the officers deployed to Ocean and Colorado spent nearly four hours “holding the line” at this location when, perhaps, they could have been used elsewhere in the City to respond to other incidents.

Third, this deployment strategy was not agile. Once stationed at a location, officers were seemingly unable to quickly transition to respond to the ever-changing situation. As we detailed above, the Incident Command asked officers to “corral and arrest” people on at least two occasions, once on Ocean and Colorado when the protest was first reported to become unruly, and second at 11<sup>th</sup> and Broadway, where individuals were assaulting Fire Department personnel. In both instances, the team leaders on the ground reported that they did not have sufficient resources to both effectively maintain the skirmish lines **and** effect arrests, and the arrest plans were abandoned. This had larger implications for the day, as individuals intent on causing chaos moved through the City instead of being detained.

To their credit, around 6:00 PM, SMPD realized that the traditional Mobile Field Force tactics they were using were not effective. With the support of mutual aid resources now in place, SMPD transitioned from those traditional tactics to small, two to six officer “Strike Teams.” These teams were highly responsive to changing circumstances and

able to quickly move from one location to another. They deterred looting while also pushing individuals to a centralized location, where other teams were waiting to arrest those who refused to leave or were engaged in unlawful actions.

We discuss this deployment strategy, SMPD's new training, and recent updated in Mobile Field Force training, later in this Report.

#### RECOMMENDATION 23

SMPD should continue to regularly train all officers in Mobile Field Force tactics, to include the newest techniques with live, hand-on scenario training and new laws related to First Amendment Assemblies and civil unrest.

#### RECOMMENDATION 24

SMPD should consider additional Department-wide trainings on topics such as use of de-escalation techniques and other tactics to reduce tension in civil unrest or other similar scenarios.

## Intra-Agency Cooperation: Other City Stakeholders

Santa Monica is no stranger to large-scale events, like the Twilight on the Pier summer concerts or the Los Angeles Marathon, which for many years has finished in the City and annually attracted thousands of runners and their supporters. In our interviews with City officials and SMPD personnel alike, the Marathon was cited repeatedly as an example of Santa Monica's ability to successfully handle a major logistical challenge. One aspect of that event that is especially noteworthy is the relatively seamless cooperation that it apparently engendered among different City departments. Fire and Police obviously had significant responsibility – and authority – with regard to medical responsiveness and security. But they were not alone. The road closures, temporary signs, transportation demands, parking, and other logistics required – and received contributions from – Public Works, the Office of Emergency Management, and other stakeholders.

However, and significantly, the *pre-planned* nature of the Marathon and the obviously widespread nature of its infrastructure requirements created a paradigm that was, in some ways, the exception rather than the rule. In talking with us, any of these non-SMPD partners respectfully expressed a common frustration regarding SMPD: namely, that the agency's "default" setting inclined much more toward independence and autonomy than a prioritization of inter-department communication and teamwork. Longtime observers of the dynamic described it as a reality of police culture that is far from unique to Santa Monica. The very nature of their usual work supposedly promotes this: Police are used to responding spontaneously to unpredictable circumstances. Flexibility and adaptability are valued, and, accordingly, reliance on other City partners can be relatively limited.<sup>57</sup>

But there are shortcomings to this approach. One is that the other departments would actually like to benefit from consistent coordination with SMPD for accomplishing *their* respective goals.<sup>58</sup> The other was exposed to an unfortunate extent on May 31: By not

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<sup>57</sup> This same dynamic has implications for the "Incident Command Structure" that is second nature to the Fire Department but that is used in more tailored ways by SMPD (and many other law enforcement agencies). We talk about ICS above, and how deviation from its basic principles was costly on May 31. Some of these repercussions were internal to SMPD, but they also affected the overall outcome on May 31.

<sup>58</sup> An official familiar with Public Works offered the example of its landscape and maintenance crews regularly clashing with homeless individuals as they sought to perform City services and finding SMPD to be a reluctant or elusive partner in assisting with security needs.

incorporating entities like Public Works and OEM into their planning, or taking advantage of suggestions and offers that different City partners made *prior to* May 31 with an eye toward possible unrest, SMPD lost valuable ground in scrambling for resources and assistance of various kinds that could have mitigated some of the vulnerabilities the City experienced.

This is not to say that no effective collaboration occurred. On the contrary, there were instances that showed the positive promise of these interactions:

- Public Works, in collaboration with a resident, quickly cleaned up anti-police graffiti from City buildings, possibly diffusing tension.
- Public Works erected fencing in Palisades Park, which one SMPD officer reported greatly assisted with enforcement efforts, sometime between May 28 and 30.
- Agencies worked together to establish a State of Emergency on the afternoon of May 30, which allowed for activation of the EOC and made other emergency resources available to Santa Monica.<sup>59</sup>
- On May 31, traffic enforcement officers set up Jersey barriers at the intersection of Olympic and Ocean Avenue, which may have deterred protesters from marching to the Pier.<sup>60</sup>
- SMPD personnel responded quickly to protect Fire Department personnel who were sent to various fire calls; SMPD sent a Motor Squad to escort SMFD to a business fire call in the business district and a SWAT unit to assist when SMFD personnel faced assaults on 11<sup>th</sup> and Broadway.

But we also noted instances where gaps in intra-agency coordination resulted in troublesome outcomes, both leading up to and on May 31:

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<sup>59</sup> Interestingly, team members within the Office of Emergency Management also noted that communication with the Department had improved considerably when the Assistant Chief was re-assigned to the version of the EOC that had been operating since March to respond to the pandemic. This suggests that the prior shortcomings in the collaboration arena were more a matter of prioritization than inevitability.

<sup>60</sup> We also noted that the Pier Ramp itself was blocked by several rows of bicycle racks and other barriers. These were in place due to COVID restrictions, which required that the Pier be closed to the public.



- We noted one anecdote in which SMPD SWAT personnel were sent to “secure” the 3<sup>rd</sup> Street Promenade on the morning of May 31 without the assistance of Public Works; they used “orange cones and yellow tape” to “secure” the Promenade entrances. Not only was this effort seemingly useless – yellow tape was hardly a deterrent to determined looters – but it was also an ineffective use of the highly-skilled SWAT team that could have been used for other, more tactical, operations.
- We heard different explanations for the non-deployment of heavy equipment (such as trash trucks) to serve as a means of blocking street or alley access. On the one side was the asserted lack of timely requests, while on the other was an alleged reluctance to use the trucks out of concern for damage and insurance consequences. Even without attempting to discern the exact reason, we recognize that the lack of a definitive protocol was itself indicia of a deficiency.<sup>61</sup>
- As detailed in the Mass Arrest section of this Report, transportation of arrestees was significantly impacted by the Big Blue Bus agency’s initial unwillingness to provide both buses and drivers for that purpose, stating that it was not the risk or image that they wanted.
- The woefully inadequate conditions at the airport (also discussed in Mass Arrest) could almost certainly have been alleviated by enlisting the aid of Public Works.

This reality compounded the frustration that many “insiders” felt about the City’s performance on May 31.

To its credit, this is one area that the City quickly worked to remedy in a variety of ways in the aftermath of May 31. These ranged from simple enhancements in the quality of communication between departments to more formalized, elaborate revisions of past protocols. One of the more significant gestures in this latter regard was the development of a comprehensive City-wide emergency operations plan.

Under the direction of the Office of Emergency Management, the City created a special Emergency Operations Plan called “Civil Unrest Annex.” This comprehensive document details the coordinated response of City agencies during spontaneous civil unrest specifically, most importantly by providing specific guidelines for Incident

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<sup>61</sup> We are aware of other jurisdictions in Southern California where the deployment of equipment in this fashion “saved” stores from significant damage from looting.

Command that include leaders from various City agencies. One key goal is to “maintain interoperability and coordination between all departments and divisions within the City.”

Most notably, the plan sets a clear chain of command for operations and communication, placing SMPD at the head of Overall Field Incident Command. In this capacity, SMPD “shall oversee all tactical and operational aspects of the field response. The designated Incident Commander shall oversee and serve as the ultimate authority for field responders, safety of all field locations within their command, and communications with the EOC and Policy Group” and “Enter a Unified Command Structure with the Fire Chief (or their designee) as appropriate.” We note that this high level of responsibility requires that SMPD have, at all times, a sufficiently skilled and high-ranking officer available in the EOC to execute this role.

#### RECOMMENDATION 25

City leadership (specifically, the Office of Emergency Management) should hold a City-wide training event with all relevant City agencies to review the Civil Unrest Annex so that all agencies are aware of their role and expectations during times of spontaneous civil unrest.

#### RECOMMENDATION 26

SMPD should consider who from command-level staff will take on the role of Overall Field Incident Command if the Civil Unrest Annex is activated and train this/these personnel on the requirements and expectations of the plan.

#### RECOMMENDATION 27

City leadership, in collaboration with Public Works, should consider determining guidelines for use of barriers in advance of civil unrest, both protective fencing on public and private property and for traffic control, that are practicable and effective.

#### RECOMMENDATION 28

City leadership, in collaboration with Public Works, should consider establishing guidelines for use of heavy equipment to support defensive enforcement action.

# Mutual Aid: Communication and Command Challenges

## Regional Partners

A Mutual Aid system is used to facilitate assistance to jurisdictions when its own resources are exhausted or inadequate. Santa Monica is part of the “Area A Mutual Aid System,” which includes larger agencies such as the Los Angeles Police Department and Los Angeles Sheriff’s Department as well as smaller jurisdictions such as the Torrance, Hawthorne, Culver City, and Beverly Hills Police Departments.<sup>62</sup>

SMPD formally activated Area A mutual aid shortly after 1:00 PM, a sign that, even in this “early” point in the day, command had realized that the scope and scale of unrest in the City was well beyond their enforcement capacity. In theory, when Area A Mutual Aid is activated, other local agencies send resources to assist when one of their Area A partners is overwhelmed, but, on May 31, nearly all Area A partners were experiencing, faced the threat of, or had just responded to their own civil unrest; some local partners sent the limited support that they could spare.<sup>63</sup>

Aside from limited resources, a factor outside of SMPD’s control, however, our review identified two issues that may have impacted the effectiveness of mutual aid overall:

- SMPD’s own command and control struggles compounded the limitations of mutual aid; when they *did* arrive to Santa Monica, some partner agencies reported that they did not know where to go, what routes to take to deploy effectively, or what actions were required of their teams. A couple of factors cited elsewhere in this Report contributed to this phenomenon. One was the overall inadequacy of the command structure, from the deficient pre-planning to the absence of a defined incident commander and a unified “real time” vision for adapting to unfolding conditions.

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<sup>62</sup> As previously detailed in this Report, on May 30, Santa Monica sent teams to support neighboring Beverly Hills when civil unrest overwhelmed the Beverly Hills Police Department’s capacity. Other SMPD personnel assisted that day and night in Culver City. The officers who responded to other local jurisdictions expressed that these deployments, to areas that rarely, if ever, experienced civil unrest of that magnitude, were concerning to them. These events, they reported, confirmed for them that civil unrest was happening at an unprecedented rate and scale, and that it was possible that Santa Monica might see this level of civil unrest.

<sup>63</sup> As previously noted, for example, SMPD requested Air Support from neighboring Hawthorne Police Department, but the Department was not able to send their police helicopter. Manhattan Beach and Torrance Police Departments also were unable to fulfill requests for mutual aid.

Another – and certainly related – factor was the unannounced shift in staging areas (also alternatively described as the “rally point” or the in-field command post – from the Civic Center parking lot to the Big Blue Bus depot at approximately 1:00 PM. In radio transmissions, various partner agencies are heard asking “where do you need us” or “what is the best route,” and not receiving any decisive responses from SMPD command.

- According to SMPD personnel, some partner agencies wanted to follow their own internal command, were not properly equipped, and did not collaborate in the most effective manner. For example, SMPD reported that, when asked to deploy in small Strike Teams to looting calls, responding LAPD teams did not want to separate their personnel; their insistence on remaining in large groups limited their utility and effectiveness, especially as myriad and smaller-scale “hot spots” developed throughout the City. When responding to Ocean Avenue and Colorado Boulevard to assist with dispersing the crowd, LAPD personnel was not equipped with gas masks, limiting the force options available for crowd dispersal. SMPD Command also reported that responding LASD teams were rotated out throughout the day, making it difficult to track where or how many LASD resources were available and deployed.

SMPD Command also called for support from partners outside of Area A; namely, resources from Area 1A, including the Santa Barbara Sheriff’s Office and the Santa Maria, Lompoc, and Santa Barbara Police Departments. Personnel from these agencies reported that deployment in Santa Monica was particularly difficult as they were not familiar with the area and did not have adequate support or direction from SMPD Command.

## National Guard

Many of the people with we spoke, both within and outside of SMPD, expressed concern and confusion about the National Guard<sup>64</sup> response. Specifically, they wondered why Guard troops were not used more effectively to support SMPD and control the chaos. The narrative we most often heard was that SMPD leadership did not request that National Guard early enough to successfully control the City on May 31. But the circumstances surrounding National Guard activation and deployment turned out to be more complex than initially understood.

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<sup>64</sup> The California National Guard is a military reserve force under the control of the Governor of California that can be activated when the State declares a state of emergency.

First, some questioned why the National Guard had not been called into Santa Monica in advance of civil unrest, given the nature of violence elsewhere in the region (e.g., in Beverly Hills on May 30). But National Guard resources cannot be deployed in advance of, or to prepare for, potential activity. National Guard resource deployment is determined by California's Law Enforcement Mutual Aid Plan, which states that "[California] does not deploy the National Guard in support of law enforcement agencies until local law enforcement capabilities have generally been exhausted, more resource are needed, and the emergency develops in a manner that cannot be resolved by a law enforcement agency." In a letter from the California Military Department to Santa Monica City Council, the Adjutant General wrote that, under the Mutual Aid Plan, it would not have been appropriate for the National Guard to have "prepositioned" forces in Santa Monica on May 30 or even the morning of May 31.

Second, there was confusion about the seemingly long length of time between SMPD's request for Guard troops and their arrival, with many suggesting that the Chief called the Guard "too late" to be effective.

The Chief repeatedly stated, to us and in various public forums, that she called for the National Guard at approximately 2:30 PM on May 31. The National Guard and radio transmissions confirm this timing. At that time, approximately 100 National Guard personnel were assigned to Santa Monica. But the Guard did not arrive in Santa Monica until 8:15 PM, and then took nearly 45 minutes to deploy from the Command Post to various locations throughout the City.<sup>65</sup>

SMPD and City leadership were persistent in their repeated requests for National Guard deployment. From 2:30 to 8:00 PM, various SMPD command personnel requested National Guard assistance over the radio, but the de facto Incident Command continued to broadcast that their "estimated time of arrival" was unknown. We were advised that the Chief continually made calls to both the California Office of Emergency Services (eight calls) and the Los Angeles County Sheriff's Department (three calls) to ask about National Guard deployment and make the case for emergency need in Santa Monica. City leadership, including the EOC Director and Interim City Manager, also made calls to the LASD and the Office of the Governor to determine the status and request deployment of the National Guard.

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<sup>65</sup> Approximately 140 National Guard personnel deployed to Santa Monica on May 31.

So why, despite these pleas, did it take nearly seven hours to receive National Guard personnel? It was, seemingly, a bureaucratic issue tied to resources and competing priorities.<sup>66</sup>

The National Guard is divided into “Operational Areas,” which share available Guard resources in times of high demand. The period from late May to early June was one of extremely high demand, with many local jurisdictions throughout this region requesting National Guard activation to assist in controlling civil unrest.

The Los Angeles County Sheriff’s Department manages local National Guard deployment in the Operational Area. It is our understanding from Department records that on May 31, LASD determined that the 100 personnel initially assigned to Santa Monica at 2:30 PM were actually needed in other areas, particularly Long Beach and the Hall of Justice in downtown Los Angeles. When National Guard resources were finally available, they required an LASD “escort” to travel to Santa Monica; it took additional time to find and deploy this escort given LASD’s asserted limited capacity. The National Guard stated that they responded to Santa Monica “as soon as resources were available.”

When they did arrive and deploy, National Guard personnel were used mostly as “fixed security posts,” to protect essential facilities, such as City Hall and the Public Safety Facility, and staged at otherwise unprotected businesses throughout the downtown area.

The frustration over the National Guard’s late arrival to Santa Monica is understandable – SMPD and other mutual aid resources were overwhelmed long before Guard troops reached the City. The level of region-wide unrest was simply unprecedented, taxing and challenging communications systems and deployment strategies in ways that the area’s law enforcement agencies and partners were not entirely prepared to handle. SMPD has developed an internal plan that could serve as a temporary fix to address the bureaucratic confusion that impacted the Guard’s timing on May 31, but should work with its partners to develop formalized solutions.

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<sup>66</sup> In not particularly insightful email correspondence between SMPD Command and the EOC after May 31, the EOC cited that the National Guard was not timely deployed “due to bureaucracy with [California Office of Emergency Services] and paperwork.”

## RECOMMENDATION 29

SMPD leadership should work with Area A partners to develop solutions to address the bureaucratic challenges exposed on May 31 and ensure an equitable distribution of National Guard assets in future situations involving civil unrest.

## Response to Protest Activity: Learning from Others

A number of other cities in Southern California experienced levels of violence and looting similar to that in Santa Monica in late May and early June 2020, particularly Los Angeles, Beverly Hills, and Long Beach. Other cities, however, were able to forestall looting and other violence. Whether these outcomes were the result of good fortune or superior planning is largely case specific, but SMPD should study these different outcomes to identify strategies employed by other law enforcement agencies and consider their potential future application in Santa Monica.

Moreover, Santa Monica should also review after action reports from other cities (such as Los Angeles, La Mesa, Iowa City, New York, and Denver) to evaluate the issues confronted by their law enforcement agencies so that it can learn from recommendations coming out of those reviews. The newly minted Intelligence Unit seems a good fit for identifying best practices identified elsewhere and importing them to the City.

## RECOMMENDATION 30

SMPD should reach out to other law enforcement agencies who confronted violence and looting in the summer of 2020 and review after action reports from other jurisdictions to identify best practices that could be imported to Santa Monica in responses to future protest activity.

## Dispatch Issues

One of the issues that generated a measure of public interest in the aftermath of May 31 was the performance of the city's "Public Safety Communications" center – the dispatchers who handle calls in Santa Monica on behalf of both the Police and Fire Departments. This unit's performance attracted attention in a couple of ways. The first was because the deluge of calls from concerned residents (as well as other individuals monitoring events on television) was one metric for the scope of the unrest, particularly in the chaotic hours of the late afternoon. The other was the experience that numerous individuals had of being *more* disconcerted about the situation as a result of how their outreach was handled.

The Public Safety Communications ("PSC") team is part of the Office of Emergency Management for the City – and a separate entity from either Police or Fire. This has created issues in the past, insofar as PSC supervision believed that more regular communication and notification from SMPD would assist them in being more aware of major issues and thereby serve the Department better. We were advised that, while the PSC did have a designated SMPD liaison for planning purposes and logistical questions, advance contacts were not commonplace. And, indeed, PSC attempts at outreach with the designated SMPD liaison in the early hours of Sunday morning were not successful; he indicated he was preoccupied with other duties and did not suggest a designee.

Our understanding is that the dynamic has improved noticeably in recent months, consistent with overall reports that SMPD has made a conscious effort to engage more pro-actively with a range of City partners. We were advised that SMPD is viewed as "much more inclusive now," a positive development that should work to the advantage of all parties.

As for the performance of the dispatch team on May 31, the managers we spoke with professed to be extremely proud of their overall effectiveness on a uniquely difficult day. As the hours progressed, it became clear to supervisors that the normal protocols were no longer feasible, as a team of six call-takers attempted to work through the massive number of incoming communications. The dispatchers were given direction to prioritize medical or safety concerns, while reports of damage to property were to be dealt with very quickly, which meant calls were often dismissed brusquely. Calls about the same situation were ended with a brisk, "We're aware," and some individuals were told to "call



back tomorrow” to report a non-dynamic concern, given that police resources were unlikely to be available for hours.

From the perspective of residents who were understandably rattled, and who had perhaps called 911 rarely if ever in their lives, the experience of being hurried along and swiftly dismissed was disorienting – or worse.<sup>67</sup> We are sympathetic to the impact of this experience. At the same time, having listened to a large and randomly selected sampling of the calls in conjunction with a PSC supervisor, we found much to admire in the professionalism and steadiness of the call-takers as they operated under significant pressure.

It helps, of course, to understand the broader context and the legitimate rationale for the direction given to the dispatchers to expedite their interactions. This backdrop was obviously not known to the hundreds of people who reached out for different reasons. And, to be sure, we also heard individual instances of impatience and obvious frustration that took away from the positive overall impression that we had.<sup>68</sup> But those were significantly outnumbered by calls that were handled professionally, efficiently, and with composure. We heard a small number of actual medical emergency calls that were unrelated to the unrest, and in each instance the dispatcher slowed things down, worked well with the caller, and addressed the situation appropriately.

With all that said, we were interested to learn that the PSC had not yet engaged in any type of formal internal “debrief.” The day was an extraordinary one, and some sort of training or reinforcement that was built around actual calls and their processing would likely be beneficial. We proposed the idea to supervision at the center and appreciate their receptivity and their informative visits with us.

### RECOMMENDATION 31

The Public Safety Communications Center should review a sampling of calls (of varying degrees of effectiveness) as a platform for the staff-wide reinforcing of strengths and offering of constructive alternatives as warranted.

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<sup>67</sup> One individual whose calls had been terminated before he was satisfied called back repeatedly, and with increased anger on each occasion.

<sup>68</sup> To be clear, none of these instances was egregious, or corroborated the rumored extremes that were brought to our attention during this project. It should also be noted that the PSC did not receive any formal complaints in connection with the May 31 response.

## Curfews: Restoring Order and Sparking Controversy

On Saturday, May 30, the interim City Manager, acting as Director of Emergency Services, issued a Proclamation of Existence of a Local Emergency that provided the legal basis for the City to impose a curfew for that night beginning at 8:00 PM. No protest activity had as of then begun in Santa Monica, but violence associated with demonstrations in Los Angeles, Beverly Hills, Culver City, and West Hollywood had prompted those cities to institute curfews, and City leaders wanted to be prepared in a similar way.<sup>69</sup> Saturday night's curfew lasted until 5:30 AM on Sunday.

The initial decision to institute a curfew on Saturday came together in the early evening in response to events in surrounding jurisdictions. A series of email communications between the interim City Manager, the interim City Attorney, and a senior supervisor in Santa Monica's Office of Emergency Management reflect the preparations and deliberations that went into the decision. Because there is formal regional cooperation between individual cities, the curfews that had been declared earlier in neighboring jurisdictions were clearly an influence. Even so, it was after 7:00 PM that Santa Monica officials finally decided to move forward.

At 2:09 PM on Sunday, as reports of looting were streaming in from various places, the City extended the curfew order and declared that a City-wide curfew would go into effect at 4:00 PM. The curfew was extended on Monday, with restrictions starting at 1:30 PM. The City issued supplemental curfew orders on Tuesday and Wednesday of that week (June 2 and 3), with prohibitions on access to public streets and other public places beginning at 2:00 PM and 6:00 PM, respectively. The curfew orders expired on Thursday morning at 5:30 AM.

The existence of the curfew order (particularly on May 31) gave the SMPD an effective tool for clearing the streets by making large-scale mass arrests. As we discuss elsewhere, it also provided a short-cut for officers to detain and arrest suspected looters without having to gather and document evidence (though this had significant implications for accountability and public opinion). Without the curfew as an enforcement tool, it likely would have taken the SMPD much longer to restore calm to the City on Sunday night. And the subsequent curfew orders through the first part of

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<sup>69</sup> It is notable that the City was sufficiently alarmed on Saturday night to impose a curfew order, yet the SMPD did not begin to seriously prepare for potential violence until Sunday morning.

week of June 1 receive partial credit for keeping violence and looting from spiraling out of control as it had on Sunday.

But Santa Monica's decision to shut down its streets was not universally applauded. In June 2020, the ACLU filed a lawsuit on behalf of Black Lives Matter-Los Angeles and four individuals impacted by the curfews, challenging the constitutionality of the curfew orders in the City and County of Los Angeles. Santa Monica and other municipalities have been named defendants in a more recent lawsuit brought by various other individuals. Among other things, the lawsuits allege the curfew order was used as a tool to suppress protesters' criticism of police. Litigation also will involve allegations related to the conditions of detention that we discuss in more detail elsewhere.

**TABLE 3: Curfew Citations Issued**

Date	Number of Citations
May 31	289
June 1	63
June 2	31
June 3	4
June 4	1

Criticism of curfews throughout Southern California and nationwide has included concerns about selective enforcement in communities of color and the burden they impose on people who work irregular hours, most often in service industry jobs where workers are disproportionately people of color. Enforcement of curfews leads to increased police interactions with individuals and potential confrontations that can be seen as exacerbating the dynamics that gave rise to the protest movement in the first place. And while the curfew provides an effective enforcement tool for keeping City streets clear, it creates the potential for overreach, disparate impact, and largely unfettered discretion to police on who to arrest and when.

Balancing these concerns with the need to give police tools to prevent looting and violence is a delicate task, and one that requires trust and confidence in the police to wield a rather blunt instrument (a curfew order) judiciously. In Santa Monica, curfew enforcement dropped off through the week, to just five citations issued on Wednesday into Thursday morning, when the last order expired at 5:30 AM.

### RECOMMENDATION 32

The City should engage with its community in developing guidelines on whether and how curfews should be deployed, particularly when adjacent to First Amendment protected activity.

# Assessment & Analysis: Post-Protest

## Communication with the Public in the Aftermath: Making a Tenuous Situation Worse

As we have detailed throughout this Report, there were significant issues with SMPD's preparation and response to events as they unfolded on May 31, with SMPD personnel scrambling throughout the day to respond to various outside forces converging on the City. Shortcomings in planning and deployment prevented SMPD from taking the initiative; instead it was stuck in a defensive posture, unable to provide adequate responses on all fronts.

But in the ensuing days, the then-Chief and other City leadership attempted to put a positive spin on the events rather than candidly acknowledging the significant shortcomings in SMPD's response. For example, in one widely-accessed podcast, the Chief admitted the Department had not performed as well as it could have and owed it to their community to do better, but the rest of the interview touted the "accomplishments" of SMPD that day and failed to mention one specific way in which the Department's response could have improved.

In the same podcast, the Interim City Manager said that she would give the Police Department a "strong A" for its performance, acknowledging the challenging tactical decisions they confronted but touting their techniques and training while also expressing gratitude for keeping the community safe.<sup>70</sup>

This podcast is illustrative of the Chief (and City's) problematic responses in the immediate aftermath of May 31. Instead of conceding that SMPD was overwhelmed by the challenges that day and taking some responsibility for the planning and deployment decisions that made what was going to be a difficult day even worse, the Department insisted on describing the events in a way that suggested it had actually performed quite well. That it accomplished this by telling only a part of the story, and in the light most favorable to SMPD, contributed to the poor impression it made among many interested

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<sup>70</sup> The Interim City Manager soon recognized that her assessment of the Police response was premature and ill-advised, though her emphasis on the importance of the community's physical safety was sincere.

community members – as well as a number of individuals within SMPD.<sup>71</sup> This dissonance between the Department's message and the public's experience (either in person or watching on television) caused a serious rift in trust that increased the unease of many Santa Monicans in relation to what had transpired on May 31.

A particularly troubling assertion repeatedly made by the Chief in the days following May 31 was that the Department had no prior intelligence that the protest activity had the potential for violence. As detailed above, SMPD did in fact have information suggesting it should be prepared for violence in the run up to Sunday afternoon. The credibility of the Department was further undermined as members of the public uncovered social media posts that predated the afternoon of May 31 predicting looting and potential clashes in Santa Monica.

It is crucial that the messaging following an event involving issues of the magnitude faced by the City of Santa Monica and its Police Department on May 31 be carefully yet candidly crafted. This is no easy feat; oftentimes law enforcement and city leadership are still in the throes of figuring out what happened – both what went well and where performance fell short – while being pushed by impatient demands for information. There are some overarching principles, however, that must be considered as any city communicates with its public in the aftermath of an event such as May 31.

First, while the public is entitled to receive preliminary information, there must be a high degree of confidence in the accuracy of the information to be released. As significantly, the agency should make it clear that any information released in the immediate aftermath is preliminary and subject to further confirmation. City and law enforcement leadership should refrain from responding to questions designed to elicit a simplistic evaluation of performance of a complicated operation until the facts are fully distilled and analyzed. If further vetting and analysis needs to be done before leaders have a good handle on what occurred, they should save any unconfirmed details for another day, with commitments for subsequent follow up.

Second, any information must strive to provide a fair and balanced account of what transpired, along with the governmental response. A carefully crafted message in support of the line officers for their efforts in conjunction with some recognition that command had let them and the City down in notable ways would have been a fairer characterization of SMPD performance on May 31 that would have resonated better

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<sup>71</sup> More than one Department member expressed the view that the subsequent communications were as damaging to SMPD's status in the City as were the shortcomings of May 31 themselves.

with the public. Details of police performance should not be “cherry picked”; rather, a fair account of a response is needed, with open (albeit uncomfortable) acknowledgement of the department’s shortcomings.

In this case, police leadership should have recognized the need to support its personnel while conceding that command staff planning and decision-making was sub-optimal.

We understand that since the event, the City has engaged a Public Information Officer for SMPD who will be assigned and available during an emergency event to coordinate with the EOC and to provide continuous information to the community and key stakeholders. This is a promising indicator of the City’s recognition that communication to the Santa Monica community is an important element of the police response to signification events.

### RECOMMENDATION 33

The City and SMPD should continue to evaluate and refine the ways it communicates with the Santa Monica community following any significant event involving a police response, guided by principles of transparency, accuracy and objectivity.

## Use of Force Review Process

In law enforcement deployments that are as long, complex, dynamic, and widespread as the efforts to maintain or restore order in Santa Monica on May 31, a number of factors can complicate the effective internal review of individual force deployments. The sheer scope of the demands on the agency – which persisted in this case for many days – can lessen the emphasis on the kind of initial documentation and accountability that is normally expected. The chaotic, ongoing nature of the encounters to which officers reacted meant that force of various kinds proliferated at levels that posed challenges for tracking. And, unlike the customary circumstance in which force occurs in an arrest context that facilitates assessment of possible injury and appropriate investigation, many if not most of the deployments involved individuals who were not taken into custody, and whose identity is unknown.

While all of these challenges merit consideration and some level of understanding, they are *not* a valid justification for dispensing with some form of meaningful assessment at the individual as well as systemic levels. As opposed to the later comment that was reportedly made by a supervisor – perhaps in jest – that he thought May 31 was a “free day” in terms of the usual force documentation protocols, SMPD should be giving *heightened* attention to the behavior of its officers on this day.

Public concern over deployment like the tear gas and less lethal rounds that were used on Ocean Avenue, as well as the learning opportunities afforded by unprecedented circumstance, should provide impetus for SMPD to carefully consider the role of force in its responses that day. And regardless of extenuating circumstances, individual accountability at some level is warranted to ensure that personnel are appropriately trained or counseled for future action.

Additionally, evaluation of individual uses of force serves to inform larger, Department-wide changes. For example, if many officers have problematic deployments of Pepperball during an incident, the Department should consider that training on Pepperball deployment was ineffective and/or that policy changes are needed at the organizational level. The inverse is also true: if only one officer’s use of Pepperball was out of policy while others were appropriate, the Department might consider individual remedial action rather than a larger scale systematic change.

Indeed, these are all reasons why departments have regular systems of force review, and SMPD is no exception. In day-to-day policing, SMPD typically employs a robust

use of force review process in which anything beyond mere handcuffing is reviewed and documented. While the Department has made initial gestures in applying this standard to May 31, there is seemingly much more grist for meaningful supervisory attention than has occurred so far, and we encourage SMPD to prioritize it.

SMPD attempted to review officers' May 31 uses of force in some systematic way, but the process that was employed was delayed, limited and, to date at least, insufficient. The force review that has occurred so far did not result in any detailed report or any findings that one might expect from an appropriately comprehensive review process. Instead, the Department's minimalist effort left space to question both individual officer's actions, larger training needs, and necessary organizational changes.

SMPD's policy on use of force reporting states in relevant part:

*Any use of force by a member of this Department shall be documented by the involved member(s) promptly, completely and accurately in an appropriate incident/crime report or supplemental incident/crime report, depending on the nature of the incident.*

The policy requirement that the force documentation be "prompt" was apparently not followed with regard to the deployment on May 31 as it was not until mid- June 2020, that all officers who used force on May 31 were instructed to submit a use of force memorandum detailing, to the best of their recollection, the force used, the location and victim(s), and the circumstances. Thirty-three officers of the nearly 200 deployed on May 31 submitted memos documenting uses of force that ranged from takedowns and baton strikes to deployment of chemical and other less lethal munitions. We acknowledge the officers who submitted a report for their forthrightness. We also acknowledge that many Departments nation-wide used this directed reporting strategy in response to their large-scale incidents.

To its credit, the Department recognized this strategy likely resulted in underreporting. While much of the force used on May 31 met the traditional reportable force criteria, most was not initially reported and, therefore, not documented. If an officer did not



submit a use of force memo, SMPD assumed that the officer did not use any force on May 31.<sup>72</sup>

Despite this, SMPD represented that they reviewed the reported uses of force using their established Internal Review Board process. This involves a panel of command staff, subject matter experts, and peer officers who perform an extensive review of the force itself and reach a final disposition, or conclusion about whether the force was in policy. According to command staff, the Internal Review Board for May 31 was a day-long session on February 3, 2021, consisting of subject matter expert and peer review of body-worn camera video and other evidence related to each use of force reported by officers on May 31. Some uses of force, they stated, were even “kicked back” to the involved officer for more detail. In some cases, an SMPD executive informed us, officers might have received a “White Card,” or supervisor counseling session, for the uses of force that were within policy but might have related concerns.

This all seemed reasonable and effective given the totality of the circumstances. Few Departments nationwide had systems in place to evaluate force on such a large scale, and that SMPD completed a review process at all was at least worthy of “partial credit.”

However, the evaluation and findings memo documenting the outcome of the Internal Review Board lacked the kind of details we expected to see, and that might be valuable for both individual remediation and systemic change. First, we noted that the Internal Review Board evaluation happened nine months after the incident, itself an unusually long time for case review. Second, the memo did not detail any specific uses of force or evaluate specific force for compliance with Department policy, instead conceding that there “was no way to specify the type of force that would be reasonable to effectively control a situation” like May 31. Third, it contained limited general findings and no specific conclusions about any individual officer’s use of force. Instead, the memo concluded that “no investigative referral [was] needed regarding the use of force on May 31, 2020.”

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<sup>72</sup> SMPD also represented that nearly a year after the incident, Detectives were still conducting a comprehensive review of May 31 body-worn camera footage to identify unreported uses of force for internal review; at the time of this Report’s publication, it is not clear when this review will be complete or what the outcome will be. But even a comprehensive review will include gaps on this front, as detailed elsewhere, there were apparently a significant number of officers who failed to heed policy and activate their body-worn cameras during their deployment that day.

The memo did highlight two Department-wide training items and one policy update: (1) use of body-worn cameras in accordance with Department policy; (2) a review of the use of force reporting policy; and (3) development of a use of force reporting policy/procedure for civil unrest situations and when the subject of a use of force cannot be identified. However, the details of specifically how to address apparent deficits in the force review process were not provided.

The force review process as documented did not sufficiently provide accountability for the force used on May 31. In our review of the available body-worn camera footage, we noted some uses of force that could have and should have risen to the level of administrative review, or “investigative referral;” a detailed review of these and other uses of force may have resulted in accountability, remediation, or training for the involved officer to improve future performance and, perhaps more importantly, might have highlighted the need for additional Department-wide training. In our review, we identified a number of specific instances where a more rigorous evaluation of questionable force would have been beneficial.

For example:

- An officer who struck an individual seated on the ground with a baton to make the individual move.
- Officers’ uses of Pepperball on a suspect who was running away from a parking garage.
- Officers who fired rounds at the ground to “skip” in various directions versus at specific targets.
- Officers’ use of 37mm less lethal impact munitions fired at areas other than the center mass of a suspected aggressive target or at individuals who were running away.
- Officers who executed takedowns of individuals who were attempting to leave the area when officers mistakenly believed them to be looters.
- An officer who cut an arrestee’s hand while removing flex cuffs with a knife.
- Officers’ repeated uses of profane language in high-intensity tactical situations, which further heightened tensions.

This is to say nothing of the gas deployments that occurred in different locations, most notably to address the standoff with protesters on Ocean Avenue, and which implicate important questions about the conditions and precautions that should dictate this approach to crowd control.

Command staff has acknowledged the deficiencies in the final memo and have represented that they are committed to the needed Department-wide changes and on-going trainings. We encourage them to prioritize this and to update the public on the progress of its efforts, as well as a more detailed incident specific summary of final conclusions and “lessons learned.”

#### RECOMMENDATION 34

SMPD should develop and approve a use of force reporting policy/procedure requiring officers to document force used in civil unrest situations, or any circumstance where the subject of a use of force cannot be identified, and make clear that in crowd control situations, officers are expected to document all reportable force, including each deployment of less lethal munitions.

#### RECOMMENDATION 35

SMPD should revise its force reporting policy to require that all documentation of use of force be completed prior to an officer completing her/his shift and entrust supervisors to enforcement of this policy.

#### RECOMMENDATION 36

SMPD should complete the two Department-wide training items identified in the Internal Review Board memo related to uses of force on May 31: (1) review of body-worn camera policy and (2) review of the Department use of force reporting policy.

#### RECOMMENDATION 37

SMPD should develop and deliver on-going Department-wide training related to documenting and reporting use of force in civil unrest situations or other large-scale incidents, and incorporate body-worn camera procedures and use of force reporting into all department tactical training.

#### RECOMMENDATION 38

SMPD should remind all officers – in daily briefings, a Department-wide training or a Training Bulletin, and specifically in briefings prior to any

protest activity – of the requirement to activate their body-worn camera generally per policy and during crowd control incidents in specific.

#### RECOMMENDATION 39

SMPD should identify and consider appropriate remediation for those officers who failed to comply with the Department's body-worn camera policy on May 31, 2020.

#### RECOMMENDATION 40

SMPD should regularly audit body-worn camera use by officers to ensure that policy requirements and expectations are being met in the field regarding activation.

#### RECOMMENDATION 41

SMPD should conduct and document a meaningful administrative review of officers' uses of force following civil unrest situations or other large-scale incidents and should consider "investigative referral" of specific uses of force that may be out of policy or require specific remedial action.

## Officer Morale and Wellness

Over the course of this project, we met Department personnel from several different rank levels and were struck by the number who became emotional during our conversations about the events of May 31. This is not a common experience for us in dealing with the notoriously stoic world of law enforcement agencies, but it is also not surprising. The events of May 31 in Santa Monica were extraordinary. The consequences of that day and the regrets over deficiencies in SMPD's initial response had clearly left a strong impression. And underscoring this was a woundedness over the intense, dangerous hostility that these officers – who think of themselves as well-meaning and committed to the City – encountered to an unprecedented degree.

In addition to encountering steady vitriol, officers had rocks, bottles, and in one case, fireworks, thrown at them, and some were physically injured. Several officers reported that glass bottles thrown at the skirmish line shattered at their feet and a sergeant shared that a glass bottle hit her calf. Another shared that a firework was thrown at the skirmish line, exploding on the ground directly in front of him, shooting up debris and causing disorientation and momentary hearing loss. An officer who was attempting to control the situation at 11<sup>th</sup> and Broadway reported that the scene was unlike any other that he had seen in his long career, describing it as “chaotic and violent” and admitting that he was fearful that they would be overrun. Another supervisor described the painful experience of having his wife and young children come to Santa Monica on Monday June 1 to assist with the cleanup, and knowing that they were seeing “Fuck the Police” written in graffiti in multiple locations.

Adding to this dynamic within SMPD was a sense of being scapegoated for the harms that came to the City on May 31. Indeed, as much as the ongoing national dialogue about police reform has prompted uncertainty and concern about the future of the profession, the feelings of unearned condemnation and loss of community status are even seemingly even more burdensome. Officers throughout the organization committed dozens of hours during those days to navigating an extremely challenging landscape, and their perseverance had been critical in regaining a sense of control. But the “conventional wisdom” in the City appeared to revolve almost exclusively around SMPD's failures. In subsequent weeks, the rank and file did not hear significant public efforts to provide context or address some of the harshest criticisms against their performance.

In their conversations with us, the Department's leaders took ownership of significant shortcomings. And, to be clear, our own review left us with a detailed sense of ways in

which things could and should have gone better – particularly on May 31. Moreover, while acknowledging that we do not have a specific finger on the pulse of SMPD’s broader amenability to law justice system reforms, we also know that an openness to adapting to new expectations – rather than defensiveness or resentment – will need to be part of every high-functioning agency’s philosophy in the months ahead.

At the same time, though, we recognize that fairness toward and collaboration with police departments are ingredients for positive change that certainly deserve their place in the conversation. Part of that process is an appropriate concern for the wellness of officers in Santa Monica and elsewhere.

#### RECOMMENDATION 42

SMPD should review its systems for supporting officer wellness, including the availability of counselors and other professionals, and should consider ways to encourage officers to take advantage of those programs who may be struggling with the trauma of the events of May 31 and other events of the past year.

## Implementation of OIR Recommendations

When the City engages independent experts or consultants to review systems or events, it is critical that it ensure a robust and transparent feedback loop on the degree to which the Police Department accepts any systemic recommendations made, and whether, how, and when recommended changes are implemented. As a first step, the Police Department should report back to its elected representatives and its public on the degree to which it agrees with the recommendations and the feasibility of implementation. Then, the City should work with the Police Department to develop an implementation plan with regard to the accepted recommendations. Finally, the City should consider whether an independent body should review the degree to which the Police Department has implemented the recommendations. We note the City's newly-formed Public Safety Reform and Oversight Commission and the Office of Inspector General might be tasked with reporting on the progress of or overseeing any implementation plan.

### RECOMMENDATION 43

The City should request that SMPD prepare a response to this report indicating the degree to which it accepts each of the recommendations made and setting out a plan for implementation.

### RECOMMENDATION 44

The City should develop a plan for independent evaluation and public reporting on the status of SMPD's implementation of the recommendations.

## After the Unrest: Progress for SMPD and the City

In early March of 2021, we received a letter from the Interim City Manager in response to a request for information about new approaches that the City had adopted after May 31. Each item identified and addressed in this letter, most of which we learned about during the course of this review, strike us as being constructive and worthwhile in ways that should reassure the City's residents.

We discuss these reforms throughout our Report (see, for example, the discussion of the "Civil Unrest Annex" when we evaluate the Intra-Agency response). Many of them reflect the value of – and an increased commitment to – collaborative, coordinated interactions between the City's various service providers. As the City has itself proven in the execution of successful, large scale events in the past and since May 31 (and as May 31 showed by unfortunate contrast), there is much to be gained from regular communication and taking advantage of each other's strengths.

A second component of the City's post-May 31 commitments involve public contributions to shaping the future of law enforcement in Santa Monica. A "Public Safety Advisory Committee" was formed in the summer of 2021, bringing together representatives from a range of stakeholder groups. This committee issued a report that identified key issues and spurred substantive conversation about use of force and other influential topics that have long remained the isolated purview of police agencies themselves. It also directly informed a series of reform measures adopted by the City. One of these, the new "Public Safety Reform and Oversight Commission" will provide new levels of accountability for SMPD.

Meanwhile, the Department itself moved forward with a number of internal shifts that sought to rectify shortcomings while reinforcing the "real time" adaptations that had proven effective on May 31 and subsequently. To her credit, the former Chief drove or authorized some of these steps prior to her retirement in October. They include the following:

- An expanded "Mobile Field Force" unit that has trained numerous new officers (who volunteered for this important collateral assignment<sup>73</sup>) focusing on modern, effective responses to crowd management. SMPD's unit is now three times

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<sup>73</sup> A "collateral assignment" or "collateral duty" is when an officer takes on a task or role in addition to his/her regularly assigned role.



larger than it was in May of 2020, and has been provided with specialized training and equipment.

- A new commitment to its “small team tactics” as a response strategy for widespread and diffuse acts of vandalism, looting, or aggression. As a deviation from the traditional and somewhat monolithic “skirmish line” approach of holding positions with large groups of officers, it was quick response teams of 4-6 officers that were able to react more nimbly, and in a more focused fashion, to the most problematic incidents/individuals. (We discuss this concept above in our recounting of May 31’s events.) Santa Monica’s success with this approach was shared with other agencies as the summer progressed, as law enforcement throughout the region looked for productive adjustments to the unique challenges of the May/June unrest.
- A new “Intelligence Cadre” that, per a description we recently received from the Deputy Chief, was created “to establish a network of motivated employees who are committed to acquiring and assessing information from a variety of sources to best safeguard our community.” This ongoing project is staffed as a collateral duty by a team of Department members who work in conjunction with the two sergeants of the Planning and Intelligence Unit. Its efforts show the agency’s unequivocal recognition of the value of intelligence gathering from a variety of sources, including social media. The unit is a direct response to the information gaps and disjointed efforts that marred preparedness in the run-up to May 31.

Each one of these adaptations constitutes a positive response to the issues that May 31 exposed or produced. Taken together, they underscore a theme that has recurred in our conversations with knowledgeable parties within SMPD and throughout the City: that the failings of May 31 were real, but they do not define the Department’s capabilities or the City’s determination to move forward in stronger fashion.

## Conclusion

As this Report was being finalized, the verdict in the murder trial of Minneapolis Police officer Derek Chauvin brought a measure of justice to the tragedy that initiated a movement. But the broader pursuit of racial equity and a new paradigm for public safety is still very much a work in progress. Santa Monica, like numerous other jurisdictions, continues to grapple with these ideas in a variety of forums. And SMPD, to its credit, has been an active participant in these efforts.

Each community brings its own history, politics, and distinctive experiences to the process of moving forward. In Santa Monica, dismay over the events of May 31 meant that one necessary task was the creation of a full and independent “after action” report that would provide clarification as to what had gone wrong, and why. This Report obviously seeks to answer those questions. We hope that the facts and analysis it offers provide a basis for community members to reach their own conclusions, and to assess the Department’s ongoing performance from a foundation of heightened understanding.

Nearly a year has passed since Santa Monica experienced unprecedented unrest. If this Report contributes to the productive closing of that chapter from the past, then we will be gratified. But as our own work on this project progressed over the course of several months, we encountered regular reminders that the City and SMPD were not sitting still and waiting. On the contrary, significant and positive changes have already occurred, informed by – but also extending well beyond – people’s experience of May 31. We look forward to watching the evolution as it continues to unfold, and wish the best to both the people of Santa Monica and the members of its Police Department as it does so. We also look forward to presenting this report to City leadership and Santa Monicans and engaging in any ensuing dialogue.

# APPENDIX A: Recommendations

- 1: When engaging outside assistance to review significant events, SMPD and the City should carefully and deliberately consider the scope and terms of that review and should be open and transparent about the engagement.
- 2: The Chief of Police should make clear to the Department and City leadership when they will be out of town and clearly designate an Acting Chief in her or his absence.
- 3: SMPD should develop written protocols to ensure that an operations plan is developed in advance of all potential crowd control situations, establishing expectations for the depth and inclusion as well as a chain of command approval mechanism.
- 4: SMPD should develop written protocols to ensure timely and thoughtful designation of an incident commander for special operations.
- 5: SMPD should ensure that critical personnel, including those tasked with intelligence gathering and other crucial functions, remain in the City prior to a major incident and are not sent out as part of a mutual aid response or otherwise assigned supplementary duties.
- 6: SMPD should establish a dedicated listserv with “read receipt” functionality for command to receive intelligence briefings in a formal and timely manner and confirm receipt of such information.
- 7: The Department should regularly review and update its Mass Booking Procedures policy to ensure that the listed contact information and location and availability of all itemized equipment is current and correct.
- 8: SMPD should develop a tracking mechanism, such as a log for less lethal munitions, specifically to track how many of which types of munitions are used and by whom.
- 9: SMPD should examine the use of the flashbang device on May 31 through the lenses of accountability, advisability, and remediation.

- 10: SMPD should conduct a detailed analysis regarding whether the Pepperball deployments on May 31 were consistent with Department policy and expectations.
- 11: SMPD should revise its use of force policies to either specially define “riotous” or eliminate the terminology from its policies.
- 12: SMPD should amend its policy to provide further guidance regarding deployment of less lethal munitions, particularly to guard against injuries to the face and head.
- 13: SMPD should conduct regular and ongoing training on use of impact munitions in crowd situations so that all officers trained in the use of these munitions are advised of how to most effectively deploy them and have a clear understanding of Departmental expectations.
- 14: SMPD should engage with its community and City leaders to determine whether and to what degree gas and other less lethal munitions should be used in the First Amendment activity context.
- 15: After having the above discourse, SMPD should revise its use of force policy related to deployment of tear gas and less lethal impact munitions in crowd control situations to specify the circumstances, if any, under which they may be used.
- 16: Training for supervisors on unlawful assembly should emphasize the need to follow Department policy and reach out to event organizers or participants with the goal of gaining voluntary dispersal prior to issuing formal dispersal orders.
- 17: In crafting dispersal orders to instruct crowds about the routes of egress from a protest, SMPD policy and training should require officers to consider conditions such as traffic and officer deployment to ensure the feasibility and safety of any direction provided about dispersal routes.
- 18: SMPD policy and training regarding dispersal orders should be revised to require personnel officers to include express warnings about the potential use of force should the order be defied.
- 19: SMPD should continue to impress upon its supervisors the need to follow all dispersal order protocols before any introduction of less lethal munitions.

- 20: SMPD and the City should engage with the community as it considers the circumstances required for a public protest to be declared an unlawful assembly. The resulting guidelines should be publicized in a way that provides City residents and stakeholders a clear understanding of under what circumstances the SMPD will declare an unlawful assembly.
- 21: SMPD should continue to provide command level staff with updated training on the ICS so that command staff is knowledgeable about its use and benefits.
- 22: SMPD should ensure that all command staff personnel are well versed in contemporary crowd control responses, particularly in the First Amendment context.
- 23: SMPD should continue to regularly train all officers in Mobile Field Force tactics, to include the newest techniques with live, hand-on scenario training and new laws related to First Amendment Assemblies and civil unrest.
- 24: SMPD should consider additional Department-wide trainings on topics such as use of de-escalation techniques and other tactics to reduce tension in civil unrest or other similar scenarios.
- 25: City leadership (specifically, the Office of Emergency Management) should hold a City-wide training event with all relevant City agencies to review the Civil Unrest Annex so that all agencies are aware of their role and expectations during times of spontaneous civil unrest.
- 26: SMPD should consider who from command-level staff will take on the role of Overall Field Incident Command if the Civil Unrest Annex is activated and train this/these personnel on the requirements and expectations of the plan.
- 27: City leadership, in collaboration with Public Works, should consider determining guidelines for use of barriers in advance of civil unrest, both protective fencing on public and private property and for traffic control, that are practicable and effective.
- 28: City leadership, in collaboration with Public Works, should consider establishing guidelines for use of heavy equipment to support defensive enforcement action.
- 29: SMPD leadership should work with Area A partners to develop solutions to address the bureaucratic challenges exposed on May 31 and ensure an equitable distribution of National Guard assets in future situations involving civil unrest.

- 30: SMPD should reach out to other law enforcement agencies who confronted violence and looting in the summer of 2020 and review after action reports from other jurisdictions to identify best practices that could be imported to Santa Monica in responses to future protest activity.
- 31: The Public Safety Communications Center should review a sampling of calls (of varying degrees of effectiveness) as a platform for the staff-wide reinforcing of strengths and offering of constructive alternatives as warranted.
- 32: The City should engage with its community in developing guidelines on whether and how curfews should be deployed, particularly when adjacent to First Amendment protected activity.
- 33: The City and SMPD should continue to evaluate and refine the ways it communicates with the Santa Monica community following any significant event involving a police response, guided by principles of transparency, accuracy and objectivity.
- 34: SMPD should develop and approve a use of force reporting policy/procedure requiring officers to document force used in civil unrest situations, or any circumstance where the subject of a use of force cannot be identified, and make clear that in crowd control situations, officers are expected to document all reportable force, including each deployment of less lethal munitions.
- 35: SMPD should revise its force reporting policy to require that all documentation of use of force be completed prior to an officer completing her/his shift and entrust supervisors to enforcement of this policy.
- 36: SMPD should complete the two Department-wide training items identified in the Internal Review Board memo related to uses of force on May 31: (1) review of body-worn camera policy and (2) review of the Department use of force reporting policy.
- 37: SMPD should develop and deliver on-going Department-wide training related to documenting and reporting use of force in civil unrest situations or other large-scale incidents, and incorporate body-worn camera procedures and use of force reporting into all department tactical training.
- 38: SMPD should remind all officers – in daily briefings, a Department-wide training or a Training Bulletin, and specifically in briefings prior to any protest activity – of the requirement to activate their body-worn camera generally per policy and during crowd control incidents in specific.

- 39: SMPD should identify and consider appropriate remediation for those officers who failed to comply with the Department's body-worn camera policy on May 31, 2020.
- 40: SMPD should regularly audit body-worn camera use by officers to ensure that policy requirements and expectations are being met in the field regarding activation.
- 41: SMPD should conduct and document a meaningful administrative review of officers' uses of force following civil unrest situations or other large-scale incidents and should consider "investigative referral" of specific uses of force that may be out of policy or require specific remedial action.
- 42: SMPD should review its systems for supporting officer wellness, including the availability of counselors and other professionals, and should consider ways to encourage officers to take advantage of those programs who may be struggling with the trauma of the events of May 31 and other events of the past year.
- 43: The City should request that SMPD prepare a response to this report indicating the degree to which it accepts each of the recommendations made and setting out a plan for implementation.
- 44: The City should develop a plan for independent evaluation and public reporting on the status of SMPD's implementation of the recommendations.

# APPENDIX B: Less Lethal Munitions Defined

In the interest of informing those who may not be familiar with less lethal force options used by SMPD over the course of this incident, we provide the following definitions.

- **Flash Sound Diversionary Device (FSDD) or Flash bang(s).** At least one, possibly two, flashbangs were deployed by SMPD officers on May 31; these devices create a loud explosive sound and bright light that is meant to shock, surprise or otherwise distract a subject in the context of a tactical operation.
- **Tear gas.** This term is applied to two different types of chemical munitions. On May 31, officer Use of Force Reports suggest that SMPD deployed some of each type. The first is Oleoresin Capsicum (OC) gas, commonly referred to as “OC” or “pepper gas.” OC gas is an inflammatory agent derived from the oil of hot pepper plants, which causes heat, redness, and swelling to the skin and irritation to the nose and eyes. The second is Ortho-Chlorobenzalmalononitrite (CS) gas, or what most people refer to when they say, “tear gas.” CS gas is an irritant, which causes intense stinging to the eyes and respiratory system.

CS and OC gas was disseminated on May 31 using one of two methods. The first method was via a hand-held grenade that contained canister(s) of the gas that released in increments.

CS and OC gas was also deployed via a launcher, sometimes referred to as a “37-millimeter (mm) launcher,” which looks something like a shotgun. In this deployment method, the gas is contained in canisters within a single shell that is ejected from a launcher. The canisters deploy in rapid sequence. This method is used to shoot the gas canisters to a farther distance.

- **Smoke.** SMPD officers also deployed several canisters of smoke. This less lethal tool disseminates white smoke and is typically used by law enforcement for distraction or concealment during an operation. Sometimes, Departments use smoke to increase the effect of the tear gas because the smoke can trap and suspend gas for a longer increment of time but SMPD did not report that this was their rationale for using smoke on May 31. While it is non-toxic, smoke can sometimes cause dizziness or a choking sensation.



- **37mm Impact Munitions, or Kinetic Projectiles.** A “37mm impact munition,” or what SMPD policy calls a Kinetic Projectile, is a single projectile, targeted less lethal munition launched from a 37mm launcher similar to that referenced above. Impact munitions are target-specific and used for pain compliance. While SMPD’s policy does not explicitly define how to deploy the impact munitions, officers are typically trained to deploy at the target’s center mass, avoiding the head, neck, and groin areas.

On May 31, SMPD reported use of two types of impact munitions: the impact baton and the sponge round, which is made of a foam material.

- **Stinger Grenade.** A “stinger grenade” is a tool that combines approximately 180 small rubber pellets and a chemical agent like OC or CS powder into an approximately 3-inch ball that looks like a traditional military grenade. It is meant to cause both irritation of the skin/respiratory system and pain. These are different from “rubber bullets.”
- **Pepper projectiles, or Pepperball.** These are small, powder-filled projectiles that are shot from a 37mm launcher similar to that referenced above. These are meant to be target-specific; upon impact, they cause pain and saturate the area with the enclosed powder. SMPD used pepper balls that contained OC powder, which, like the gas, is an inflammatory agent.