

IOWA CITY POLICE DEPARTMENT:

An Independent Review of ICPD
and the June 3, 2020 Protest

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Introduction

The May 25 murder of George Floyd in Minneapolis initiated a powerful wave of reaction throughout the United States. Iowa City joined countless other communities in grappling with the issues of police violence, racism, and structural inequity that the Floyd matter had painfully reintroduced. The “Say Their Names” rally on Saturday, May 30 attracted hundreds to the Pentacrest; attendees stood in solidarity and listened to remarks from activists and local elected officials. And the gatherings and demonstrations continued into the following days, with street protests and organized forums – and sustained and substantial acts of vandalism.

On the night of Wednesday, June 3, activity in the streets of Iowa City reached a new level of intensity. A few hundred demonstrators joined together on a march from the Pentacrest toward the Interstate 80 highway via Dubuque Street; it was approximately 10:30 on Wednesday night. Their intention was to physically block the highway to exemplify the type of disruptive, needed change they considered long overdue.

As the marchers got closer to the onramp, they found themselves in a standoff with a large cadre of officers from multiple law enforcement agencies, positioned across Dubuque Street’s four traffic lanes in an effort to deny the protestors access to the Interstate. That standoff, in turn, eventually transitioned into a different sort of clash – one that became Iowa City’s highest-profile version of the divisive encounters occurring all over the country.

After issuing announcements of questionable audibility and negligible effect, the assembled officers on Dubuque Street deployed flashbangs, tear gas, and other munitions in an effort to disperse the crowd and end the protest – which they had formally characterized as an “unlawful assembly” under Iowa state law. This immediately prompted a significant crowd reaction, driving the group back but also, in many respects, increasing the protestors’ determination. After approximately forty more minutes of additional, intermittent confrontations and force deployments, the remainder of the crowd left on its own volition. There was one arrest that night.

While the key enforcement activity of June 3 ended near midnight, it had engendered a public reaction that influenced events for days and weeks to come. This was the first time in recent memory that Iowa City law enforcement had used tear gas, pepper balls and flashbangs on protestors exercising their First Amendment rights. The outrage that swiftly followed this incident further energized the protests in Iowa City; a much larger group, including the Mayor and entire City Council, participated in the next night’s demonstrations. Condemnations of the police response came from City officials as well

as aggrieved members of the public. And hundreds assembled to repeat the march toward I-80 on June 4 – and this time were allowed access.

In this aftermath, the narrative that emerged about June 3 was simple and straightforward: “The police used tear gas on peaceful protestors.” It seemed to fit within the troubling parameters of a larger national landscape, and to exemplify the disconnect between law enforcement and local communities that had given rise to the demonstrations in the first place.

This independent report is one of several ways that the City of Iowa City has sought to respond to this contentious chapter in its recent history. It uses the “tear gas on peaceful protestors” allegation as a beginning point for a more comprehensive assessment of that controversial event. It seeks to describe what happened that night and explain why it did. And it also explores the issues of what could or should have happened instead, and how that line of thinking might inform some useful adaptations for the Iowa City Police Department (“ICPD”) going forward.

The report also offers a timeline of key events, an assessment of ICPD policies and procedures, and recommendations for enhancing future effectiveness.¹ Ideally, it will add clarity and nuance to people’s understanding of what occurred, as a starting point for adaptations that will benefit ICPD as well as the community.

The report 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 twenty years, serving in a range of capacities for jurisdictions throughout California and in other states. (For example, it completed a year-long, full-scale evaluation of the Madison, Wisconsin Police Department in early 2018 that produced dozens of implemented recommendations).² 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 its website: www.OIRGroup.com

¹ As discussed in detail below, there were several different local law enforcement entities involved in the “mutual aid” response to the June unrest, which extended for several days beyond June 3. This report was commissioned by the City. Accordingly, it is focused primarily on the actions of ICPD – an agency that was not only central to enforcement efforts during those days but also is uniquely subject to the authority of the City government. But as detailed below, the decision-making and participation by other agencies cannot be ignored in any comprehensive after-action review.

² In addition to this report for Iowa City, OIR Group has also been retained to perform independent evaluations of recent protest activity and law enforcement response for the cities of Santa Monica and Santa Rosa in California, and Kalamazoo in Michigan.

The findings and conclusions covered below are based on lengthy interviews with ICPD and City leadership, and some of the participants in the protest activity. It relies on official ICPD reports and documentation relating to the events, as well as many hours of recordings from the scene itself: primarily body-worn camera video produced by the Department, but also news video that provided an important view of events on Dubuque Street from what was literally the opposite direction.

While the focus of the report is on the events of June 3, our review of the incident suggests that it is best understood in the context of the preceding and subsequent days of public protest in the City. The shifting developments within that larger span of time help to explain the decision-making on Dubuque Street, show the limitations of that decision-making, and illustrate how, to its credit, ICPD and the City evolved in their approach and avoided similar clashes in the days to follow – even as the protest activity continued unabated well into June.

Like other jurisdictions around the country, Iowa City was in many ways unprepared for the scope and intensity of response to George Floyd's death; veteran law enforcement personnel from multiple agencies told us that the demonstrations were unprecedented in their own long careers. Prior to June 3, the involved agencies were dealing with a growing level of unrest that had several different facets. They were adjusting as they went along and needed to adjust again when the hundreds of protestors decided on the night of June 3 to direct their collective attention to the I-80 as part of their demonstration against police violence. This effort constituted a “ramping up” of intensity to the protest and involved a target that was newly complicated from a public safety perspective.

As discussed below, the Iowa City Police Department was working throughout those days as part of an effort at “unified command” in which different agencies were contributing to the response – and had different areas of primary responsibility. The Interstate fell under the ultimate jurisdiction of the Iowa State Patrol (“ISP”), which committed to the blocking of access on June 3 and made the key decisions about effectuating it. But ICPD ended up playing the dominant role in the actual force deployments to effectuate it.

In retrospect, the decisions to “draw a line in the sand” on Dubuque St. that night, to move to the ultimatum phase with little attempt at negotiation or de-escalation, to consider the crowd members to be collectively on notice after an acoustically limited effort at warning them, and to use flashbangs and tear gas in effectuating the dispersal order, are all subject to fair criticism and disapproval. The ICPD, even though providing

support to ISP as opposed to being primarily responsible, owns some of these shortcomings.

But fairness and accuracy also require a recognition of the imperfect information, experience level, and resources that hampered law enforcement effectiveness on June 3. It deserves mention that potential concerns about aggression and threats from a contingent of the protestors were seemingly merited. Additionally, it should be noted that, with rare exception, officers were professional and controlled in their performance throughout a tense, dynamic situation – attributes that distinguished them from some of their peers across the country in those volatile weeks.³ And the lack of serious documented injury to crowd members or law enforcement was a positive outcome that more traditional force options – such as the use of batons and shields to drive the crowd from the restricted area – may well not have produced.⁴

Most notably, if June 3 represented a nadir of sorts, its flaws and hard lessons also prompted shifts in enforcement strategy that paid dividends on future nights: protestors were allowed safe access to the interstate on both June 4 and June 5, and no further uses of tear gas or other less lethal munitions occurred. ICPD's role was marked by a new and more deferential approach to the demonstration activity – and an overt shift into a support role (behind the State Patrol) with regard to demonstrations that had the I-80 as focus. Better information and further on-the-ground familiarity led to more productive dialogue and other approaches that defused confrontation. And the protests themselves took on a substantive momentum that has influenced – and will seemingly continue to influence – City government in the direction of concrete policy changes.

By offering an objective, outsider's consideration of June 3, this report will ideally contribute to the City's ongoing efforts to identify issues, promote positive changes, and rebuild trust. It brings an objective, independent eye to the task of explaining what occurred and gleaning useful lessons for the future. And it does these things with a

³ We regularly review police and video recordings in the context of our oversight work and have done so for several years. The use of profane, demeaning, or otherwise unprofessional language is unfortunately a regular feature of those recordings. This is especially true in antagonistic, high-stress contexts – as seen in the various examples of gratuitous police conduct that emerged from protest scenes throughout the U.S. in the summer of 2020. With this in mind, the consistently controlled demeanor of the ICPD officers made a positive impression.

⁴ Four injuries related to this event were reported. One officer reported being struck in the head with an object thrown by a protestor, a protestor experienced what was identified by the responding EMS unit as a “panic attack,” and two protestors reported leg injuries related to being struck with tear gas canisters – none of these required treatment or hospitalization. We did not receive report of any other injuries.

sense of optimism. The number of people we spoke to who were involved in the incident – on both sides of the skirmish line that night – was small. But they were each extremely thoughtful, sincere, and genuinely dedicated to the City and its people. To the extent they are representative of larger dynamics in Iowa City, there is cause for encouragement.

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Methodology

In keeping with the scope of work prepared by the City for this project, we studied the Iowa City Police Department's actions on June 3 in two primary ways: by reviewing written and recorded evidence of various kinds, and by speaking with representatives from both the City and ICPD. Unfortunately, travel restrictions precluded our ability to physically meet with people and to learn about the City and its communities in a more organic way – and in keeping with our usual approach to assignments such as this. But thanks in large part to the cooperation of City officials and the extensive amount of recorded evidence at our disposal, we were able to develop the foundation that informs the findings and recommendations we provide below.

Our insight into the ICPD perspective on events was shaped by lengthy interviews with key members of the Department's leadership, who also provided responsive supplemental materials as our process continued over several weeks. We also got a first-hand perspective with respect to the ICPD response at the scene of the June 3 confrontation. The people we spoke with were candid in their appraisal of the events and constructive in both their defenses and self-critiques of what had occurred.

Our request for written reports and other documents produced the following materials:

- Documents related to ICPD's public After Action Report
- Materials related to the City's press release
- ICPD's internal After-Action Reports written by personnel who responded to Dubuque Street on June 3
- All operational materials, including any Incident Action Plans, related to events from May 30 to June 3
- All relevant Department policies regarding uses of force, tactics (for responses generally and specifically, such as those of ICPD's Special Response Team), crowd control, civil rights, mass arrest, and communications
- Reports that detailed the types and counts of less lethal munitions used on June 3
- Memoranda of Understanding regarding mutual aid agreements between responding agencies.

Central to our impressions of what happened were the 82 unique, time-stamped videos provided by ICPD, each containing up to two hours of footage. This video evidence included clips from City surveillance cameras located at City Hall and other locations in downtown Iowa City. It also featured the full, unadulterated Body-Worn Camera (BWC) and In-Car Camera footage of all ICPD officers who responded to the events of June 3,

both in downtown Iowa City in the early evening and on Dubuque Street in the later evening.

OIR Group team members also collected extensive digital evidence from public sources, including social media platforms, to better inform our review. OIR Group discovered digital evidence in personal and organizational Facebook and Instagram pages and Twitter feeds. We reviewed Live Feed and streaming video footage from mainstream and alternative media pages in Iowa City. We especially benefitted from reviewing the extensive live coverage of the June 3 Dubuque Street clash that was reported by KCRG-TV9.

Additionally, OIR Group reviewed media articles about the events both in Iowa City as well as throughout the State to understand the full context of the event and identify important players. This review largely contributed to our understanding of the events around Iowa City from late May to early June.

OIR Group also reviewed all Computer Aided Dispatch (CAD) evidence, including written logs and all radio broadcast communications, from June 3. We used this detailed evidence, plus BWC, In-Car, and surveillance video, to construct the detailed timeline included in this report.

The City also requested that we incorporate interviews with complainants into our process. Five individuals who had participated in the protests had submitted formal written complaints about their experience to the Iowa City Community Police Review Board, which provides independent civilian oversight of ICPD. Because the acting Chief – who has a customary role in the intake and investigation of complaints – was a potential subject (as a decision-maker on June 3) in these cases, the City believed that submission of OIR’s report to the CPRB as the “Police Chief’s report” under the ordinance would be preferable, including independent interviews of complainants.

We reached out to the five individuals and heard back from two. We interviewed each of them at length, and their perspective contributed significantly to our overall impressions; their cooperation is appreciated.

Lastly, OIR Group also sought perspective from representatives of the primary agencies that provided mutual aid to and with ICPD during the days at issue. These included the Iowa State Police, the University of Iowa Police Department, and Johnson County

Sheriff.⁵ To their credit, UIPD and the Sheriff responded to our questions via email in written format, although we would have greatly preferred an opportunity to talk with “on the ground” representatives of the two agencies. However, ISP responded to our request with an emailed declination.⁶ We were therefore unable to gather any direct information about their involvement and command, which, as we note throughout this report, was significant both on June 3 and on subsequent nights. Nor are we aware of any public report of significance produced by ISP regarding its own involvement in responding to the protests of this past summer. The chance to gain that agency’s perspective would obviously have helped fill relevant gaps in the understanding of influential decision-making that occurred at that time and the lack of any substantive responsiveness to requests for information from ISP is disheartening.

The reticence of other involved agencies enhances our appreciation for the full cooperation we received from ICPD and the City. It also reflects well on the City’s commitment to address this incident through a public report by an independent entity.

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⁵ Our understanding is that other neighboring law enforcement agencies also provided assistance in Iowa City during that time; however, their role was largely supportive in nature and involved a relatively small number of personnel.

⁶ We were also advised that entreaties for information directly from Iowa City about its role in the events of June 3 were similarly rebuffed by ISP.

Before June 3: A Growing Protest Movement

Background

Law enforcement in Iowa City is primarily the responsibility of the ICPD. However, a number of features of the city complicate this from a jurisdictional perspective, and other agencies play a prominent – or even leading – role with regard to both responsibility and decision-making at specific locations within the city limits. Some of the key components to this dynamic include the following:

- Iowa City local streets and City Hall are the primary jurisdiction of ICPD
- The County courthouse and jail facilities are the primary jurisdiction of the Johnson County Sheriff
- The “Old Capitol,” including the Pentacrest, is the primary jurisdiction of the University of Iowa Police Department (UIPD)
- The interstates, the most relevant herein being Interstate 80, are the primary jurisdiction of the Iowa State Patrol.
- The UIPD has a memorandum of understanding with the ICPD that members of UIPD make up part of ICPD’s Special Response Teams (SRT)

In the days leading up to June 3, each of the above agencies responded to or became aware of incidents of protest accompanied in some cases by civil unrest elsewhere in the state, both within Iowa City and in other Iowa cities, such as Coralville, Davenport, Cedar Rapids and Des Moines. How these incidents played out, and, more importantly, law enforcement’s significantly varied responses to them, resulted in uncertainty about the intentions of some of the protestors and best strategies for law enforcement.

Events in Other Jurisdictions

Iowa residents, like those in cities across the US, responded to the May 25 killing of George Floyd through protest, the first of which occurred in Des Moines on Friday, May 29. These continued daily throughout Iowa (see Appendix A). For example, Davenport experienced a high level of activity from May 29 to May 31. Late night events at the Coralville Mall on May 31, in which suspected looting activity and vandalism prompted a significant police response, which in turn generated a spontaneous demonstration by protestors, typified the blurred lines that were at times complicating the narrative locally and around the country.

The incidents in the jurisdictions surrounding Iowa City created a heightened tension and uncertainty around what might happen next and what the appropriate police response should be.

In the days leading up to June 3, ICPD officers provided mutual aid to their adjacent neighbor, Coralville, and Department leadership tracked neighboring protest activity. According to one Department official, these escalating events had an impact on ICPD's uncertainty regarding the intention of protestors overall and also served to inform what responses were and were not effective to address protest activities. Law enforcement responses to these initial events spanned the spectrum of possible outcomes, from deployment of less lethal munitions and arrests to negotiation with protestors and officers removing riot gear or "taking a knee" in support of the protest. In Des Moines on May 29, negotiation with protestors failed; officers eventually deployed tear gas to disperse the crowd.

The conduct of protestors and their intentions also spanned the spectrum. While the majority of participants in the growing movement were peacefully expressing First Amendment rights, others were finding an outlet for their frustration (or exploiting unstable conditions) in conduct that was aggressive or even criminal.

When violence did occur, the officers and their equipment (specifically, police vehicles) or city or private property were often the primary targets of the protestors' anger. The ambush of police in the early morning of June 1 in Davenport was perhaps the most extreme example of this, and presumably contributed to heightened safety concerns among law enforcement.

Events Within Iowa City

On May 29, the ICPD Interim Chief made a public statement in which he condemned the murder of George Floyd, stating, "The manner in which these officers treated Mr. Floyd is inconsistent with how we train police officers to conduct their interactions with the public." The following day, Iowa City had its first large-scale demonstration, and the protest activity grew and took on new forms as the week progressed.

The first event in Iowa City was the planned "Say Their Names" Rally. Held on May 30 at noon in the Pentacrest (the primary jurisdiction of UIPD), the rally was organized by residents and supported by the Mayor and a County Supervisor.⁷ Portions of downtown

⁷ The organizers of that rally and other participants would soon coalesce into a grassroots activist group known as the Iowa Freedom Riders. They continued to be an influential driver of

Iowa City, specifically, Clinton Street and Iowa Avenue, were closed with road barricades for the safety of protestors. ICPD was prepared to respond should a “significant disturbance” occur, and then only to take life-saving measures. ICPD noted specifically within its internal directives that, while they might take measures to protect property, this was a lower priority than life and safety. UIPD was similarly briefed. A series of speeches gave the rally its focus, and hundreds attended what proved to be a peaceful gathering that did not involve any sort of police response.⁸

The City and ICPD leadership maintained this posture for other local events leading up to June 3. Actively monitoring events as they unfolded, the authorities worked to strike a balance between respect for the protests and the obligation to preserve order and safety. Even with increased protest activity, including vandalism on the evenings of June 1 and 2 (see Appendix A), ICPD did not actively deploy to protect property or impede protest. ICPD leadership informed us that they observed, but did not prevent, vandalism of City and County property. On June 1, one window of City Hall was reportedly broken and significantly more on June 2, with a total of 19 glass panels that needed to be replaced. There was also spray painting of City Hall and the County Courthouse and reported spray painting and damage to private property along the course of the protestors’ march.

While recognizing that protest activity was becoming progressively more varied and intense during June 1 and 2, and that clashes with law enforcement from different agencies were taking on an increased edge (including an episode in which Johnson County Sheriff’s deputies deployed pepper spray and encountered projectiles thrown by protestors), ICPD maintains that it lacked a workable sense of who (if anyone) was emerging as the organizers of the growing crowds. But there did seem to be greater levels of coordination in terms of both the acts of vandalism (with, for example, some participants obscuring their cohorts’ faces with cardboard and seemingly being more intentional in carrying tools to break windows), and the more traditional, constructive planning of demonstrations (with “meet-ups” publicized on social media and the Pentacrest emerging as a regular gathering place). And, as we discuss below, it is unfortunate that more outreach and efforts at communication were not achieved early on – a dynamic that may have helped de-escalate the later dynamics on Dubuque Street.

reform efforts and strategic demonstration activity through the summer and beyond, and we mention some of their accomplishments below.

⁸ As we discuss below, the adoption of this “low profile” approach from ICPD was partly the function of a request by rally organizers, who expressed their preference that law enforcement refrain from a significant presence in order to forestall potential conflict.

The objective of allowing protest activity with no response to acts of vandalism remained the mission on the afternoon of June 3 even as ICPD observed a 300-400-person crowd marching through and, on occasion, vandalizing downtown Iowa City. On the afternoon of June 3, ICPD increased their visible presence throughout downtown Iowa City deployed in riot gear but they did not inhibit or otherwise engage with protestors marching or intercede to prevent vandalism. Street units lined downtown streets and were later joined by the Special Response Teams (SRT), tactical teams that were deployed to critical locations such as the courthouse and jail.

As they did on May 30, ICPD and other responding agencies set up barricades to direct traffic for safety in downtown but did not otherwise intervene. But this approach changed significantly when the interstate highway became a discernible focus for the protestors as the evening of June 3 progressed.

November 11, 2016: Precedent on I-80

The incidents in the days immediately prior to June 3, 2020 certainly created a heightened tension around what should be the appropriate police response. But it is also relevant to note that this was not the first time in recent memory that protestors in Iowa City had attempted to access the Interstate 80. A similar situation played out during the “Not My America” march on November 11, 2016 and resulted in protestors ultimately gaining access to the highway.

On November 11, 2016, a group of approximately 100 protestors marched from downtown Iowa City to the Interstate 80 via Dubuque Street in response to the election of President Donald Trump. According to media reports, ICPD patrol cars accompanied the protestors, though ICPD officials informed OIR Group that they were not prepared to respond to this march. The protestors successfully entered the I-80, where they physically blocked traffic for approximately 30 minutes. The Iowa State Patrol eventually responded; within 19 minutes, the group was removed from the highway with no use of force reported.

In what one official called a “political storm,” Iowa City officials were rebuked for having “allowed” protestors on the I-80. In addition to the significant safety risk to both civilian and officer safety, the State argued that the highway blockage was costly to the State, both in terms of resources to clear (or close) it and delays in interstate travel. The incident even prompted a proposed law in early 2017, which would have increased the penalty for persons obstructing a highway to a Class D felony. Preventing protestors from having access to the I-80 clearly emerged as the State leadership’s preferred

approach, and presumably shaped the mindset of decision-makers within the unified command.⁹

Less Lethal Munitions Defined

In the interest of informing those who may not be familiar with less lethal force options used by ICPD over the course of this incident, we provide the following definitions. Later in this report, we detail the count and estimated timeline of each munition and analyze their deployment.

- **Flash bang(s).** These were the first devices deployed by ICPD to disperse the crowd on June 3; 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. Contrary to their name and sound, flash bangs are not actually an explosive device.
- **Tear gas.** This term is applied to two different types of chemical munitions. 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 June 3 using one of three methods. The first method was via a “triple chaser grenade,” a hand-held grenade that contained three separate canisters of the gas that released in three 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 up to five canisters within a single shell (“skat 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.

⁹ ICPD leadership acknowledged experiencing considerable external criticism after having “allowed” the 2016 protest to reach the interstate, but offered two points in addition to this: first, that it simply lacked the resources to blockade the highway in time to forestall that November 11 event, which had put it in a completely different decision-making posture than on June 3; and second, that the political fallout from that earlier event had not influenced its resolve in supporting ISP’s highway blockade plan on June 3.

OC spray was deployed using a handheld canister that an individual officer wears on his/her belt and is typically carried by most law enforcement officers. At least one ICPD officer used pepper spray on protestors on June 3.

- **Smoke.** ICPD officers also deployed canisters of Saf-Smoke. This less lethal tool disseminates white smoke and is typically used by law enforcement for distraction or concealment during an operation. On June 3, ICPD reported that they used smoke to increase the effect of the tear gas because the smoke can trap and suspend gas for a longer increment of time. While it is non-toxic, smoke can sometimes cause dizziness or a choking sensation.
- **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.” As detailed below, ICPD deployed stinger grenades on June 3.
- **Pepper balls.** 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. ICPD used two types of pepper ball on June 3. The first contained OC powder, which, like the gas, is an inflammatory agent. The second contained an inert powder.

Wednesday, June 3: Overview of Events

Timeline

A detailed timeline is presented below. Dispersal orders, declarations of unlawful assembly, and warnings of use of chemical munitions, all issued by ISP via their vehicle’s loudspeaker, are in blue. Deployment of less lethal munitions are listed in red.

We list “protestors” as a collective, while also understanding that the group was not one cohesive unit but rather made up of various types of protestors with differing goals and intentions. We included University of Iowa Police Department personnel in the category “ICPD” because UIPD officers were part of ICPD SRT Metro.

Table 1: Timeline of June 3, 2020

Time of Day	Event/Action	Agency/ Group
6:36:39 PM	Crowd of 300-400 protestors convene at the Pentacrest in downtown Iowa City. Protestors block traffic and vandalize areas of downtown Iowa City.	Protestors
6:36:58 PM	Crowd marches through downtown Iowa City	Protestors
7:06:55 PM	Special Response Team (SRT) deploy to various locations in downtown Iowa City	ICPD
8:58:37 PM	Iowa State Patrol (ISP), 11 units, arrive to downtown Iowa City	ISP
9:17:58 PM	Crowd moving east away from Pentacrest	Protestors
9:21:28 PM	Report of male carrying infant and toddler in crowd	Protestors
9:57:06 PM	Crowd begins movement toward I-80 NB Dubuque	Protestors
9:58:41 PM	Reports of crowd burning things	Protestors
10:00:17 PM	DOT aware of potential I-80 blockage; changes signs to warn drivers	Dept of Transportation
10:29:41 PM	Request assistance shutting down I-80 on ramps - EB Dubuque	Johnson County Sheriff
10:29:59 PM	ICPD deploys to Dubuque and I-80. Arriving units to park N of I-80 on ramps. ICPD units walk toward Foster Rd. ICPD begins to deploy in formation across lanes of Dubuque St.	ICPD
10:34:21 PM	Sheriff receives instruction from ISP to shut down EB Dubuque St.	Johnson County Sheriff
10:35:34 PM	Crowd estimate at "300+"	Protestors
10:37:28 PM	Reports of 20-30 vehicles behind crowd	Protestors
10:46:00 AM	First protestors arrive to police line on foot, bicycle, and motor scooter	Protestors
11:03:04 PM	Warning issued - unlawful assembly, dispersal order, and warnings of use of chemical munitions - from ISP loudspeaker	ISP
11:04:49 PM	Flash bangs deployed, followed by tear gas canisters	ICPD
11:06:09 PM	Hold the line	ICPD
11:09:29 PM	Need global command	ICPD
11:09:29 PM	Emergency medical required - notify all hospitals of gas	ICPD
11:11:17 PM	Additional warnings and dispersal order from ISP	ISP
11:12:19 PM	Additional order to disperse	ISP
11:12:45 PM	Protester(s) heard shouting, "we have the right to assemble"	Protestors
11:13:02 PM	ICPD instructs officers to use targeted less lethal if protestors throw items at the police line. Instructs line to watch for the vehicles	ICPD
11:13:33 PM	Additional orders to disperse	ISP
11:13:37 PM	Crowd heard chanting, "We won't go"	Protestors

Time of Day	Event/Action	Agency/ Group
11:14:01 PM	Additional orders to “Disperse from this area. Turn around and go the other direction, please.”	ISP
11:14:02 PM	Crowd/individuals stating, “we have the right to be here” and “we haven’t done anything”	Protestors
11:14:34 PM	“Those of you in the vehicles, turn them around in the other direction”	ISP
11:14:48 PM	Crowd chants, “hands up, don’t shoot”	Protestors
11:15:40 PM	Members of the crowd heard calling out for a medic	Protestors
11:16:03 PM	A vehicle approaches line from within the crowd.	Protestors
11:16:13 PM	ISP loudspeaker warns vehicle to turn around or less lethal munitions will be deployed.	ISP
11:16:59 PM	Vehicle moves back.	ISP
11:17:08 PM	ICPD instructs officers that if crowd comes closer, they can use additional less lethal munitions	ICPD
11:17:37 PM	ISP again instructs vehicle to turn around and go the other direction	ISP
11:19:40 PM	Deployment of less lethal (pepper ball used, tear gas used)	ICPD
11:21:53 PM	Discussion of plan if protestors breach the line. ISP informs ICPD that there may be a traffic plan for I-80 closure. Not confirmed.	ISP
11:22:20 PM	ICPD officers request to use additional less lethal	ICPD
11:22:46 PM	ICPD requests that ISP give another warning	ICPD
11:22:48 PM	Order heard to deploy less lethal munitions	ICPD
11:22:52 PM	Tear gas deployed	ICPD
11:23:23 PM	Tear gas deployed, PepperBall deployed	ICPD
11:23:42 PM	Tear gas deployed	ICPD
11:24:39 PM	Protestor on bike approaches. Officer requests permission to use targeted less lethal. ICPD instructs officer to “leave him” and use gas instead.	ICPD
11:25:42 PM	ICPD officers request to spray protestors who are not leaving. ICPD instructs officers to “Leave them.”	ICPD
11:26:12 PM	EMS requesting assistance Dubuque/Foster; things being thrown at them/surrounded	Johnson County
11:27:05 PM	Reports of vehicles approaching the skirmish line	ICPD
11:27:12 PM	Ambulance to drives over the median	ICPD
11:27:38 PM	People running away	ICPD
11:28:29 PM	Officer warns that a group is coming up the side	ICPD
11:29:02 PM	Fire truck approaches, moves through line	Johnson County
11:31:02 PM	Various less lethal munitions deployed	ICPD
11:31:31 PM	Small groups of protestors to Dubuque/Park	ICPD
11:32:21 PM	ICPD instructs officers to hold the line	ICPD

Time of Day	Event/Action	Agency/ Group
11:33:21 PM	ICPD requests a team to arrest a protestor that refuses to move	ICPD
11:35:25 PM	ICPD officers report that they are nearly out of less lethal munitions except handheld Stinger rounds. ICPD instructs officers to use those rounds	ICPD
11:36:53 PM	ICPD and ISP discuss plan. Second discussion about letting protestors reach the highway; ISP attempts to confirm if highway is closed. Both officers resolve to "wait [it] out."	ICPD
11:41:24 PM	Crowd begins to disperse.	ICPD
11:53:11 PM	Protestors moving back to downtown	ICPD
11:54:27 PM	Abandoned car in Dubuque/Foster Rd	ICPD

The Confrontation on Dubuque Street

As the marchers made their way from downtown to the Interstate 80 onramp on Dubuque Street, the law enforcement “unified command” began to consider its response. The first decision – and the one from which others followed – was the most basic: whether the protestors would be allowed to access the highway in furtherance of their demonstration. Given the understanding between the different agencies involved, this decision fell to the Iowa State Patrol by virtue of its jurisdictional authority over the interstate system. ISP was led by a lieutenant who had been given overall responsibility for the joint operation. And ISP’s choice was to deny access but knowing it did not have sufficient officers to do so, it recognized it would need to enlist the aid of the other departments in order to be able to effectively block Dubuque Street.¹⁰

Approximately 37 ICPD patrol-level officers were deployed to Dubuque Street to effectuate the skirmish line that was being formed across all lanes of Dubuque Street.¹¹ Additional officers from ISP and from the Johnson County Sheriff’s Office¹² also responded to this location.

¹⁰ Because ISP did not cooperate in this review, we were unable to learn how many ISP officers were actually deployed on June 3.

¹¹ A “skirmish line” in this context refers to a side-by-side line of officers, typically wearing tactical or “riot” gear and holding batons and/or shields, used to prevent forward movement (e.g. of a crowd) or protect assets. A second line of officers or specialized teams (e.g., officers specially trained to deploy less lethal munitions) often stands behind the first line of officers. The line is usually led by one or more squad leaders or other command-level personnel.

¹² Asked several months later about the number of JCSO officers involved, that department’s leadership was unsure about the exact total, but characterized it as “more than 10.” It is curious

In addition to these patrol-level resources, another prominent component of this rapidly assembled response was the Iowa City Metro Special Response Team (“SRT”). This cadre of officers existed within ICPD “to handle unusual operational activities and problems, such as hostage situations, barricaded situations, and high-risk apprehensions.”¹³ Participation in the SRT was a collateral duty for the involved officers and entailed a significant amount of specialized training and equipment.

There were 22 SRT members on duty that night (18 of whom were from ICPD and 4 from the University of Iowa Police Department), divided into two groups that were each led by an ICPD sergeant. They had begun their shift at about 6:00 PM and were initially deployed in various locations throughout downtown Iowa City in response to unfolding developments. Their first role was to provide “as needed” support for the regular patrol officers in case arrest or other enforcement scenarios engendered a large-scale hostile response from the crowds in the streets. In this context, SRT members reported verbal aggression from protestors that was later characterized as “violent and threatening”; as they stood by the Civic Center (which had been vandalized the night before), they encountered at least one individual who challenged them to fight.

As the assembled crowd began to march, protest leaders made announcements relating to the intention to go to the Interstate 80 – and allegedly included warnings to participants about the possibility of confrontation. At one point, observing officers broadcast information about a group member carrying a “red bucket with chemical odor” and individuals “starting to burn some things.” These factors contributed to the mindset of officers as they prepared to block Dubuque Street – which led to the most proximate onramp to the I-80 from the downtown area. With various stops at intersections along the route, the group of marchers took the better part of an hour to proceed from downtown to the eventual site of the incident with police personnel.

As for the SRT, its members received direction at approximately 10:15 to bring their teams to the staging area on Dubuque Street that ISP was establishing. Other preparations were unfolding as well. Significantly, these included efforts (in coordination with Iowa State’s Department of Transportation) to close a portion of the

that an agency would not have more precise records of deployment of officers to an event such as this.

¹³ This language comes from the 2017 agreement between the City and the University of Iowa, which provided for the addition of University Police Department members to the SRT for the mutual benefit of the parties in terms of shared resources and distinctive opportunities for staffing and training. Since the time of the agreement (and on the night of June 3), most of the SRT personnel continue to be ICPD members.

interstate as a precaution for drivers and any protestors who managed to reach highway area in spite of police operations. Computer dispatch records note that by 10:00 PM, the Department of Transportation was “aware of potential interstate blockage” on the part of the demonstrators.

As the SRT units arrived in two separate vans, one ICPD sergeant took the lead in coordinating with supervisors from ISP and the Johnson City Sheriff’s Office. SRT personnel, armed with less lethal munitions, took support positions behind the front line of officers that was forming a “skirmish line,” across the four lanes of Dubuque Street. The first-row officers wore helmets and carried plastic shields for crowd control and protection.

Meanwhile, as they awaited the marchers, the ISP incident commander worked with leadership from the other law enforcement agencies to devise a plan for engagement with the protestors. It consisted of announcements that would formally declare an unlawful assembly, followed by orders to disperse, followed by warnings about chemical munitions, the deployment of “flash bang” diversionary devices, and then the deployment of tear gas. The point person for communications – including the formal announcements – was to be the ISP lieutenant on scene. And, because of their larger numbers and their specific tactical resources and training, the SRT members agreed to take the lead role in the potential execution of the ISP plan’s final phases: the deployment of the munitions.

At this point, the crowd of marchers was estimated to be between 300 and 500 people. They had come together somewhat organically and were proceeding in a loosely coordinated fashion as they made their way from downtown to the I-80 via Dubuque Street. Along the way, they stopped periodically at intersections and for communications purposes. Informal preparations for a possible conflict intensified as they approached the police line: a telephone number for bail services was distributed, and marchers were asked to kneel so that participants with medical aid abilities could be identified.

It was approximately 10:45 PM when a lead group of several protestors, seemingly self-appointed, arrived at the police line well ahead of the main crowd of participants. Some were on foot, while others were on bicycles; one person was riding on a motorbike. They engaged with the police for several minutes in an exchange that was less about dialogue or negotiation than a forum for the protestors to express their grievances against police violence and discrimination, make occasional taunts, and issue challenges relating to the group’s intent to breach the line. One individual offered

assurances that the crowd's intentions were peaceful, and they did not intend an aggressive breach of the line.¹⁴

For his part, the ISP incident commander had a focused message: he urged the leadership to turn back and keep the rest of the protestors from advancing and warned that chemical munitions would be used if they did not comply with law enforcement directives. This was unavailing.

After about fifteen minutes, some members of the small group made their way back to the main crowd of protestors that was waiting about a hundred yards away – and the crowd then came forward toward the police line. Many of the protestors in the front of the crowd were chanting in unison as they advanced within a few feet of the front line of officers. Some of the first row of protestors were animated and gesticulating while others were relatively steady in holding their position. Per the plan, the ISP commander again issued formal announcements through the public address speaker of a law enforcement vehicle. These had no discernible effect on the crowd, which continued to chant loudly. At least one of the protestors was unequivocally “on notice” of the intent to use tear gas and used a megaphone to alert the others to that effect. But the extent to which the protest group as a whole had heard and understood the warnings is very much unclear.

Approximately two minutes after the front of the main crowd reached the skirmish line, the order to “deploy munitions” was issued by the ISP commander, and several flash bangs were deployed by ICPD. Seemingly startled by the flash bangs, the crowd scrambled back, with many of them screaming. After a brief pause and without waiting to see whether the flash bangs alone had effectively defeated the crowd's intent on advancing, ICPD deployed tear gas, and the main group of protestors further retreated for a hundred yards or more. Others remained near the police line, either laying on the ground, on their knees, or standing in the cloud of gas. But those few did not leave.

A large percentage of protestors remained in the area – back from the skirmish line area but clearly determined to remain a presence on Dubuque Street in defiance of (or response to) the law enforcement actions. Some worked to assist people who had become affected by the gas and others regrouped as if to advance toward the line

¹⁴ This same protester encouraged the officers to kneel as the large group arrived, presenting it as a potential way to defuse tension. There was no direct response from either ICPD or ISP leadership to this request; ICPD had already decided that it was not going to take a knee. We discuss this further below, in the context of a larger discussion about the limited range and effectiveness of communications with the protest group.

again. And video footage shows a few moving on Dubuque Street back toward Foster Road away from the event.

Additional orders and warnings were provided by the ISP lieutenant at intervals in the next half hour. Further munitions – including a second round of tear gas canisters, pepper balls, handheld OC spray, and “stinger grenades” that carried rubber pellets – were used to offset crowd actions and continue to promote departure from the area.

Meanwhile, the anti-police rhetoric (including some recorded music) and the passion of remaining protestors intensified. In the first recorded act of physical aggression, protestors on Dubuque Street threw munitions canisters back in the direction of the police. On the other hand, others seemed to be genuinely mystified by what had happened. At one point, a protestor appeared to be in medical distress, and bystanders called out that he was having a seizure. With no coordination from law enforcement, (a matter we discuss in detail below), a Johnson County Ambulance made its way on to the scene to render aid, although the man ultimately declined to be transported and left the area under his own power.

Finally, and gradually, the remaining members of the crowd decided to leave the area. Approximately one hour had passed since the group leaders had first approached the skirmish line on Dubuque Street to engage with the police. One individual who continued to refuse orders to leave was taken into custody by ICPD after minimal controlling force, but that was the only arrest at the scene.¹⁵

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¹⁵ A second person was arrested for offenses related to the Dubuque Street protest, but this did not occur until a few days later. We talk later about the implications of this arrest decision.

ICPD on June 3: Issues and Assessments

Jurisdiction, Mutual Aid and Responsibility for Decision-Making

Once it became known that the protestors were intent on marching from the downtown area to the interstate as a next phase in their demonstrations, the primary jurisdictional authority for the law enforcement response fell to the Iowa State Patrol. It is clear that on June 3, 2020, the ISP was intent on not allowing the protestors to access the I-80 and assumed the ultimate responsibility for figuring out how to effectuate that decision. It was the ISP on-site commander who represented law enforcement presence in speaking with the lead cadre of protestors, and who formally declared the unlawful assembly, who issued the order to disperse, and who ordered the deployment of the munitions soon thereafter.

It is, however, also true that the other involved agencies – and particularly the ICPD and the Sheriff's Office – accepted ISP's decision and agreed to participate in the operation. On June 3, ISP lacked the on-site resources to accomplish its objective without the assistance of the other agencies who on the ground comprised the "unified command" in Iowa City. Accordingly, it fell to the other agencies to provide the needed personnel and equipment to supplement ISP's presence. And it was the Iowa City Metro Special Response Team (ICPD and UIPD), at the behest of ISP, that actually provided and deployed most of the crowd control munitions (flash bangs, tear gas, pepper balls) that became the source of consternation and concern in the ensuing days.

Importantly, in our repeated interactions with ICPD for this review, the Department's representatives were steadfast about acknowledging their own agreement with the plan and contributions to its particulars.¹⁶ They recognized the criticism that the events of June 3 have provoked and are open to the idea that there were shortcomings in their overall preparedness and handling of specific incidents. But they continue to maintain that the overarching objective of ISP to prevent protestors from reaching the Interstate was sound, and in order to effectuate this objective the decision to block the highway and disperse the crowd with gas was justified by the circumstances – and was

¹⁶ The same was true of the JCSO, although those communications with us were limited to relatively brief email exchanges. While we appreciated the information provided, it would have obviously been immensely more preferable to have had the opportunity to talk with "on the ground" JCSO leadership.

decidedly preferable to other force options such as a forward push with batons and shields.

This is important insofar as it allows for a critique of the decision-making that, for better or worse, is fairly attributable to ICPD itself rather than treating it as a scapegoat for the choices of other participants.¹⁷ We therefore proceed from that perspective, while noting that the changes in strategy in subsequent days (and the new “divisions of labor” among the agencies in the joint command) are also critical for purposes of analysis.

But we were also struck by the relative paucity of written material or agreements to stipulate or guide the understanding between the agencies. Iowa City is home to multiple law enforcement agencies within a relatively small geographic space, making the question of “who commanded where” a key point of evaluation. This incident spanned the jurisdiction of various agencies. And, significantly, while a 4-page agreement (from 1985) between the City, the city of Coralville, Johnson County, and the University provides at least *some* guidance, it does not include ISP and could potentially benefit from updating and further detail.¹⁸

As detailed below, the agreement by ICPD leadership to accede to the overarching objective of ISP of preventing the protestors to reach the interstate and then to become the instrumentality of that objective by deployment of tear gas, pepper balls, and flash bangs was countermanded the next day by City leadership. Appropriately, ICPD responded to this different direction with ICPD advising ISP that it could no longer deploy less lethal munitions to keep protestors off the interstate for future protests. UIPD’s direction from University leadership was to remove its officers from the Special Response Team altogether.

Especially now that those directions have been verbally provided by the City’s leadership, ICPD should set out in writing and advise other law enforcement entities of evolutions in its enforcement and deployment parameters, so that all are clear about them on a forward going basis.

¹⁷ It is also interesting to note in this context that ICPD’s General Order 89-04, “Civil Rights,” states that “the City of Iowa City and the Iowa City Police Department expressly prohibit any law enforcement agency operating within its jurisdiction from using excessive force against any individuals engaged in non-violent civil rights demonstrations.” Thus, the Department would, on some level, be accountable for the actions on Dubuque Street even if it sought to deflect responsibility to ISP.

¹⁸ A comparable agreement was reached in 1994 that included Iowa City and a total of eight other jurisdictions (including Johnson County and Coralville). Again, though, ISP is not part of this mutual aid protocol.

RECOMMENDATION 1

ICPD should re-visit its existing mutual aid/joint law enforcement agreements with outside agencies and should develop or refine as needed any written protocols that set out limitations on deployment of munitions or enforcement activity with which the Police Department will not assist.

RECOMMENDATION 2

ICPD should endeavor to reach a mutual aid/joint law enforcement agreement with ISP regarding its limitations on deployment of munitions or enforcement activity, and if one cannot be struck advise ISP in writing of these limitations.

Decision to Deny Access and Block Dubuque Street

The decision by ICPD leadership to accede to ISP's determination to prevent the protestors from reaching the Interstate was framed in terms of concern for the disruption of traffic and the safety of motorists and protestors themselves. There is obviously legitimacy to this position. We acknowledge that, in theory and under ordinary circumstances, the presence of pedestrians on an interstate highway is fraught with problems from a safety and logistics perspective.

But these were not ordinary circumstances. Instead, it was period of protest and emotion unprecedented in recent memory, at a scale reflective of a strong community voice coming together to be heard. The various efforts to accommodate the protests in prior days had, to some extent, been reflective of the City's recognition of this phenomenon. Moreover, and as set out above, protestors had accessed the highway four years earlier with no reports of injury and with considerably less time for authorities to prepare.¹⁹

An additional counterweight to the stated justifications for the blockage – and the insistence on enforcing it through deployment of munitions – is the supplemental steps that were taken by authorities on June 3 to *close down* a section of the I-80 during the time in question. This was meant to provide an added safeguard against injury or accident in case protestors somehow got beyond the skirmish line. Recorded transmissions address the involvement of the Department of Transportation in providing

¹⁹ We do note here that vehicles on the interstate ended up being quite close to the 2016 marchers, and that the situation was a dangerous one. But the precedent of a “no injury” shutdown – and the additional time that authorities on June 3 had to prepare for an occurrence that was happening much later in the evening than the 2016 protest – is nonetheless instructive.

assistance, and our understanding is patrol personnel from neighboring cities were also involved in this effort.

To this day, it is not entirely clear whether and when the law enforcement leadership on Dubuque Street “knew” the highway had been closed.²⁰ Obviously, clear information in this regard could and should have been a priority. It follows also that it could and should have shaped decision-making as to the level of conflict with protestors that was proportional to the articulated public safety rationales.

If the law enforcement contingent gathered on Dubuque Street knew or could have known that the primary asserted reason for not allowing the crowd to move forward was no longer “real”, it then causes one to question why the police contingent there remained so intent on preventing the crowd from proceeding, to the point of eventual deployment of tear gas and other munitions. While we reiterate that decisions by ICPD to follow the lead of ISP were made in the midst of a challenging situation and in mutual aid of another agency’s plan, the creditable efforts to close the interstate as a backstop safety measure reduce the legitimacy of the inflexible mindset that prevailed on Dubuque Street.

²⁰ We did not receive a conclusive response when we asked if the I-80 at Dubuque was, in fact, successfully closed at the time of the standoff on June 3. When we asked ICPD leadership, they were unable to provide a definite statement that the I-80 was closed. And because ISP did not cooperate in our review, we were unable to learn whether the I-80, over which it has primary jurisdiction, was in fact closed, and if it was, the precise time that such occurred.

We noted two relevant conversations that occurred on the line between ICPD and ISP leadership that further evidence the “in the moment” uncertainty over the highway closure. The first, occurred at approximately 11:21PM and immediately before the second round of less lethal munitions was deployed. An ICPD officer asked the ISP commander, “what do we do if [the protestors] go around us?” The ISP commander responded, “there’s another 16 troopers at the top of the hill.” The ICPD officer asked, “have we diverted any traffic yet?” And ISP responded, “we had a traffic plan to move [...traffic],” but this conversation is interrupted with questions about deploying less lethal munitions. At this point, there is no further recorded conversation about the highway closure.

In the second conversation toward the end of the incident (approximately 11:36PM), ICPD again asked the ISP supervisor about the highway. The ICPD officer, concerned that they had nearly run out of less lethal munitions, asked the ISP commander, “If we’re diverting traffic, what are the odds that we let them get there? What do we lose? There’s nobody up there, right?” To which ISP responded, “Should not be.” After speaking into his radio, the ISP officer returned and reported, “they’re checking the cameras to see if we got it, everything shut off.” Again, there is no subsequent recorded conversation on Dubuque Street about whether the highway was closed.

For the City’s civilian leadership, the countermand the next morning to the decision the night before was swift and unequivocal. And the subsequent decision by ISP itself the very next evening to no longer press the issue and allow protestors to gain access to the interstate on subsequent nights raises further questions about Dubuque Street’s status as a definitive “line in the sand.”²¹

Of course, some of this analysis is much clearer in hindsight. And we mention again that the jurisdictional and decision-making authority rested first and foremost with the State Patrol. But ICPD now has the benefit of that hindsight on a going forward basis. As recommended above, it should memorialize its City’s expectations in light of this experience and the evolving standards to which law enforcement is always rightfully attuned.

RECOMMENDATION 3

ICPD, with input from the City, should evaluate its protocols for responding to pedestrian activity on the interstate, both on its own and in a mutual aid context with ISP, to provide more specific guidance as to enforcement strategies and priorities.

Lack of Negotiation with Protestors on June 3

One of the noteworthy features of the encounter was the lack of effective communication between the protestors and police. This had different components – some of which preceded the night of June 3 and some of which related to the unfolding events on Dubuque Street.

Iowa City’s “Say Their Names” rally on May 30 provides an instructive contrast in terms of the relative challenges faced by law enforcement as events progressed. Organized by young activists who remained prominent in the protest movement as the summer progressed, this pre-planned, well-publicized, daytime event attracted a few hundred participants and featured speeches from a range of organizers and elected officials. It was put together in direct response to the death of George Floyd and the broader injustices exemplified by that tragedy; in fact, a few carloads of participants left for Minneapolis from the rally with support from local grassroots fundraising.

²¹ In fairness, a variety of factors (including outreach by elected officials and a strong public reaction) made circumstances different on June 4 and 5; we discuss some of these dynamics below. But we note that the end of the tear gas deployments also coincided with ISP learning it would have virtually exclusive responsibility for deploying those munitions on subsequent nights.

While issues of police violence were central to the themes of the “Say Their Names” rally, there were no reported clashes with ICPD, and the event remained peaceful. Several factors contributed to this – not the least of which was the intentional, pre-arranged “low profile” that the Department maintained. Organizers had reached out to City officials, including ICPD representatives, to express their interest in avoiding conflict by not having the police be an overt and potentially antagonizing presence. And ICPD had cooperated, while developing a plan to be available quickly should a public safety issue emerge.

Several factors distinguished June 3’s march to the I-80 from this earlier event. These included daytime vs. night, planning vs. spontaneity, outreach to officials vs. none, and – perhaps most significantly – a static, peaceful series of speeches vs. an effort to gain access to an interstate highway. Underlying all of this was a change in the energy of the crowd and of the movement itself into something more overtly confrontational.²²

Taken together, these elements may have made any efforts by law enforcement to de-escalate the situation on Dubuque Street through outreach or dialogue more challenging. Yet a more overt focus on such gestures may have been productive, and the effort would at least have helped solidify the legitimacy of subsequent decision-making: if they had at least *tried*, the police would be in a better position to cite reasonable efforts at collaboration and the provision of unequivocal warnings.

Sometimes, police agencies have achieved success by the introduction of agency personnel who have special crisis negotiation training. Those officers with this special skill are regularly deployed to talk to those in confrontations with police to resolve issues peaceably. There was no evidence that on June 3 there was consideration by ICPD command to deploy those specially trained ICPD personnel in an effort to de-escalate this situation.

As cited above, prior to the June 3 march toward the I-80, ICPD had observed that protest activity generally in Iowa City was becoming progressively more intense over June 1 and 2, that protest activity was seemingly more organized, and that crowd size

²² One of the repeated themes from our discussions with ICPD representatives was their familiarity with – and support for – demonstration activity as a common feature of civic life in Iowa City. They professed to be well-accustomed to facilitating large crowd dynamics and promoting First Amendment expression and were struck by the difference between their usual ability to serve as – and be recognized as – a constructive presence and the antagonism that marked the early June days of the protest movement. Of course, one significant difference is that unlike, for example, the Women’s March, the whole *raison d’être* for the protests this past summer was concerns about police abuse.

was steadily growing. Moreover, ICPD and other affiliated agencies were attempting to gain insight into potential “next moves” by monitoring social media and providing informational bulletins to each other. But these efforts did not pay dividends, at least in terms of helping ICPD identify parties who were recognized leadership figures.

One ICPD official informed us that, because they did not have robust intelligence on the ground, law enforcement command was watching live media feeds in the Command Post as their means of information (see Command Structure) and gleaning what it could from officers in the field overhearing communications among the protestors. Instead of outreach that might have led to clarification of expectations and the facilitation of peaceful protest, law enforcement was in reaction mode – and scrambled to gather on Dubuque Street just as the crowd of marchers began to move from downtown.

RECOMMENDATION 4

ICPD should dedicate resources to strengthening its ability to gather useful information from social media and other sources about community sentiment, activism, and potential protest activity.

RECOMMENDATION 5

When circumstances allow, ICPD should pursue a strategy of more pro-active identification of and outreach toward protest leadership in an effort to achieve beneficial clarity on both sides.

RECOMMENDATION 6

ICPD should consider using personnel specially trained in crisis negotiation techniques to de-escalate potentially tense confrontations with protestors prior to resorting to deployment of force.

RECOMMENDATION 7

ICPD should develop a crowd control policy that requires, when feasible, attempts at de-escalation with protestors through negotiation, pace, and other de-escalation strategies and documentation of all efforts to de-escalate the situation.

Interestingly, a “last chance” presented itself in the form of the small group protestors who first reached the law enforcement skirmish line on Dubuque Street. Those people were speaking with (or yelling at) the police for at least ten minutes as the main crowd assembled and then waited a hundred yards away.

It was during this time that the incident commander from the ISP stated to these individuals that they were not going to be allowed to access the interstate, that they needed to leave, and that they would ultimately be subjected to tear gas and other interventions. He urged them to go back to the crowd and tell them not to advance. In response, while one female protestor did state they could breach the line if they wanted to, she also said that they came in peace. And another vocal male protestor stated several times that they would not push the line.

These exchanges were significant in a couple of ways. One was the overt and unequivocal expression by law enforcement of their own intentions to deny access and to effectuate that by force if necessary. This goes to the issue of whether the protestors were collectively “on notice” that the use of tear gas and other munitions was imminent – an issue that was much disputed and which we discuss in more detail below. The other was the lack of effectiveness in terms of de-escalation and/or constructive impact on the events that followed.

It should be noted that the initial group to arrive at the police line appeared to be there informally (as opposed to serving as a designated leadership team representing the hundreds of individuals behind them), and that their own communications lacked focus and any clear sense of negotiation or collaboration with law enforcement.²³ But it is nonetheless striking that, beyond articulating its own position as clearly and firmly as possible, the police command made no efforts to engage, defuse, or otherwise move the encounter off a confrontational footing.

As the larger mass of marchers began coming forward, chanting as they walked, one of the ICPD officers can be heard on the body camera recordings talking about “taking a knee” as a gesture of solidarity and compromise that could help avoid a more direct conflict. The idea did not take hold. It was literally a last-minute suggestion; moreover, we were advised that ICPD’s executive team had already decided against this form of conciliation (which was occurring in locations around the country) out of concerns for officer safety.²⁴

²³ While it was understandable that the joint law enforcement presence considered this first band of protestors to be representative of the group, it also caused them to impute their seeming intractability and expressions of aggression to the crowd as a whole. Our sense – as later acknowledged in discussions with ICPD – was that the crowd was far from monolithic in its specific intentions and attitudes toward antagonism with the police.

²⁴ To this point, the Department had identified and forwarded to its officers a June 2 tweet sent by a University of Iowa student stating: “if a cop takes a knee in a protest, take the opportunity to blow their kneecaps out”. And in Coralville, during the May 31/June 1 unrest, an ICPD officer had been assaulted with a closed fist, projectiles had been thrown at officers with a Coralville

There are a couple of dimensions of this worth exploring. The first is ICPD leadership's blanket rejection of "taking a knee" out of safety concerns. While safety is always of course a worthy consideration, we are unaware of incidents in which that conciliatory gesture has led to actual harm for officers; conversely, we can cite instances in which it helped to defuse conflict or build relationships. Law enforcement's willingness to show solidarity *with* demonstrators who are seeking a connection (as opposed to capitulating *to* antagonistic demonstrators who are testing them) has powerful symbolic resonance.²⁵ As such, it merits due consideration as an option that should be available when circumstances align appropriately.

This leads to the more specific issue of whether *this* specific context was or would have been an effective one for attempting the gesture. We refrain from definitive speculation in this regard, given the momentum of the crowd and the poor acoustics and lack of advance planning among the different agencies. But the mention of taking a knee showed both the desire by at least one ICPD officer for a different outcome and the unsettled nature of the police response plan. As difficult – and potentially fruitless – as it might have been, some effort to communicate with the protestors in a mode other than stern authority could and should have been part of the law enforcement approach – as it was in subsequent days.

Indeed, our understanding is that the Iowa State Patrol sent specially experienced personnel to Iowa City in the aftermath of June 3 with the specific goal of improving the quality and effectiveness of dialogue with protest leadership. This is a reflection of two things: the evolution of law enforcement's approach within that week (for which it deserves credit), and the benefit of this skill set as part of an agency's "tool kit" for navigating new public expectations.

RECOMMENDATION 8

ICPD should assess its internal capabilities (in terms of training and expertise) with regard to effective communication with protestors or adversarial groups, and devote resources as needed to increase its options for dialogue and negotiation in future events.

officer being rendered unconscious, and firearms had been taken from protestors. We do not dispute the officer safety issues that existed on June 3; we simply question whether their presence demanded the summary rejection of a de-escalation approach that had been effective in other jurisdictions.

²⁵ In fact, as noted above, City leadership had already taken a knee in different contexts during the prior days of protest.

Crowd Proximity to Skirmish Line

In our different discussions with them, ICPD personnel acknowledged they allowed the crowd to get too close to the skirmish line. Indeed, shortly before the main group began marching, recordings from the scene show the supervisors from different agencies discussing how close to let the marchers get and settling on a streetlamp that was approximately thirty yards away – only to concede that they did not have a specific vision for enforcing that idea. Instead, the marchers proceeded steadily until they came within a few feet of the skirmish line.

In reviewing the BWC recording from officers at the scene, we observed that protestors were nearly face to face with officers, and certainly within just a few feet of them. In some instances, protestors were screaming directly into the faces of the front-line personnel.²⁶ While these officers maintained their composure, the proximity undoubtedly contributed to their perceptions of crowd aggression, and presumably accelerated the pace with which they believed escalated action was necessary.

The crowd's proximity created other tactical disadvantages as well. For one thing, it precluded effective dialogue with the group as a whole. For another, it meant that the deployment of less lethal munitions would occur without any initial margin for the protestors to react and leave the area before experiencing the gas directly.

One means of creating a more tactically beneficial gap could have been the use of portable barricades, such as the “Jersey Barriers”²⁷ that were initially deployed by the City's Department of Public Works throughout the city to protect various public facilities. The Jersey Barriers were utilized effectively to preclude highway access during subsequent days of the protest activity. Again, this speaks to the improved planning and preparedness that subsequently created a contrast with June 3. It is difficult to know whether there would have been time on June 3 for ICPD to request Public Works to bring physical barriers to the scene and thereby create the desired space for more deliberate engagement. Clearly, though, officers themselves were deployed from

²⁶ It should also be noted that, however unpleasant, most verbal antagonism falls within the category of protected speech. Moreover, many of the protestors were simply chanting a message – “Hands up, don't shoot” – that is overtly intended to be *non-threatening*.

²⁷ 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.

various locations and were staged prior to the arrival of the first protestors at approximately 10:45 PM.²⁸

The value of distance is a key tactical principle for law enforcement (and was cited as such in the “After Action” memo prepared by ICPD’s on-site lead supervisor, who acknowledged the disadvantages that protestor proximity created). While we reiterate the extraordinary nature of events in early June, and the preparedness issues confronted by agencies across the country, we encourage ICPD to incorporate this and other lessons into its training and future strategies.

RECOMMENDATION 9

When possible, ICPD should utilize physical barriers or other methods to maintain distance in crowd control contexts, so as to improve potential for communication and increase time for evaluation of potential threats.

Declaration of Unlawful Assembly

As detailed above, the incident command team put together a plan as the main body of marchers was still about ten minutes from reaching their blockade line. It entailed the formal declaration of an unlawful assembly, the issuing of orders to disperse, and then the deployment of chemical munitions. This declaration and plan was initiated and formally executed by the Iowa State Patrol in its capacity as the lead agency for this operation within the unified command. Accordingly, it is ISP that “owns” the lion’s share of responsibility for the decision-making and its rectitude. Nonetheless, we pursue the following analysis with the idea that ICPD pointedly declined to dodge its accountability and involvement, and with the goal of offering useful considerations for the *future*.

While there was potential legal justification and legitimacy to each of these steps, the *speed* with which they unfolded contributed to much of the subsequent perception that law enforcement had been heavy-handed and excessive in its response. Within about ninety seconds of the crowd’s arrival at the line, the initial flashbang and tear gas combination was deployed.

²⁸ Deployment of such barriers is the responsibility of the City’s Department of Public Works; Public Works personnel may not have been available to respond on the evening of June 3. Subsequent to June 3, and to the credit of the City, Public Works was placed on standby to set up Jersey Barriers on roadways as needed to help manage protest activity *after* June 3.

The relevant code section for an Unlawful Assembly in Iowa is 723.2, which reads as follows:

An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such, commits a simple offense.

Assuming that the protestors remained determined to advance past the skirmish line and make it to the interstate (and there is considerable evidence that this was true for “them or any of them”), then the second part of the state’s legal definition was satisfied. Less obvious was the notion that the behavior of the protestors upon their arrival satisfied the “acting in a violent manner” prong of the offense.

Asked about this, one of ICPD’s representatives whom we spoke with was clear about his own perception of threat. Even while acknowledging his familiarity with more overt acts of aggression from other protest scenes across the country, he took exception to the characterization of the Dubuque Street protestors as uniformly and unquestionably “peaceful.” But there are important gradations between “not entirely peaceful” and a conclusion that they were “acting in a violent manner”.

Along with the belligerent and threatening comments from some of the protestors and their preparations to persevere in spite of potential tear gassing, he also cited the several vehicles that were idling among the crowd as a concerning variable. The feeling was that there was no advantage – in terms of de-escalation or alternative resolution – to be gained by waiting. On the contrary, in his view, the likelihood of actual violence and physical attempts to breach the line was only bound to increase.

With due respect for this officer’s experience and firsthand perceptions, we again note that the unlawful assembly call and dispersal order was made by ISP and we were not able to learn from that agency what facts formed the basis for that decision. And we also note that on June 3, officers did report receiving continual and sustained threats of harm by some of the protestors. The question becomes whether the reported sustained “threats” of violence (as opposed to actual “acts” of violence) qualify as “acting in a violent manner”.

The multiple instances of property damage observed by officers during the course of the march, while complicating the portrayal of the crowd’s “peacefulness,” was also not a direct threat to law enforcement – and was consistent with conduct that had been

tolerated earlier in the days of unrest. Moreover, and perhaps most importantly, it is obvious that large swaths of the group were indeed peaceful, sign-holding individuals whose priority was to exercise their First Amendment rights of expression in a non-violent way.

We have looked at scenarios from different jurisdictions during the same period, in which the mixture of motivations and behaviors of large crowds contribute to the challenging circumstances for law enforcement. Even in the face of more overt provocations, agencies can bear the brunt of sincere criticism from participants whose own behavior was completely restrained, and who were genuinely unaware of any inciting conduct that led to an “unlawful assembly” determination. Here, this dynamic was even more in play.

This reality gave additional import to the dispersal orders and accompanying warnings that were the precursor to the use of force. Unfortunately, that process turned out to be a significant weakness in the operation. On a forward going basis, it would be helpful for ICPD and the City to further consider what set of facts should be requisite in a public protest setting prior to the use of the state’s Unlawful Assembly Statute.

RECOMMENDATION 10

The City should consider what specific manner of statement or acts constitute “acting in a violent manner” in a protest situation and would be requisite prior to the initiation of Iowa’s Unlawful Assembly Statute, so as to better equip ICPD in making these assessments.

Dispersal Orders and Warnings

It is clear that the incident commander from ISP did issue the order to disperse and accompanying warnings on multiple occasions in the moments preceding the use of chemical munitions. It is also clear that some members of the protest group heard these communications and were aware of the possibility that tear gas would follow from a failure to leave the area; one woman (who had been part of the first contingent to engage) announced this very fact to the crowd through a megaphone in the seconds before deployment. Additionally, the identification of “street medics” within the protest group, and the availability on scene of materials to treat those affected by the gas, suggests that some level of awareness existed among the crowd at large of the potential deployment of tear gas.

But a significant amount of evidence also supports the notion that many of the individual marchers had no awareness that the actual deployment of tear gas was about to

happen.²⁹ In reviewing the relevant recordings from multiple perspectives, we were struck by the way that, from many angles, the relevant announcements through the police loudspeaker system were simply inaudible. This limited capacity – another function of preparedness challenges – undermined the notion that the crowd was collectively and meaningfully “on notice” and thus accountable for the consequences that ensued.

While the dispersal declaration and orders were taken directly from the Iowa statute, there should be care taken to ensure that the instructions are able to be heard by all protest participants. Moreover, while not required by the statute, protestors should be advised on what route the crowd should take to disperse.

These circumstances had important implications for the deployment of munitions that followed, and certainly factored into the widespread negativity that characterized public (and local government) response to the events of June 3.³⁰ Accordingly, improvements and innovations in this arena are a worthwhile focal point.

RECOMMENDATION 11

ICPD should ensure that any future declarations of unlawful assembly and orders to disperse in a protest situation are audible and include directions for crowd departure.

RECOMMENDATION 12

ICPD should include specific language in its crowd control policy, which we discuss in greater detail below, to provide more specific guidance than the current direction to “issue warnings.”³¹

RECOMMENDATION 13

ICPD should invest in equipment and study alternative techniques that would help ensure that orders and warnings were comprehensively clear and audible in the large crowd context.

²⁹ This was a consistent theme in both the written complaints to the Community Police Review Board and the supplemental interviews we had with participants: each insisted that the tear gas came as a complete and unjustified surprise, and the lack of forewarning contributed to their strong criticism of police action that night.

³⁰ In our and others’ evaluation of these types of events throughout the summer, we have found that unclear or unheard dispersal orders are a repeated tactical deficiency.

³¹ We discuss ICPD’s crowd control policy more generally, and with additional recommendations, below.

RECOMMENDATION 14

ICPD should explore innovative approaches to crowd notification – such as real-time social media broadcasting– that could facilitate enhanced communications with the public.

Use of Flashbangs, Tear Gas, and Other Munitions

It is noteworthy that the Iowa City Metro Special Response Team, staffed and led primarily by ICPD personnel, was the on-scene group with the most training and experience in deploying the chemical munitions that were used on June 3. It is also noteworthy that, prior to June 3, they had not been deployed in crowd control contexts, and lacked experience and training that was specific to the situation that confronted them that night. Indeed, flashbangs and tear gas are most frequently used in very specific contexts involving armed and dangerous individuals, such as hostage rescue or “dynamic entries” against barricaded suspects.

Accordingly, their use against a crowd of a few hundred marchers who were demonstrating against racial injustice and who were largely static (if clearly animated), had a particular resonance. It clearly shocked and frightened many of the participants. By their very nature, the munitions did not distinguish between the aggressive and the passive, the aware and the unaware, or the defiant and the obedient. In these ways, and in the specific context of George Floyd movement, these tactics invoked images of “crackdowns” against dissent in other countries and in other repudiated chapters of our own country’s racial and political history.

All of this is problematic, and the best evidence of the disconnect between the deployment and the larger circumstances is that tear gas was effectively “taken off the table” as an option for ICPD’s ongoing participation in the joint command.³² City officials issued a formal apology for what had happened, and assured protestors that they were committed to ensuring that it did not recur.

That said, ICPD’s representatives respectfully continued to defend the tactic in discussions for this review. And they did so for a simple reason: that the situation was an untenable one, that action to enforce the dispersal order was needed, and that *other methods could well have resulted in significantly greater injuries to both the public and law enforcement.*

³² Additionally, in the aftermath of June 3, the University of Iowa Police Department directed its own members of the Metro SRT to “stand down” from operations within the joint command in which the use of chemical munitions was likely to occur.

In other words, their strongest defense of use of gas was that it obviated the need to confront the crowd by other means – specifically the batons and shields with which their frontline officers were equipped. They took some measure of pride in the lack of arrests and reported injuries and felt that the criticisms had been based on an incomplete characterization of the dynamics on Dubuque Street.

ICPD's framing creates a thought-provoking new dichotomy: not between tear gas and *nothing*, but instead between tear gas and *other* physical force options that presented their own risks of harm to both officers and crowd members. However, while we acknowledge that other physical approaches to enforcement of the order carried their own pitfalls (if not some of the stigmas associated with tear gas), we also see flaws in this argument.

The problem with ICPD's proposed framing is that it takes as a presumption that force of any kind was justified. It assumes with questionable legitimacy that the requirements for declaring the unlawful assembly that legally predicated the force had in fact been satisfied. And it accepts that preventing the protestors from reaching the interstate was itself a goal worth engaging in acts of crowd control and deployment of munitions unprecedented in Iowa City's recent history.

Most significantly, the *haste* with which the final moments before deployment unfolded are a cause to second guess.³³ The formulation of the plan and sequencing minutes before the large group had actually arrived was, on the one hand, necessary if it were to happen at all. And ICPD's preliminary encounter at the blockade line with several members of the group presumably did little to increase the Department's optimism about compliance and non-aggression. But the rapidity of the actual deployment, particularly in relation to the close proximity of the only (and somewhat inaudible) warnings and the apparent lack of direct physical aggression from the crowd, suggests that at some point the result had become foreordained.

We make these observations while reiterating our overall impression of the officers' professionalism and lack of malice throughout the event – again in marked contrast to other jurisdictions. In our extensive review of body camera video and accompanying audio, we heard very few comments that were even arguably hostile to crowd members. This reflected well on the agency and its personnel.

³³ We again note that the ultimate decision-making authority in the operation – including the timing of the order to deploy the munitions – rested with the Iowa State Patrol supervisor. But if ICPD had wanted to, they could have declined the mission.

At the same time, we note at least one exception to this finding. During the lengthy aftermath of the initial flashbangs and munitions, a supervisor was asked about additional responses to remaining protestors and remarked that they should just “Let ‘em enjoy the gas.” While this was said in the context of *limiting* further force, the tone suggested a callousness that did not comport with the larger quality of the communications. In an era of both increased transparency and strained relations between law enforcement and the community, we encourage ICPD to be mindful of these recorded demeanor issues as part of its regular review process.

RECOMMENDATION 15

ICPD should review body camera footage after critical incidents, identify any remarks that are inconsistent with Department expectations, and ensure accountability and remediation as appropriate.

More broadly, these techniques – and others that were used later in the encounter (as we discuss next) – have raised questions about whether their use in the crowd control context is consistent with public expectations and best practices. Ideally, there is considerable overlap between these two standards. We know that the City is committed to hearing and responding to the concerned voices that have emerged since June 3. For example, City Council members drafted a 17-point resolution that incorporates some of the reforms proposed by the Iowa Freedom Riders.

Additional Force Deployments

After the initial use of flashbangs and tear gas drove the crowd back and changed the dynamics of the encounter, a significant number of protestors remained in the area for the better part of an hour. The unified law enforcement agencies on the skirmish line held their ground and periodically used additional measures – including further chemical munitions – to reinforce the dispersal order and to respond to subsequent individual acts of aggression (which included crowd members throwing projectiles – such as gas canisters – back at the line of officers).³⁴ The table on the following page details deployment.

³⁴ We know that the majority of the force on June 3 was used by members of the Iowa City Metro SRT, most of whom were from ICPD and who acted at the direction of an ICPD supervisor. In response to a Public Records Act request, the Iowa State Patrol acknowledged its personnel using one tear gas canister. The Sheriff’s Office informed us that its personnel did use force at the scene but did not provide particulars.

Table 2: Less Lethal Munitions Deployed on June 3, 2020

Less Lethal Name	Classification	Delivery Method	Time	Total Count
Oleoresin Capsicum (OC) Triple-Chaser Grenade	Inflammatory: localized heat, redness, swelling, and pain to skin/tissue	Hand thrown	11:04, 11:22	7
Ortho-Chlorobenzalmalononitrite (CS) Triple-Chaser Grenade	Irritant: irritation to eyes and respiratory system	Hand thrown	11:04, 11:22	9
Saf-Smoke White Grenade	Distraction/concealment; can multiply effect of OC/CS gas	Hand thrown	11:04, 11:31	5
37mm OC Skat Shell	Inflammatory	Launched	11:04, 11:22, 11:35	4
37mm CS Skat Shell	Irritant	Launched	11:04, 11:22, 11:35	4
Stinger Grenade Rubber Pellets CS	Pain compliance / irritant	Launched	11:19 and/or 11:22	2
Live (OC) & Inert (no irritant) PepperBall	Pain compliance / inflammatory	Launched	11:19 or 11:22 or 11:31	15 (estimated)
12g Distraction Devices ("flashbang")	Distraction device	Hand thrown	11:04	5
OC Spray	Inflammatory	Handheld	11:04	Various officers deployed

While the use of tear gas seemed to generate the most notoriety and criticism in the incident aftermath, it was accompanied by other types of munition that included

handheld OC (or “pepper”) spray, rubber pellets for pain compliance, and pepper balls fired from a special less-lethal weapon.³⁵

Overall, the assessment of these additional measures in the later stages of the encounter falls within a different context than the initial flashbangs and tear gas combination. This is because, whatever the initial confusion, the remaining protestors’ subsequent awareness of the circumstances (including the “unlawful assembly” and related orders and warnings) is obviously clear – as were the overt acts of aggression from a small number of participants. Still, to the extent possible, ICPD should make a formal assessment of each use of force to evaluate it within the context of prevailing facts and Department policy.

In our review of the recordings, for example, we had questions about an ICPD officer’s visible use of handheld OC spray in the face of a non-aggressive (if non-compliant) protestor; this was in seeming contravention of the “active resistance” requirement under which the use of such spray is characterized. Conversely, the ICPD’s lead supervisor provides guidance that is clear and consistent with policy when he authorizes the PepperBall launcher specifically for protestors who are throwing things at the line.

Our understanding from ICPD leadership was that, in lieu of their normal force review process, they asked participating officers for a written narrative describing their observations and actions on Dubuque Street.³⁶ This was in part because of their awareness that outside scrutiny of the incident – including this review – was going to occur, and they therefore wanted to refrain from reaching judgments prematurely. This view appears to be a misperception of the objective of this review; it is not an internal investigation into specific uses of force by ICPD officers that should be undertaken in every force incident.

³⁵ We noted that, sometime toward the latter half of the incident, ICPD command discussed that it might “run out” of less lethal munitions at the scene and requested that additional munitions be brought to Dubuque Street. It was, perhaps, because of this that ICPD deployed inert PepperBall rounds, which are more commonly used in training scenarios rather than in live incidents. We also noted that, in their report regarding the types of munitions used, ICPD reported that they requested additional munitions from the City’s Emergency Management Department, and that Emergency Management provided several Stinger Grenades from the Iowa Medical and Classification Center (IMCC), a correctional facility located in Coralville. The incident was resolved without needing additional munitions. But that they nearly “ran out” again points to the scale of the incident, the extensive and sustained deployment of munitions, and the extent to which it exceeded the agency’s normal preparedness level.

³⁶ We were provided these narratives, which range in detail and were clearly considered unusual by the officers from a protocol perspective.

And it was in contrast to the standard protocol they followed in conjunction with the controlling force used to effectuate the one arrest that night (of the lone individual who was the last to remain on scene and showed no intention of leaving). While we understand this rationale – and while the highly unusual scope and volume of force against individuals who were not taken into custody created documentation issues for myriad agencies during this time – we recommend that the Department conduct a more formal force investigation review and glean what it can from the actions of its personnel on June 3.

RECOMMENDATION 16

ICPD should assess the individual uses of force by its personnel on June 3 in keeping with its standard protocol, and should respond with accountability measures, additional training, or other feedback as appropriate.

Coordination of Medical Response

There was seemingly confusion about the Fire Department and Johnson County Ambulance’s response to June 3, especially as it related to providing medical care to protestors immediately following the first deployment of less lethal. We identified this briefly in our review, above, and elaborate upon it here.

In reviewing evidence, we determined that emergency medical assistance was requested to Dubuque Street via dispatch at 11:09 PM, approximately five minutes after the first deployment of less lethal munitions. An ambulance arrived at the scene sometime shortly thereafter and, as viewed in video evidence, drove slowly into the crowd to assist with what was reported to be a seizure victim.³⁷ Around this same time, ICPD deployed a second round of less-lethal munitions, some of which appear to have struck the side of the ambulance. At approximately 11:25 PM, the responding Emergency Medical Services (EMS) team requested assistance as Dubuque Street and Foster Road via radio, stating that “things were being thrown” at them and that they were being surrounded by the crowd. At approximately 11:30 PM, ICPD requested, via radio, that the ambulance shut off its headlights as the oncoming beams were “blinding” the officers on the skirmish line and instructing the ambulance to drive over the median and cross the skirmish line to a safer location.

³⁷ As mentioned previously, our understanding is that the afflicted individual ultimately declined medical transport of his own volition.

City leadership reported that the Johnson County Ambulance and the Iowa City Fire Department fire engine were instructed to stage on the west side of the Iowa River at the onset of the June 3 incident. When these stand-by units received the radio call from dispatch to respond into the crowd for the seizure incident, the responding Ambulance unit assumed that this order had already been approved by the law enforcement on scene and responded into the crowd.

However, according to ICPD leadership, the medical response had **not** been approved by law enforcement at the Command Post or on the ground. As such, ICPD reported, the Ambulance unit, staffed by two Paramedics, responded prematurely into the crowd and into an active scene before receiving clearance to do so. As a result, the ambulance and Paramedics were impacted by less lethal munitions and by the agitated crowd (one Paramedic reported that she felt “threatened” by the crowd and that one protestor grabbed her vest).³⁸

Clearly, there was miscommunication and lack of coordination here that could have had dire consequences and did not contribute to a sense of professionalism expected of individuals working toward a common goal. It is incumbent upon the various stakeholders to consider this part of the response with an objective of improving coordination on a going forward basis.

RECOMMENDATION 17

The City, in collaboration with ICPD, Johnson County Ambulance, the Joint Emergency Communications Center, and the Iowa City Fire Department, should review the miscommunication that occurred and work to develop protocols intended to improve coordination for police and rescue response for future incidents.

Inability to Identify Officers

On June 3, all ICPD patrol level officers were attired in the agency’s tactical uniform: black pants with external cargo pockets, black long or short-sleeved shirt, external protective vest, gloves, and helmet with face shield. Some officers wore a gas mask throughout the incident and others put it on immediately prior to deployment of gas. Some line officers carried a shield and/or baton. ICPD Special Response Team officers were attired in a gray tactical uniform with external leg holster; the front and back of

³⁸ One of the protestor participants whom we interviewed mentioned specifically that the sight of munition canisters striking an ambulance that was there to render aid contributed significantly to the impression of police wrongdoing.

their external vests were labeled with the word “POLICE” in white and their gray long-sleeved shirts had the ICPD insignia.

Both ICPD tactical uniforms do not have any identifying information and, when coupled with a face shield and/or a gas mask, it is nearly impossible to identify individual officers. One officer in command on the scene noted that his inability to identify the officers on the line made command and control difficult as he could not identify who was who. To his credit, this supervisor included this same issue in his post-incident written summary and suggestions for improvement.

In the wake of “para-militarized” police responses to protests across the nation, there has been much discussion of law enforcements’ tactical uniform, often referred to as “riot gear.” Some argue that the tactical uniform creates a perception of domination and militarization, serving to hide and dehumanize officers and strike fear and intimidation. Others retort that the tactical uniform increases officer safety and provides the command presence necessary in crowd control events. Regardless, one theme emerges from many of these discussions: the tactical uniform should provide clear identification of the officer, both for the public and for effective command and control as well as post-incident review of force incidents. Many agencies now label tactical gear, such as helmets and vests, with badge numbers and/or officer last names for the purposes of identifying officers; ideally, the identification should be visible from both front and back. We encourage ICPD to align its uniform policy in keeping with this approach.

RECOMMENDATION 18

ICPD should revise its uniform regulations to ensure that officers in tactical gear can be clearly identified during their operations, both internally and for purposes of public accountability.

Decision to Arrest Protester

As noted above, on June 7, 2020, ICPD arrested a protester (and leader of the Iowa Freedom Riders) for his actions on June 3 (as well as a possession of marijuana charge that was discovered incident to his arrest). The protester was charged with unlawful assembly and disorderly conduct, spent several days in jail, and while in custody, was not able to participate in subsequent protest activity.

This action temporarily sidelined one of the movement’s more provocative members, and it came at a cost regarding public trust: there was speculation that the “retroactive”

arrest of this individual, who had emerged as a vocal Black leader of the protest movement, was a form of disparate treatment that was motivated by a desire to interfere with his First Amendment activity. The arrest itself became the basis for further protests.

The narrative of the police report speaks of a group of individuals vandalizing street signs and committing other property damage but does not attribute any act to this arrestee. And the narrative notes that several individuals threw rocks, bricks, and tear gas canisters and that a police officer was injured as a result of a thrown object – but again does not attribute any of these actions to the person arrested. Finally, the report notes that a female in the group stood nearby the arrestee and threatened officers with violence, but the report does not attribute the arrestee with making similar statements.

In short, the report itself does little to dissuade those who believe that the man arrested several days later was singled out more for his believed leadership role in the process than his direct involvement in any violent criminal activity. The City has provided us with further details about the rationale behind the decision and the legitimacy of concerns about the man's actions; additionally, our understanding is that other justice system entities were consulted. These factors – and the resultant conviction – are relevant as counterbalance to the notion that the arrest was baseless. Nonetheless, the perception gap was real, and the explanations only go so far in closing it for those who believed the arrest to be unreasonably selective.

On June 17, 2020, the Mayor of Iowa City wrote a letter to the Johnson County Attorney on behalf of City Council requesting that all charges be dismissed against Black Lives Matter protestors, including this individual. He had been charged with both unlawful assembly and disorderly conduct, but, two days later, pursuant to a plea agreement, pleaded guilty to disorderly conduct while the unlawful assembly charge was dismissed. He received “time served” for his days in jail prior to the plea.³⁹

Police agencies generally and traditionally have had largely unfettered discretion regarding when and whether to arrest individuals, particularly misdemeanors. The opportunity to deliberate is even greater when enforcement action is not contemporaneous. In the context of policing and First Amendment activity, it would be

³⁹ The issue of the charges pending against the protestors as a result of the June 3 and other protests was recently revisited in the public narrative when it was reported that a man who drove his car purposely in the direction of protestors later in the summer received a plea arrangement whereby he also received a “time served” sentence after spending over two months in jail and avoided additional jail time. Allegations were again made about disparate treatment within the justice system considering the difference in severities of the two offenses.

helpful to have engagement and dialogue with Iowa City leadership and the public to receive input on when and whether to arrest individuals on the basis of their conduct, and whether charges should be pursued when arrest occurs.⁴⁰ Such an exchange would help ensure not only that the Department was reflecting community priorities in its approach but that the consensus was based on accurate information as to the underlying facts.

As Iowa City continues to reimagine its public safety response, this is a policy area where the Police Department could benefit from additional community input on a forward going basis.

RECOMMENDATION 19

Iowa City should engage in dialogue with its police department on how best to address protestors involved in disorderly conduct and use the tools available within the criminal justice system.

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⁴⁰ Once the case is filed by the County Attorney, these decisions no longer belong to the Police Department; at that point, disposition of the charges becomes the County Attorney's prerogative.

After June 3: A Shift in Approach

As discussed above, the actions of law enforcement on Dubuque Street were met with strong public disapproval throughout Iowa City. The choice to thwart the protestors' desire to demonstrate on the I-80 was itself likely to be unpopular in the context of the powerful, heartfelt reactions to the death of George Floyd; the use of tear gas and other munitions to forcefully drive away a crowd of hundreds compounded this disconnect. The aggressive crowd control tactics were unprecedented in recent memory, and they prompted anger, bewilderment, and official apologies in the coming days.

The events of June 3 had two other immediate consequences as well: they galvanized a broader and deeper wave of support for the local Black Live Matter movement, and they provoked a significant alteration of strategy and operational responsibility among the participating agencies of the joint command.

On June 4, protestors again met at the Pentacrest in downtown Iowa City, this time accompanied by the Mayor and other elected officials. After marching for nearly five hours, the crowd again marched down Dubuque Street toward the highway. Shortly after 9:30 PM, the crowd, numbering more than 1,000 people, moved toward the on-ramp. Along the way, some protestors vandalized the pavement, exit signs, and road barriers.

At the on-ramp, protestors were met with ICPD and ISP police vehicles and officers. Unlike on June 3, however, the officers reportedly moved their police vehicles. At some point, ISP requested that the Department of Transportation reroute traffic on the I-80. Shortly after 10:00 PM, the protestors marched onto the empty highway. After marching for approximately 20 minutes, the crowd exited the highway and returned to downtown Iowa City via Dubuque Street.

And this access to the I-80 occurred again on June 5, though for a much longer length of time and with considerable spray painting to the roadway and median barriers, but with no clashes between police and protestors.

On June 6, ISP again prohibited access to the highway. Protesters in other jurisdictions throughout Iowa State, such as Coralville, were copying Iowa City by marching on their local highways (such as Highways 1 and 218), creating a state-wide situation that ISP

indicated it could not adequately staff.⁴¹ Instead, the protestors marched to Kinnick Stadium, where they vandalized the stadium statue, stadium, and surrounding buildings and roadways. As noted above, on June 7, ICPD arrested a protest leader, prompting more protests on the evening of June 7 and 8.

On the evening of June 8, the Iowa Freedom Riders (“IFR”) – a grassroots activist group that had organized and found its voice with remarkable speed – called for the end of vandalism and, on June 9, urged the halt of all protest activity while focusing on direct engagement with elected officials.⁴² The City Council called an emergency session to hear the Iowa Freedom Riders’ demands in an effort to address the structural dynamics that had prompted nation-wide reform movement in late May.

Protests and demonstrations recurred intermittently in the latter stages of the summer, and ICPD was sometimes a focus of criticism for its handling of these subsequent events. Late August, for example, saw the Iowa Freedom Riders call for four days of additional protest, and there were incidents involving cars allegedly driving into demonstrators on purpose before leaving the scene, including the arrest of one described above. Through all of these developments, there were no further tear gas or other less lethal munition deployments in the City after June 3.

The stark differences between the law enforcement tactics on June 3 and the approach on the subsequent days of the protest movement – particularly as illustrated by the facilitating of access to the interstate on the nights of June 4 and 5 – were the function of several factors. Some of these related to evolutions in the agencies’ ability to recognize and adjust to the scale of what was occurring.⁴³ Preparedness, or the lack thereof, was a consistent issue in jurisdictions across America that had not foreseen the sudden and dramatic rise of demonstration activity and unrest that unfolded at that time. And, in Iowa City and for ICPD, the shift was a direct response to perceived and actual missteps in the handling of Dubuque Street.

Iowa City’s leadership made a collective decision that ICPD was to stand down from any sort of additional front-line participation with the Iowa State Patrol in blocking

⁴¹ It would have been helpful to have learned what ISP’s plan would have been should the protestors have demanded to access the Interstate on this date. Unfortunately, we were not able to do so as a result of ISP’s determination not to cooperate in this review.

⁴² While the IFR called for an end to vandalism, some continued to vandalize Iowa City public and private property.

⁴³ For example, we discuss below the bolstering of the unified command structure in Iowa City that occurred after June 3.

protestor access to the interstate.⁴⁴ This was particularly true in relation to the Metro SRT forces, and the responsibility for using chemical munitions of any kind against protestors.

Moreover, the City took steps to actively engage with and support subsequent protest activity – including the march that reached the I-80 on June 4.

City officials and ICPD communicated this new mandate to the Iowa State Patrol, which reportedly accepted and accommodated it without significant friction between the agencies. Indeed, a significant change in the course of that week stemmed from the simple fact of ISP's devotion of greatly increased resources to Iowa City in terms of personnel, equipment, and command-level staff. By the afternoon of June 4, ISP had substantially more capability on scene, thus lessening its reliance on ICPD and other agencies. And, in a notable adjustment, for two days ISP changed its insistence on blocking highway access to protest activity.⁴⁵

As a result of increased ISP deployment, ICPD could provide mutual aid of a different nature. On June 4 and 5, then, ICPD deployed officers and vehicles to the highway to support various missions, ranging from “peacekeeping,” traffic control, and highway safety to, at some points, front line support and arrests.⁴⁶ This “freed up” all State Patrol personnel to be the commanding front line and, if needed, to deploy their own chemical munitions. (They did not do so.) Our further understanding is that ISP pursued avenues of communication/negotiation with protestors to a much greater extent, and with beneficial results.

ICPD leadership also reported that both its Command Post and command structure became more robust as the days progressed. On the evening of June 4 and for approximately ten days after, the Command Post was staffed with the City Manager, more senior personnel from ISP, including the ISP Commander at some points, the Sheriff, Johnson County Emergency Management, the Fire Dept. Deputy Chief, and personnel from the County Attorney's office. These higher-ranking personnel brought more experience and the capacity to make executive decisions. The Command Post

⁴⁴ The new direction was for the Department to provide backup resources as needed, and only to directly engage or use force in the event of an emergency situation.

⁴⁵ We were told that this happened, at least in part, at the request of Iowa City officials.

⁴⁶ While the fundamental shift away from the latitude to use tear gas was relatively clear, it should be noted that the dynamic conditions on the ground made the subsequent days challenging in their own right, and the leadership's vision for how and where to engage was not always seamless or consistent. This was, understandably, a source of frustration for line-level officers at times.

also established an intelligence capacity, including ICPD and Coralville detectives and agents from the State Division of Criminal Investigation (DCI). The technological capacity increased as well, with monitors to view live feeds from the University surveillance cameras and a dedicated technology officer.

The adjustments made by law enforcement were to their credit in many respects, and they illustrate the ways that some of the troubling aspects of the June 3 confrontation were reflective of preparation issues and inexperience more than malice toward the protestors or a disregard for their cause.

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Additional Policy and Procedural Issues

As part of the scope of our assignment, ICPD provided relevant General Orders, Guidelines, manuals, and plans for our review. OIR Group noted that ICPD's policies related to crowd control and use of less lethal weapons call for updating and consolidation to ensure that future events are managed with more efficacy and are in line with modern policing models for crowd control. We also take this opportunity to address other structural issues relating to large-scale events like the summer's protests and discuss them in the context of guidance already provided by City officials.

Use of Force Directives in Resolution 20-159

On June 16, 2020, Council passed a 17-point resolution calling for a "restructuring" of ICPD with more focus on community policing – a continuation of the model that the Department has pursued since 2013 but one infused with new thinking and driven by the direct input of activists in the aftermath of the June protests. This resolution also featured responsive elements that related to use of force. For example, and significantly, the resolution directed the City Manager to "expressly ban, in the ICPD's general orders, any use of chokeholds or any other maneuver that cuts off oxygen or blood flow." The resolution further prohibits "the use of tear gas, rubber bullets and flashbangs against peaceful protestors."

With regard to the use of neck restraints, direction for ICPD leadership and its officers is clear: the use of the hold is no longer authorized as a force option. However, the resolution provides considerably less clarity about the conditions under which less lethal munitions may be used against individuals engaged in protest activity. This speaks in part to the difference between "crowd control" (which refers to a range of activities, from a large-scale public celebration to civil unrest) and Constitutionally-protected "speech" or "assembly" in the form of marches or other demonstrations – which can, of course, involve large crowds.

Interestingly, the resolution does not apparently contemplate a "ban" on deployment of less-lethal munitions, even in dealing with protest activity (which leadership in other cities has done). Rather, the current language infers there may be situations authorizing use of the identified munitions against "non-peaceful" participants engaged in protest activity. But there is no further guidance regarding the conditions under which such munitions might be deployed.

While the disapproval of certain techniques “against peaceful protestors” seems eminently reasonable and appropriate – and while it is partly a reaction to actual excesses by American law enforcement agencies this summer – the application of that concept is complicated by blurred lines and the divergent conduct found within crowds of demonstrators. The intentions of the majority of peaceful, passively resistant participants can easily be undermined by the aggressions or assaultive behavior of a few, with detrimental implications for crowd and officer safety.

Accordingly, the most useful policies will reflect – and try to accommodate – the complexities that often arise. Designing such a policy is, of course, easier said than done. But there are core principles that can help constructively shape the mindset of officers while providing them with the discretion to respond effectively under exigent circumstances.

First is an emphasis on alternatives to force that promote the use of de-escalation tactics (including patience, clear announcements, negotiation, and other techniques). The use of less-lethal munitions and other force options in the protest context should be reserved for “last resort” situations involving actual assaultive behavior and/or significant, potentially dangerous threats of property destruction. Crowds should be given every opportunity to understand the bases for enforcement action, time to comply, and a clear means of avoiding munitions (such as tear gas) by leaving the area through an obvious route. Another important principle relates to targeting any necessary force to the extent possible: looking for proportional responses that focus on violent behaviors and individuals while preserving the rights and safety of the larger group.⁴⁷

The City might consider providing the police further instruction that invectives, verbal aggression, hostile gestures, and threats alone are insufficient to justify the use of less lethal munitions but authorizing potential use in situations where police are being subject to hurled projectiles or other physical activity jeopardizing their safety.

The City should advise the police on what type of property protection would justify the use of less lethal munitions with perhaps minor vandalism such as defacing of signs or breaking of windows being insufficient to deploy munitions but authorizing potential deployment to prevent major and dangerous property damage such as arson of police vehicles or city buildings or looting of businesses.

⁴⁷ Some agencies found success during the summer’s challenging, large-scale crowd events by designating specific, small cadres of officers to move with more flexibility and address specific problems through targeted arrest or other focused interventions.

Finally, the City should provide further guidance on whether less lethal munitions are authorized to prevent unauthorized access or forced entry to some sensitive City facilities such as City Hall and the Police Station within but that they are not to be used to prevent access to City streets or the Interstate.

It is, of course, important for ICPD to be active participants in this process – responsive to the City’s policy vision while contributing its own expertise and ideas about how best to effectuate it. We also take the view that the City and its police department should not develop and finalize policies relating to crowd control completely on their own. Rather, consistent with former President Obama’s Task Force on 21st Century policing and the current commitment that the City has placed on community engagement as it reimagines its public safety function, the parties should continue to engage the Iowa City community as policies are being reconsidered and refined.

RECOMMENDATION 20

Iowa City leadership should seek community input and feedback from ICPD experts in crafting policy parameters for use of force and deployment of munitions in the context of protest activity.

Crowd Control Policy

Throughout this report, we make recommendations related to crowd control policies and tactics. As such, we evaluated ICPD’s currently existing crowd control policy and determined that ICPD does not have a comprehensive policy to guide operations. Below, we provide a detailed analysis of ICPD’s current guidelines and the gaps within them.

Specifically, we found references to crowd control guidelines and tactics in three different, currently active, ICPD policy documents. These documents each have elements of crowd control policy, but as shown in the table below, none are comprehensive. For example, the “Mass Arrest / Disturbance” policy provides guidelines for use of less lethal munitions in a “situation that escalates or appears that it may escalate to the point where [less-lethal] munitions are being considered” but does not explicitly define if or how to deploy less lethal in a crowd control scenario except for use of pepper ball. The policies are summarized in Table 3, below.

Table 3: Existing Policies Related to Crowd Control

Name	Updated	Policy Contains	“Gaps” in Policy
SOG 01-01: Mass Arrest/ Disturbance	October 2001	<ul style="list-style-type: none"> ✓ Details some procedures to be followed in crowd and mass arrest situations ✓ Guidelines for use of less lethal in a “situation that escalates or appears that it may escalate to the point where [less-lethal] munitions are being considered” but no specific crowd control language ✓ Details calling other agencies for mutual aid ✓ Specific guidance on use of PepperBall ✓ Detailed arrest protocol 	<ul style="list-style-type: none"> ✗ Specific guidelines for use of force (all kinds) in crowd control ✗ Specific tactics for crowd control ✗ Dispersal order language or instructions ✗ Does not provide guidance for form/function of mutual aid
SOG 07-01: All Hazards Plan	August 2019	<ul style="list-style-type: none"> ✓ Details the Incident Command System, or actions required when responding to an “unusual occurrence” like June 3 ✓ Includes Command, Planning, Operations, Logistics, and Finance/Admin ✓ Comments on requests for mutual aid, stating that ICPD retains command ✓ Requires mandatory annual training on ICS 	<ul style="list-style-type: none"> ✗ Any policy / guidelines for use of force (all kinds) in crowd control ✗ Dispersal order language or instructions ✗ Does not provide guidance for form/function of mutual aid
General Order 89-04: Civil Rights	April 2020	<ul style="list-style-type: none"> ✓ Policy to consolidate all other polices related to Civil Rights, including right to peaceful assembly 	<ul style="list-style-type: none"> ✗ Any guidelines for use of force (all kinds) in crowd control ✗ Any tactics related to crowd control

Name	Updated	Policy Contains	“Gaps” in Policy
		<ul style="list-style-type: none"> ✓ Police are responsible for protecting participants and non-participants and for “dealing” with illegal acts promptly ✓ Details that ICPD prohibits other agencies operating in their jurisdiction to use excessive force on non-violent demonstrators 	<ul style="list-style-type: none"> ✗ Dispersal order language or instructions

Various organizations have recently offered guidance for law enforcement agencies that are creating updated, comprehensive crowd control policies.⁴⁸ Importantly, some of the common themes to emerge reflect current sensibilities about the evolving relationship between police practices and demonstration activity – including protests *against* the police. They include the following focal points:

- Protecting and facilitating peaceful free speech and expression
- The likelihood that police action will improve the situation
- The seriousness of the offense(s) and objective dangers that they present
- Minimizing the use of weapons/militarization: specific guidelines for uses of force, and, when appropriate, explicit prohibition of use of some munition types
- Increasing communication and coordination: specific guidelines for de-escalation techniques, mutual aid coordination, etc.

Indeed, there are specific model policies from which ICPD can create a comprehensive and clear crowd control policy. Specifically, this policy should contain the elements noted above.

⁴⁸ A good example of the work product that has emerged this year was issued by the Policing Project at the NYU School of Law in October. It is entitled “Policing Protests to Protect Constitutional Rights and Public Safety.”

We also suggest the addition of specific operational guidelines or protocols related to:

- Definitions of crowd control-related terms as defined/established by Iowa City and/or ICPD, specifically. For example, how to define an “unlawful assembly” or “civil disturbance” or “demonstration”
- Specific tactics and techniques related to crowd control, especially those related to officer deployment, information gathering, negotiation and de-escalation
- Crowd dispersal, including specific dispersal order language, instructions for dispersal, method(s) for issuing the order, and designation of dispersal routes
- Specific role/expectations for mutual aid/joint responses
- Logs, such as logging when and by whom dispersal orders were made, munitions deployed or injuries
- Specific guidelines for deployment of less lethal munitions (discussed in more detail later in this report) in crowd control
- Deactivation

We do note that ICPD does have a robust policy related to management response and logistics planning for mass disturbances such as protests. ICPD’s “All Hazards Plan” clearly defines and outlines the Incident Command System, a management response system used by many agencies nationwide. As we detail later in this report, however, ICPD did not effectively utilize the Incident Command System on June 3. These specific cases highlight that merely *having* a policy does not always result in successful implementation of said policy. Other factors, such as training, planning, and coordinated leadership in the face of unfolding events, are generally needed to reinforce the guidance policy provides. Still, we recommend that ICPD create a consolidated, clear policy related to crowd control as a foundation for its future responses.

RECOMMENDATION 21

ICPD should review, consolidate, and update its different crowd control policies to eliminate gaps, increase clarity, and reflect current community standards and expectations, in consideration of the principles articulated herein.

With regard to the use of PepperBall in a crowd control context, the relevant policy language reads as follows:

PepperBall may also be used to disperse unruly or rioting crowds which have or are threatening to unlawfully damage property or threatening physical violence.

There is no definition in the policy as to what constitutes an “unruly” crowd, providing insufficient guidance as to appropriate deployment of the weaponry and leaving its use to a wide range of interpretation. ICPD should revise its existing policy and limit use to physically aggressive or combative individuals, rather than as a general tool for dispersal of an “unruly” crowd.

RECOMMENDATION 22

ICPD should re-evaluate and codify its approach to the use of less lethal munitions for crowd control in a manner that, by creating narrow, particularized standards for deployment, emphasizes the wide latitude that should be given to speech activities and recognizes the public’s right to peaceably demonstrate.

RECOMMENDATION 23

ICPD should modify policy related to use of pepper ball rounds in crowd control situations to limit use only against physically aggressive or combative individuals, rather than as a general tool for dispersal of an “unruly or rioting” crowd.

Additionally, we note that, in the interest of transparency and fostering community trust, increasingly law enforcement agencies are publishing all policies, such as entire Policy Manuals, on their Department websites.⁴⁹ ICPD’s website lists the Department’s General Orders, but these are not searchable nor comprehensive, and the website does not list Special Operations Guides. Consistent with former President Obama’s 21st Century Policing Task Force Recommendation, posting an online, public and searchable policy manual may go a long way as ICPD seeks to establish more transparency with its community.

RECOMMENDATION 24

ICPD should post its policy manual on its website with a searchable function.

Training

One consistent theme nationwide is that agencies were largely insufficiently trained for the magnitude and nature of the summer’s protest activity. This was especially true in Iowa City.

⁴⁹ Some agencies have chosen not to post operating guidelines that, if public, might undermine their efficacy (for example, policies related to Special Operations teams tactics or protection details). Because we have seen overuse, this practice should be carefully crafted and limited to only the most sensitive of policies.

While the City was familiar with peaceful protests, especially protests held in the University setting, ICPD reported that it had not deployed less lethal munitions for crowd control in over 30 years, nor had they engaged a crowd of the nature and magnitude of June 3. At all levels, those that we spoke to stated that, from a training standpoint, the officers were largely unprepared for June 3 and the scale of the demonstration and protest activity as a whole.

We noted that crowd control training is not a regular part of the training curriculum as listed in ICPD's annual training curriculum and related policy. ICPD personnel reported that the last time that ICPD officers had any training regarding crowd movement was likely during the 2011 "Occupy" movement, and that this training was related to how to move individuals out of tent cities, not related to skirmish lines or deployment of less lethal munitions.

Further, while SRT members (including UIPD officers) train frequently on specialized skills such as barricaded suspects or hostage situations and are all currently qualified in deployment of less lethal munitions, they had not, in recent years, formally trained for crowd control. Their own specialized SRT Tactics manual does not refer to crowd control tactics.

ICPD also reported that it had not formally trained with Johnson County Sheriff, UIPD or other local agencies that might provide mutual aid since a County-wide training held in 2018.

Given the nationwide political climate and the potential for future civil unrest, ICPD should evaluate its training curriculum to include periodic, formal training on crowd control. This may include periodic refresher training on specific tactics as appropriate.

RECOMMENDATION 25

ICPD should update its annual training curriculum and related General Order to reflect the addition of formal crowd control training.

RECOMMENDATION 26

Metro SRT should specifically update its Tactics manual to include model policing tactics for modern crowd control.

RECOMMENDATION 27

Metro SRT should train regularly on crowd control tactics so that they are prepared to respond in a command capacity when necessary, and should train with other specialized units within ICPD and other agencies that are likely to provide mutual aid.

RECOMMENDATION 28

When practicable, ICPD should host or engage in joint training exercises on crowd control tactics and responses with other local agencies County-wide.

RECOMMENDATION 29

ICPD should incorporate current case law related to protest activity as well as best practices and trends in crowd management when delivering its annual use of force training.

Use of the Incident Command System & Incident Action Plan

According to their Standard Operating Guideline 07-01, "All Hazards Plan," ICPD should follow an Incident Command System (ICS) to respond to crowd management and civil disturbances like the event on June 3.

Established in the 1970s, 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.

With respect to crowd control situations like June 3, the goals of an ICS are to:

- 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 (IAP). Creating a comprehensive IAP can be challenging, if impossible, in the face of spontaneous events such as June 3. 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.

An IAP, even one that is generic, provides guidelines regarding incident objectives and response strategies by stage or period, and formally documents procedures and logistics. The IAP also serves to identify command structure, roles and responsibilities, and communication (e.g., radio call signs), all aspects that were missing in ICPD's overall response to protest activity.

Not ever clearly documenting mission objectives and, more importantly, changes in mission objectives, left room for confusion and misinterpretation in the hours leading up to and the weeks following the June 3 incident. While ICPD leadership and responding officers were aware of the new mission on the evening of June 3 – to be mutual aid to ISP to keep protestors off the I-80 highway – this shift in mission objective was not clearly articulated for officers or documented in any way.

Indeed, not having any clearly documented plan throughout this period had an impact all the way down the ranks to officer morale, confidence, and mission command. One ICPD officer reported that the officers were receiving ever-changing missions and rules of engagement every day, sometimes hour-by-hour, and often conflicting. The officers on the ground did not always know what decisions were being made in the Command Post, nor their mission objectives. Not having an IAP, even one that was periodized and fluid, made deployment and planning difficult. Not having a consistent plan or mission objectives, reported one officer, created stress for officers on the ground.

We noted that ICPD followed the ICS approach, including creation of an Operations Plan (similar to an IAP) for the pre-planned "Say Their Names Rally" held on May 30 but did not clearly do so as on subsequent days as protest activity increased and the mission shifted. Specifically, ICPD did not follow the ICS recommendations of creating a robust Command Center, a clear Incident Action Plan and effective communication, which we detail below.

We do commend ICPD for establishing some components of the ICS on the days following June 3 when it became clear that the protest activity would continue. As we discuss in more detail in the following sections, on June 4 and beyond, ICPD set up a unified command at the formal Command Post, established formal intelligence and surveillance, set up staging areas, and shared deployment resources with other responding agencies.

RECOMMENDATION 30

ICPD should follow the Incident Command Structure and related components, including establishing an Operations or Incident Action Plan when practical in future operations of this scope and magnitude.

RECOMMENDATION 31

ICPD command staff, including all supervisors and team leads, should have initial and refresher training on incident command.

RECOMMENDATION 32

ICPD should establish various, generic crowd management plan templates in advance of protest activity to be adjusted when Incident Commanders are responding to a spontaneous event. This should be completed internally and in joint training exercises with agencies that will likely provide mutual aid.

Command & Communication

According to one ICPD official, Iowa City's protest activity began later than in neighboring jurisdictions and, as such, they did not set up a **formal** Command Post until after June 3. In the "early days," ICPD set up an impromptu Command Post in the Johnson County Sheriff station in downtown Iowa City, where leadership from the City, Sheriff, and UIPD met to discuss how to respond safely to the unfolding incidents.⁵⁰ This Command Post lacked the structure to effectuate the mission.

On the afternoon of June 3, the "impromptu" Command Post was initially staffed by ICPD leadership, possibly Sheriff personnel, and the County Attorney. ICPD reported that four lieutenants held logistics roles, ranging from providing food and meal breaks to coordinating scheduling and equipment.⁵¹ In the later afternoon, personnel from ISP, though not Command Staff, joined the Command Post.

⁵⁰ The Command Post at the Sheriff's Department was in the center of protest activity within a building that was the target of protest activity (protestors gathered at the jail and courthouse, housed in the same location as the Command Post). ICPD leadership acknowledged that the Sheriff Department location was "too close" to the protest activity, yet they did not change the Command Post location for the duration of unrest activity despite having a dedicated Command Center facility at another location approximately five miles from downtown.

⁵¹ That ICPD lieutenants would be deployed in this manner on June 3 strikes us as a highly questionable allocation of leadership resources, and as much as anything reflects the lack of an integrated command or plan.

We noted that several operational aspects missing from command may have had an impact, albeit peripheral, on the execution of the mission on June 3:

- The Command Post lacked technological and deployment capacity for surveillance and intelligence. ICPD leadership reported that the Command Post did not have any technology infrastructure to monitor the City and University's surveillance cameras, leaving a deficiency in "live" event tracking. The Command Post also did not have any formal intelligence on or communication with the protest leaders despite having knowledge of the leaders and ability to contact them on the ground as the days unfolded, creating uncertainty around the protest plans and actions.
- ICPD did not establish a field Incident Command Post on Dubuque Street. Despite having a large contingency of officers on scene and being at the forefront of a major incident, ICPD did not establish a field command post to manage the operation. Further, the Department's senior command staff were occupied with management roles, leaving a sergeant in charge of operations at the scene.
- Incident command on the scene attempted to communicate tactics and strategy to officers on the skirmish line face-to-face, verbally, in a loud and chaotic situation. At some points, we observed officers seemingly play a game of "telephone" with the tactical plan, leaving out information as the message traveled down the line.⁵²
- Officers on the skirmish line seemingly lacked information about the tactics and overall mission and scope of the operation. One ICPD officer stated that they chose one-to-one verbal communication because they did not have a dedicated tactical channel and did not want to clog radio communication from the Command Post or other important agencies (e.g., the Fire Department) with on the ground tactics communication. In reviewing the BWC from officers on the line, we noted that on-scene communication between incident command and officers on the skirmish line was, at times, ineffective.
- The ineffective communication extended to on-scene command coordinating with the Command Post. While some communications occurred over the radio via dispatch, other communication, even of crucial information such as intelligence on protestors, mission, and tactics, occurred via one-to-one cell phone calls

⁵² This phenomenon was also identified as a shortcoming in the after-action memo prepared by the ICPD on-site incident commander.

between command staff in the Command Post and ICPD incident command on the ground. This meant that not all involved personnel were apprised of significant intelligence, planning, and tactics.

- As detailed above, the (mis)communication failures also affected other responding agencies, such as Johnson County Ambulance, to receive clear instructions regarding their clearance to enter the scene.

We have acknowledged that that the Command Post became more robust as the days progressed. However, the Command Post remained at the same location, which, as we noted above, was not ideal.

RECOMMENDATION 33

In future events requiring centralized incident command, ICPD should set up a robust Command Post at the onset of the incident in their dedicated facility, which, they report, has the technological capacity for communication and surveillance.

RECOMMENDATION 34

In future events requiring field command, ICPD should set up a field Incident Command Post with appropriate leadership capacity.

RECOMMENDATION 35

ICPD should provide a dedicated tactical channel for communication between ICPD's specialized units and among officers on the ground.

RECOMMENDATION 36

ICPD should include training on effective verbal communication specifically when training on crowd control tactics generally. Specifically, this training might include a preference for squad leaders to command one-on-one to line officers, when practicable, rather than officers playing "telephone" with commands down the line.

RECOMMENDATION 37

ICPD should explore alternative communication methods that reduce or eliminate the need for personal cell phone calls as a means of tactical communications.

RECOMMENDATION 38

ICPD should request that in large protest scenarios that the Joint Emergency Communications Center provide a dedicated channel for other agencies, such as

Johnson County Ambulance and Iowa City Fire Department, to communicate with ICPD directly.

Public Information Officer

Throughout the days of unrest in Iowa City, the Department did not have a uniquely assigned Public Information Officer to communicate with the public at large. On June 3, the role of PIO was assigned to the sergeant who was also one of the SRT Leaders. He was, therefore, unable to act in his capacity as PIO. The Department eventually assigned this position to another sergeant, but it reported that there were restrictions placed on what they were able to report.

Accordingly, the community had little insight into police responses, and this contributed in part to the momentum of criticism and disapproval that built over the subsequent days.⁵³ By not being more responsive and prioritizing its public information function, the Department missed a potentially valuable opportunity to create transparency and to dialogue with the community at a time of genuine tension. This was also in apparent contravention of “Standard Operating Guidelines” for crowd control and civil disturbances: “Since these types of events are often covered by the media, the departmental Public Information Officer or officer designated as PIO for the incident should be briefed in advance of the event. A pre-determined location should be used for meeting with the media. All media contact should be through the PIO or the Incident Commander.”

Our understanding is that the City is in the process of re-organizing this function, to civilianize it and bring it under the umbrella of the City Manager's Office. We support the notion of a police agency that is fully integrated with the mission, vision, and policy initiatives of the community as a whole, and have no reason to believe this concept won't work. At the same time, recognition of law enforcement's distinctive expertise and responsibilities means that internal collaboration and communication will be essential to the effectiveness of this model.

⁵³ It is clear that – beyond the particular actions of ICPD – the prevailing momentum in Iowa City was a backlash against police-centered injustice, and the Department's explanations may well have been dismissed amidst the larger tide of frustration. But months later, ICPD's representatives expressed their regret over not receiving what they considered to be an objective airing of their perspective on what occurred. This is a point worth considering, insofar as healthy police-community relations take place on what is of course a two-way street.

RECOMMENDATION 39

The new Public Information Officer concept should revolve around a constructive, mutually respectful relationship between City officials and ICPD leadership in providing timely, accurate, and candid information to the community about its policing services.

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Conclusion

For several days in June of 2020, public reaction to the death of George Floyd blossomed into large-scale demonstrations, unrest – and concrete calls for change. The above report, which of course focuses primarily on June 3, talks about those first two components at length: the protests (as complicated by peripheral acts of vandalism and safety concerns) obviously presented local law enforcement agencies with a significant challenge. Like their cohorts around the country – even in jurisdictions with much more resources and experience – ICPD found itself strained to capacity in its efforts to respond to unfolding events. If these efforts were flawed at times, they were also accompanied by long shifts of dedicated, well-intentioned service from officers who sought to meet community expectations and comport with direction from City leaders.

We end by turning some attention to the prompt and very specific reform initiatives that arose from the protest, as galvanized by the Iowa Freedom Riders and other activists and as actualized by the Mayor and City Council. Turning protest and strong public sentiment into meaningful policy is, of course, the phase that in some ways matters most. And it is to the credit of the City and its residents that subsequent months have seen progress in this regard.⁵⁴

One notable development is the October selection of a new Chief of Police to replace the Department's prior head, who retired in February of 2020. Coming from an out of state agency, the Chief was chosen in the immediate context of the summer's developments and aftermath; ideally his leadership with help effectuate the progressive vision that continues to emerge.⁵⁵

As referenced above, on June 16, 2020, the City Council passed a 17-point resolution, Resolution 20-159, calling for a "restructuring" of ICPD with more focus on community policing. On December 15, 2020, pursuant to the resolution, the City Manager's Office

⁵⁴ We note also that this positive arc has not advanced in an unbroken line, and that controversies and additional periods of protest emerged in the second half of 2020. But the continued engagement and ongoing focus on the central issues of concern are themselves distinguishing features of the Iowa City response.

⁵⁵ The fact that ICPD was acting under the authority of an Interim Chief– albeit a very experienced supervisor – during the summer's unrest was perhaps an additional factor in some of the dynamics related to the Department's preparation and response. We spoke often with this person in preparing this report, and we appreciate his insights and full cooperation. But supervisors serving in this temporary capacity are presumably constrained in ways that would not ordinarily apply to a permanent Chief.

presented the Department's Preliminary Plan to Accelerate Community Policing. In this plan, the Department committed to three main areas of change: 1) create a Continuum of Response that directs calls for service to the agency most suited to handle the calls, partners law enforcement with these agencies, and increases officer training opportunities; 2) a commitment to unbiased policing by increasing diversity and bias training, incorporating more civilian and community-based oversight, and review of policies through the equity lens, among other changes; and 3) recruitment and training focused on increasing diversity in the Department through a "Policing Forward" model.

The Department's constructive participation in the process merits attention for a couple of reasons. The first is for the impression it makes. Incidents that strain the trust between the police and the community are difficult for both sides, and it can be hard for law enforcement not to respond to criticism with defensiveness, or to reform ideas with resistance. ICPD's active engagement (in spite of whatever frustration or discouragement the summer may have engendered) is accordingly to its credit – and to the credit of a City structure that expects and facilitates responsiveness.

The second is substantive. The reform movement is a powerful force that is very much in the process of changing the justice system. Many of these changes are long overdue and transcend the role or fault of current participants. At any rate, the lasting effectiveness of those changes will depend in part on the positive contributions of *all* key stakeholders – including the law enforcement personnel whose specialized training and expertise merit an active seat at the table when fundamental shifts are being considered.

Our hope, for ICPD and the City, is that the painful chapters of 2020 will be understood in the future as a turning point that redounds to the benefit of all concerned. We offer this report as an element in that ongoing process, appreciate the opportunity to be part of it, and intend to track future developments with optimism.

Appendix A: Lead Up Timeline

Monday, May 25

- George Floyd is killed by Minneapolis Police Department Officer Derek Chauvin

Tuesday, May 26

- Protests against police brutality begin in several major cities around the United States

Friday, May 29

- In a prepared statement, ICPD Interim Chief Bill Campbell condemns the killing of George Floyd, stating, “The manner in which these officers treated Mr. Floyd is inconsistent with how we train police officers to conduct their interactions with the public.”
- First night of protests in Des Moines
 - The Rally for George Floyd, 1,000+ people, ends peacefully
 - A group of approximately 200 protestors move to Court, where Des Moines Police Department was blocking streets
 - Protestors surrounded police vehicle, break out windows, throw water bottles. Officers respond with OC spray
 - Organizers meet with Des Moines police to unsuccessfully diffuse the conflict
 - As crowd grows, officers deploy tear gas to disperse as protestors break windows
 - Polk County Sheriff and Iowa State Patrol arrive for mutual aid
 - 12 arrests made

Saturday, May 30

- First planned rally held in Iowa City: “Say Their Names” Rally
 - Speakers included Iowa City Mayor Bruce Teague, Mayor Pro-Tem Mazahir Salih, Johnson County Supervisor Royceann Porter, and North Liberty City Councilor RaQuishia Harrington
 - Agencies responding none. Organizers requested that ICPD not attend or patrol the event
 - Organizers: sisters Lujayn and Raneem Hamad
 - Location: Pentacrest (downtown Iowa City)
 - Roadblocks were used to close sections of Clinton Street and Iowa Avenue for safety
 - Rally was peaceful
- Protests continue in Des Moines
 - Organizers: Mothers Against Violence and Des Moines Stop the Violence Crew
 - Crowd estimate of 1,000+
 - Separate protest branched off, approximately 300 people, moving to:

- At the Polk County Courthouse crowd threw rocks at police skirmish line and broke windows
 - Crowd then moved to the Capital building, where police line was deployed, dispersal order issued
 - Crowd moved up the steps to the police line, police used OC spray on individual protestors
 - Police deployed tear gas to disperse the crowd
 - Crowd moved to Court Avenue (“entertainment district”), where the crowd began fighting
 - At approximately 12:30am, police deployed to Court Avenue
 - At 2:30am (May 31) crowd broke into the Court Avenue Hy-Vee
 - Police deployed tear gas and other methods to disperse the crowd at various downtown locations
 -
- 25 - 47 arrests reported
 - Charges: Rioting, Failure to Disperse, 2nd Degree Criminal Mischief
 - Two handguns recovered
- Polk County (Des Moines) issues curfew of 9pm – 5am

Sunday, May 31

- Protest in Coralville (25th Avenue entrance of Coral Ridge Mall)
 - Location: 25th Avenue entrance of Coral Ridge Mall
 - Crowd approximately 50 individuals
 - Agencies responding Coralville Police, Coralville Fire Department, North Liberty Police, **Iowa City Police**, Johnson County Sheriff’s Office and Iowa State Patrol
 - Social media posts (Twitter and Facebook) state, “Coral Ridge mall hit loot.” Vandalism and looting occurred
 - Protesters state that they were separate from the mall looting
 - At approximately 11pm – midnight:
 - Officers detain two individuals
 - A third individual rushes the police line
 - Officers from other agencies deploy chemical munitions and flash bangs to disperse the protestors
- Protests continue in Des Moines
 - Davis Park March and Vigil in Union Park in the afternoon/early evening are peaceful
 - Des Moines Police Department (Historic East Village), approximately 150 people
 - Police barricade the Department
 - At 9pm, the curfew hour, protestors take a knee
 - Protestors tell officers that, if they take a knee, everyone can go home
 - Officers kneel for a prayer
 - The crowd disperses
 - Target/Merle Hall Mall, approximately 75 people at start, grows to 200
 - Protestors riot/looting mall area, break windows

- Some officers kneel with protestors
 - At some point, officers deploy tear gas and protestors respond with fireworks
 - Discussion of starting Iowa Youth Power Movement
- Davenport Protests, Shooting, Officer Ambush
 - Approximately 100 people and vehicles protested at the North Park Mall/Walmart parking lot
 - Davenport Police Department responded to 45 “serious disturbance” calls
 - Davenport Police Department responded to “shots fired” calls
 - Four civilians shot
 - Two of the four died
 - At approximately 3:00AM (June 1), three officers were ambushed in their patrol vehicle
 - One officer shot
 - Two officers returned fire, shooting perpetrator’s vehicle

Monday, June 1

- Protests begin in Iowa City
 - Old Capital
 - Crowd of approximately 200 people gather
 - Focus is “Black Lives Matter” movement
 - Johnson County Jail
 - Approximately 20 Johnson County Sheriff officers surround jail
 - Crowd chants “take a knee” and officers kneel
 - Johnson County Sheriff’s Sgt. Jeff Gingerich addresses the crowd using a megaphone and sates that he “felt sick” watching the Floyd video
 - Iowa City City Hall
 - Crowd moves to City Hall
 - Organizer announces that “the night was about to turn violent” “
 - Some individuals threw rocks, shattering glass in one front door
 - Johnson County Courthouse
 - Crowd moves to Courthouse
 - Individuals spray paint street and Courthouse
 - Agencies responding: ICPD, Sheriff
 - Agency unknown issues a dispersal order
 - White protestors move to front of crowd, link arms as if to “protect” others, then move back to Old Capital and disperse
- City Manager emails ICPD to show support/increase morale
 - Email to officers to let them know they had the City support.
 - Instructs that police do not intervene in situations that can’t be safe (e.g., “windows can be replaced, but people cannot”)
- Protests continue in Des Moines
 - What started as a peaceful protest at Statehouse and Police Department turns violent around 11:30pm

- Prior to this, officers had knelt with protestors, negotiated, removed riot gear
 - Police issued a dispersal order at Statehouse in attempts to enforce the 9pm curfew
 - Police deployed tear gas, flashbangs, to disperse the crowd
 - 60+ arrests made throughout the evening
- Coralville, Scott County and Davenport impose a curfew of 8pm to 6am and 9pm to 5am, respectively, “until further notice”

Tuesday, June 2

- Vandalism in downtown Iowa City
 - Johnson County Sheriff deploy pepper spray at protestors
 - “Rocks and bottles” thrown at officers
 - Windows broken at County Building
 - Extensive vandalism to public and private property throughout Iowa City, including broken windows, graffiti, damage to vehicles and other vandalism
 - Damage to City Hall, including several broken window panes
- Iowa City Council meeting held with two members, including the Mayor, and several staff persons present in City Hall
- Des Moines protest continue, but are peaceful
 - March of 1,000+ to Gov. Mansion remained peaceful, no less lethal munitions deployed
 - Mayor issues mandatory Stay at Home order for City of West Des Moines

Wednesday, June 3

- Iowa City Mayor hosts first “Speak Up, Speak Out” event
- See June 3 Timeline

Appendix B: Recommendation Summary

RECOMMENDATION 1

ICPD should re-visit its existing mutual aid/joint law enforcement agreements with outside agencies and should develop or refine as needed any written protocols that set out limitations on deployment of munitions or enforcement activity with which the Police Department will not assist.

RECOMMENDATION 2

ICPD should endeavor to reach a mutual aid/joint law enforcement agreement with ISP regarding its limitations on deployment of munitions or enforcement activity and if one cannot be struck advise ISP in writing of these limitations.

RECOMMENDATION 3

ICPD, with input from the City, should evaluate its protocols for responding to pedestrian activity on the interstate, both on its own and in a mutual aid context with ISP, to provide more specific guidance as to enforcement strategies and priorities.

RECOMMENDATION 4

ICPD should dedicate resources to strengthening its ability to gather useful information from social media and other sources about community sentiment, activism, and potential protest activity.

RECOMMENDATION 5

When circumstances allow, ICPD should pursue a strategy of more pro-active identification of and outreach toward protest leadership in an effort to achieve beneficial clarity on both sides.

RECOMMENDATION 6

ICPD should consider using personnel specially trained in crisis negotiation techniques to de-escalate potentially tense confrontations with protestors prior to resorting to deployment of force.

RECOMMENDATION 7

ICPD should develop a crowd control policy that requires, when feasible, attempts at de-escalation with protestors through negotiation, pace, and other de-escalation strategies and documentation of all efforts to de-escalate the situation.

RECOMMENDATION 8

ICPD should assess its internal capabilities (in terms of training and expertise) with regard to effective communication with protestors or adversarial groups, and devote resources as needed to increase its options for dialogue and negotiation in future events.

RECOMMENDATION 9

When possible, ICPD should utilize physical barriers or other methods to maintain distance in crowd control contexts, so as to improve potential for communication and increase time for evaluation of potential threats.

RECOMMENDATION 10

The City should consider what specific manner of statement or acts constitute “acting in a violent manner” in a protest situation and would be requisite prior to the initiation of Iowa’s Unlawful Assembly Statute, so as to better equip ICPD in making these assessments.

RECOMMENDATION 11

ICPD should ensure that any future declarations of unlawful assembly and orders to disperse in a protest situation are audible and include directions for crowd departure.

RECOMMENDATION 12

ICPD should include specific language in its crowd control policy, which we discuss in greater detail below, to provide more specific guidance than the current direction to “issue warnings.”

RECOMMENDATION 13

ICPD should invest in equipment and study alternative techniques that would help ensure that orders and warnings were comprehensively clear and audible in the large crowd context.

RECOMMENDATION 14

ICPD should explore innovative approaches to crowd notification – such as real-time social media broadcasting– that could facilitate enhanced communications with the public.

RECOMMENDATION 15

ICPD should review body camera footage after critical incidents, identify any remarks that are inconsistent with Department expectations, and ensure accountability and remediation as appropriate.

RECOMMENDATION 16

ICPD should assess the individual uses of force by its personnel on June 3 in keeping with its standard protocol, and should respond with accountability measures, additional training, or other feedback as appropriate.

RECOMMENDATION 17

The City, in collaboration with ICPD, Johnson County Ambulance, the Joint Emergency Communications Center, and the Iowa City Fire Department, should review the miscommunication that occurred and work to develop protocols intended to improve coordination for police and rescue response for future incidents.

RECOMMENDATION 18

ICPD should revise its uniform regulations to ensure that officers in tactical gear can be clearly identified during their operations, both internally and for purposes of public accountability.

RECOMMENDATION 19

Iowa City should engage in dialogue with its police department on how best to address protestors involved in disorderly conduct and use the tools available within the criminal justice system.

RECOMMENDATION 20

Iowa City leadership should seek community input and feedback from ICPD experts in crafting policy parameters for use of force and deployment of munitions in the context of protest activity.

RECOMMENDATION 21

ICPD should review, consolidate, and update its different crowd control policies to eliminate gaps, increase clarity, and reflect current community standards and expectations, in consideration of the principles articulated herein.

RECOMMENDATION 22

ICPD should re-evaluate and codify its approach to the use of less lethal munitions for crowd control in a manner that, by creating narrow, particularized standards for deployment, emphasizes the wide latitude that should be given to speech activities and recognizes the public's right to peaceably demonstrate.

RECOMMENDATION 23

ICPD should modify policy related to use of pepper ball rounds in crowd control situations to limit use only against physically aggressive or combative individuals, rather than as a general tool for dispersal of an “unruly or rioting” crowd.

RECOMMENDATION 24

ICPD should post its policy manual on its website with a searchable function.

RECOMMENDATION 25

ICPD should update its annual training curriculum and related General Order to reflect the addition of formal crowd control training.

RECOMMENDATION 26

Metro SRT should specifically update its Tactics manual to include model policing tactics for modern crowd control.

RECOMMENDATION 27

Metro SRT should train regularly on crowd control tactics so that they are prepared to respond in a command capacity when necessary, and should train with other specialized units within ICPD and other agencies that are likely to provide mutual aid.

RECOMMENDATION 28

When practicable, ICPD should host or engage in joint training exercises on crowd control tactics and responses with other local agencies County-wide.

RECOMMENDATION 29

ICPD should incorporate current case law related to protest activity as well as best practices and trends in crowd management when delivering its annual use of force training.

RECOMMENDATION 30

ICPD should follow the Incident Command Structure and related components, including establishing an Operations or Incident Action Plan when practical in future operations of this scope and magnitude.

RECOMMENDATION 31

ICPD command staff, including all supervisors and team leads, should have initial and refresher training on incident command.

RECOMMENDATION 32

ICPD should establish various, generic crowd management plan templates in advance of protest activity to be adjusted when Incident Commanders are responding to a spontaneous event. This should be completed internally and in joint training exercises with agencies that will likely provide mutual aid.

RECOMMENDATION 33

In future events requiring centralized incident command, ICPD should set up a robust Command Post at the onset of the incident in their dedicated facility, which, they report, has the technological capacity for communication and surveillance.

RECOMMENDATION 34

In future events requiring field command, ICPD should set up a field Incident Command Post with appropriate leadership capacity.

RECOMMENDATION 35

ICPD should provide a dedicated tactical channel for communication between ICPD's specialized units and among officers on the ground.

RECOMMENDATION 36

ICPD should include training on effective verbal communication specifically when training on crowd control tactics generally. Specifically, this training might include a preference for squad leaders to command one-on-one to line officers, when practicable, rather than officers playing "telephone" with commands down the line.

RECOMMENDATION 37

ICPD should explore alternative communication methods that reduce or eliminate the need for personal cell phone calls as a means of tactical communications.

RECOMMENDATION 38

ICPD should request that in large protest scenarios that the Joint Emergency Communications Center provide a dedicated channel for other agencies, such as Johnson County Ambulance and Iowa City Fire Department, to communicate with ICPD directly.

RECOMMENDATION 39

The new Public Information Officer concept should revolve around a constructive, mutually respectful relationship between City officials and ICPD leadership in providing timely, accurate, and candid information to the community about its policing services.