TUCSON POLICE DEPARTMENT

CRITICAL INCIDENT REVIEW BOARD

CONGRESS STREET / GRANADA AVENUE

IMMIGRATION PROTEST

FEBRUARY 16, 2017

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EXECUTIVE SUMMARY

INVESTIGATIVE CASE INFORMATION

CIRB Number: 17-0097
TPD Case Number: 1702-16-0456
Date of Incident: February 16, 2017
Location of Incident: Congress Street and Granada Avenue

Methodology

The Tucson Police Department (TPD) Critical Incident Review Board (CIRB) convened to review this incident with a focus on department policy, tactics, supervision, equipment, use of force, decision-making, and training. CIRB evaluation included the following modes of inquiry: document and video review; review of interviews conducted by the Central Investigations Division (CID) and the Office of Professional Standards (OPS); and the CIRB questioning of certain involved members as well as subject matter experts.

The CID and OPS investigations, along with testimony taken during CIRB proceedings, established the facts under review. CIRB elected to take testimony from only specified individuals to elicit clarifying information and obtain further explanation of details developed in the underlying investigation.

Once CIRB testimony and fact gathering was complete, the group's members deliberated with the goal of reaching consensus in their findings and recommendations. Consensus does not necessarily mean complete agreement among members on every issue, but it does mean *general* agreement. Each member of the CIRB listened thoughtfully to the perspective of other board members, giving fair consideration to differing points of view. Ultimately, this report represents the collective judgment of the board.

Introduction

Demonstrations routinely take place in downtown Tucson. TPD Operations Division West (ODW) and Downtown District (District) personnel manage these events on a regular basis without incident. On the afternoon of February 16, 2017, a group of approximately 100 protestors participated in an immigration rights demonstration at the federal court property located at 300 West Congress Street.

Lucha Unida de Padres y Estudiantes or LUPE (United Struggle of Parents and Students) organized this event in response to federal immigration discussions taking place in Washington, D.C. Prior immigration-related demonstrations at this location were relatively static, peaceful, and free of civil disorder.

In this circumstance, however, the historically stationary demonstration moved from the relative safety of the courthouse property into the roadway. This unexpected change of course, directed by LUPE leadership, caught District officers off guard and forced all eastbound traffic on Congress Street to come to a complete stop.

Presented with a series of unanticipated actions that put both motorists and demonstrators in danger, officers attempted to direct the protestors from the street onto the sidewalk. The attempt to clear the roadway resulted in an officer being assaulted by one of the protestors. This confrontation drew the attention of many within the crowd, who stopped marching and surrounded the officers as they worked to detain the protestor responsible for the assault.

The assault on the officer, overall agitation level of the protesters, and escalation of traffic safety concerns prompted a city-wide emergency request for additional officers. When additional police personnel arrived at the chaotic scene, four arrests were made that enabled them to effectively move the remaining demonstrators to the safety of the sidewalk area and restore the flow of eastbound traffic on Congress Street.

Throughout the entirety of the event officers arrested four protestors and used force on a number of others, including exposing several to Oleoresin Capsicum (OC) spray. To date, no significant injuries have been reported by anyone as a result of these interactions. Several protestors committed minor assaults against officers.

Issues Identified and Examined by CIRB

The CIRB examined the following issues:

- Incident command (IC), proper decision-making, tactics, as well as potential deficiencies in training, policy, and equipment
- ODW Command communication and planning
- Supervision of the incident, both before and after the protest took over Congress Street
- Factors that contributed to the protest turning violent
- Identification of all use of force employed during this incident

Findings

The CIRB reached the following findings:

Policy deficiencies contributed to the outcome.

The department lacked a clear policy or established practice as it relates to protests that unlawfully take control of an open roadway.

ODW Command believed if a protest took to the street without a permit an effort should be made to maintain public safety by keeping protestors on the sidewalk and out of the street. In the event the protestors failed to comply with officers' direction regarding removal from the street, it would

be common not to "fight over the street." The lack of clear department policy and delineated divisional expectations created further confusion for personnel.

Use of force training, tracking and review have undergone significant changes between February 2017 and November 2017. These revisions would have impacted not only the manner in which force was used in this incident, but also the way any uses of force would have been investigated and reviewed.

Officers had the appropriate equipment required to efficiently respond to this incident.

Officer Green reported his firearm holster was malfunctioning, resulting in the inability to secure his firearm during the protest. This report was separated from CIRB review and handled as a distinct matter through OPS investigation 17-0129.

Ineffective and insufficient communication throughout the ODW command structure contributed to the outcome.

The failure of Lieutenant Leotaud, who was the acting ODW commander responsible for patrol within the division at the time, to respond exacerbated communication issues.

Supervision of this incident was inadequate, proper prioritization of tasks was lacking, and an incident commander was not properly designated.

The transition between daytime Sergeant Guinee, who had initial IC of the rally, and nighttime Sergeant Baca, who transitioned in as the responsible supervisor during the evening shift, involved a series of deficiencies, including a lack of designated roles/responsibilities.

Although members throughout the ODW chain of command knew ahead of time this event was taking place, no one authored an operations plan to manage the protest. This added to a lack of clearly defined roles for all personnel involved in this incident.

As the demonstration grew in numbers, District officers monitoring the event failed to designate an incident commander and also failed to identify a primary point of contact within the LUPE leadership to open lines of communication.

IC was not clearly defined until Lieutenant Hawke assumed IC upon his arrival at the incident location at the beginning of his shift.

Multiple factors contributed to the peaceful protest turning violent. One primary contributor was the demonstrators' decision to leave the courthouse property to take to the street and block traffic.

The crowd movement into the roadway resulted in two officers entering the street in an attempt to move the demonstration back to the safety of the sidewalk.

An agitated protestor, Mr. Leon, refused to return to the sidewalk and assaulted Officer Moreno by pushing/striking the officer in the back as the officer attempted to direct him out of the street.

This assault resulted in the immediate arrest of Mr. Leon, further agitating the crowd, which began to chant, “Let him go!” as they surrounded the two arresting officers.

A small number of protestors within the crowd engaged in assaults on officers, interfered with lawful arrests, and encouraged others to disregard the direction of the officers to return to the sidewalk.

Officers Green and Guevara used force during this incident.

Officer Guevara’s use of force was found to be in policy.

CIRB found some aspects of the force used by Officer Green justified and in policy, but other aspects without justification and out of policy.

CIRB REPORT

CASE OVERVIEW

On the afternoon of February 16, 2017, a group of approximately 100 protestors participated in an immigration demonstration at the U.S. District Court property located at 300 West Congress Street. Like many times before, *Lucha Unida de Padres y Estudiantes* or LUPE (United Struggle of Parents and Students) organized and led this event. Prior LUPE demonstrations remained relatively stationary, peaceful, and free of civil disorder.

Federal Protective Service Inspector Pillai told OPS investigators he was on duty and assigned to monitor the immigration rights protest on the day of the incident. He said his primary responsibility was to protect federal property. He was present to hear the leader of the protest tell the crowd they were going to march.

The stationary rally was originally monitored by three District officers who had worked numerous LUPE events in the past without incident. Just before 6:00 p.m., the group began to march lawfully on the sidewalk. There was no communication between LUPE leadership and police personnel prior to the rally turning into a march. The protestors marched on the sidewalk in an eastbound direction, adjacent to Congress Street. The group continued the lawful march, and crossed the street in the crosswalk southbound at West Congress Street and North Granada Avenue.

Several members of LUPE leadership then began to direct the demonstration off the sidewalk and into the lanes of traffic of eastbound Congress Street. Most of the group followed this direction and the crowd quickly took over both lanes of eastbound traffic. The protestors chanted, “These streets belong to us!” as they marched.

The officers reacted by giving directions to the group, over a police patrol car loud speaker, to return to the sidewalk. They also moved a second marked patrol SUV and one police bicycle into the road ahead of the group to redirect the protestors out of the road and back onto the sidewalk.

Inspector Pillai told OPS he heard announcements from the patrol car loud speaker directing the crowd to get back on the sidewalk. Video from a neighboring building shows most protestors complied with the direction and began to move back to the sidewalk. However, several of the protestors, including Mr. Leon who had been leading the march, disobeyed the officers’ direction to return to the sidewalk and remained in the street.

As the crowd approached Officers Green and Moreno, Mr. Leon struck Officer Moreno in the back as Mr. Leon walked by him. Officer Moreno immediately detained Mr. Leon for the assault. Following the detention of Mr. Leon, a group of protestors stopped marching and began to encircle the arresting officers.

Inspector Pillai told OPS investigators he chose to intervene when Officer Moreno and Officer Green were surrounded by a crowd of 85-100 protestors. He said the crowd was trying to get Mr. Leon away from the officers, chanting, "Let him go!" Inspector Pillai put himself between the crowd and the officers as Mr. Leon continued to disregard the officers' direction.

Officers Green and Moreno requested emergency assistance over the police radio as the situation grew increasingly tense. The officers were unable to leave the scene with Mr. Leon, which they believed would de-escalate the situation, because the protestors surrounded their patrol SUV. Shortly after the original request for assistance was made, Officer Green notified dispatch that the crowd had assaulted other officers. Sergeant Baca transmitted a city-wide emergency response request (termed a "10-99"), which is the most serious call for assistance for patrol officers.

In an effort to clear the roadway and control the deteriorating situation, officers employed OC spray and utilized physical force on several protestors. Specifically, Officer Green pushed two different women and used OC spray on more than one protestor. Officer Guevara used OC spray on multiple protestors. As a result of the OC spray used by Officers Guevara and Green on individual protestors, others in close proximity were indirectly exposed to the OC spray.

When additional police personnel arrived at the incident, several arrests were made, the remaining protestors were moved back to the sidewalk area, and eastbound traffic on Congress Street was reopened.

The incident concluded with the arrest of three protestors for felony aggravated assault: Mr. Leon for pushing/striking Officer Moreno in the back, Ms. Blancarte for kicking Officer Dragon in the face, and Ms. Cichon for pushing the vehicle door into Officer Green's leg. Ms. Rainey was arrested for the misdemeanor offense of obstructing justice/failure to identify. Several officers sustained minor injuries during the incident.

Many aspects of this incident were captured on a variety of media: police body worn cameras, police mobile vehicle recorder systems (MVR), building security camera footage, on-site local media footage, and individual cellphone camera footage. Assorted viewpoints of the police force deployed at the incident were captured on video and aired immediately on local and national media.

Command staff members from Operations Division West and the Field Services Bureau responded to the scene. Additionally, sergeants from OPS responded to the scene to conduct an initial investigation into the police response and to coordinate the investigation into any complaints arising from officer actions. None of the protestors present elected to provide any information or file a complaint.

The Tucson Police Department, through media releases, and the Independent Police Auditor (IPA) through various forms of community outreach, both provided methods and points of contact for complainant and witness accounts to be reported. These efforts were designed not only to keep

the lines of communication open with anyone why may have been negatively impacted, but to capture the fullest possible account of what took place at the protest.

The Chief's Office, OPS and the IPA also attended a Ward I community forum on March 1, 2017, where additional attempts were made to open lines of communication with protest participants and solicit any additional information about the event. Several members present at the forum made allegations Officer Green recklessly drove a police Tahoe into the crowd and used unreasonable force upon the protestors. There was also an allegation that Officer Green struck one participant with the police Tahoe.

Despite the efforts of both the department and the IPA to encourage community members to come forward, only one individual decided to participate in the formal complaint process.

INVOLVED PARTIES

Field Response

Captain Diana Duffy #42223

- Operations Division West – Division Captain
- Tenure: 17 years
- Role: Overall command for ODW

Lieutenant Corey Doggett #44794

- Operations Division West – District Lieutenant
- Tenure: 15 years
- Role: On vacation at time of the event

Lieutenant Jennifer (Jenn) Turner #43482

- Operations Division West – Administrative Lieutenant
- Tenure: 17 years
- Role: Working in division at time of incident, responded to the protest

Lieutenant David Leotaud #27369

- Operations Division West – Patrol Lieutenant
- Tenure: 30 years
- Role: Working in division at time of incident, not within division boundaries at the time of the incident

Lieutenant Thomas (Tom) Hawke #46589

- Operations Division West – Patrol Lieutenant
- Tenure: 13 years
- Role: Night shift Patrol Lieutenant, responded to the protest and assumed incident command upon arrival

Sergeant Alfred (Al) Guinee #42219

- Operations Division West – Downtown District
- Tenure: 17 years
- Role: Initially assigned personnel to monitor demonstration
- Specialized Training: Crisis Intervention Training (CIT), has experience with downtown protests

Sergeant Albert (Al) Baca #51780

- Operations Division West – Downtown District
- Tenure: 9 years
- Role: Radios in "10-99" and coordinates initial response
- Specialized Training: CIT, Hostage Negotiator, Bicycle, Mobile Field Force, Terrorism Liaison Officer, 4x4 vehicle certified

Officer Albert Moreno #51098

- Operations Division West – Downtown District
- Tenure: 9 years
- Role: Initially assigned to monitor demonstration
    - Attempted to direct demonstrators back to the sidewalk using his bicycle
    - Later assaulted by Mr. Leon (demonstrator leading the march)
- Specialized Training: CIT, Advanced CIT, Bicycle, Mobile Field Force Training, Rapid Response Team (RRT)

Officer Eric Hatch #51940

- Operations Division West – Downtown District
- Tenure: 8 years
- Role: Initially assigned to monitor demonstration
- Specialized Training: CIT, SWAT

Officer Adrian Guevera #49552

- Operations Division West – Squad 3, Lead Police Officer (LPO)
- Tenure: 11 years
- Role: Responded after hearing radio traffic, used OC spray, utilized hard empty hand control
- Specialized Training: FTO, Pepperball, Rifle operator, Spanish certified

Officer Ryan Green #51068

- Operations Division West – Downtown District
- Tenure: 11 years
- Role: Responded to monitor protest to relieve other officer, radios in "10-84, 10-18", used OC spray, utilized hard empty hand control
- Specialized Training: Command Post Driver, Entry Tools certified, Rifle operator, Road spikes certified, Taser certified

Investigative Response

Sergeant Michael Jennings #33031

- Central Investigations Division
- Criminal Case Sergeant

Detective Michael Gurr #33028

- Central Investigations Division
- Criminal Case Detective

Community Members

Mr. David Leon

- Arrested for Felony Aggravated Assault on an officer, ARS 13-1204A8A

Ms. Tanya Blancarte

- Arrested for Felony Aggravated Assault on an officer, ARS 13-1204A8A

Ms. Joan Cichon

- Arrested for Felony Aggravated Assault on an officer, ARS 13-1204A8A

Ms. Najima Rainey

- Arrested for Misdemeanor Obstructing a Public Highway, ARS 13-2906A1, and Refusing to Provide Truthful Name When Lawfully Detained, ARS 13-2412A

Operations Division West Command

OPS interviewed the Field Services Bureau ODW command staff. This included Captain Diana Duffy, as well as Lieutenants Corey Doggett, Jennifer Turner, David Leotaud, and Thomas Hawke. CIRB found the OPS interviews to be complete and thorough. CIRB sought to determine the following regarding the ODW command staff:

- What were the command assignments?
- Did ODW command staff provide general expectations to patrol supervisors and personnel regarding protests?
    - How were expectations communicated to the division?
        - When does an operations plan need to be completed on a pre-planned protest?
        - When does a supervisor need to be on-scene at a protest?
        - What was the department practice for contacting event organizers at a protest?
        - Did ODW command staff provide direction specific to this incident?
- Who was responsible for covering the District command responsibilities in Lieutenant Doggett's absence?
- Who, if anyone, had prior knowledge of the planned immigration protest?
- Was command direction given about the immigration protest to the ODW/District sergeants?

Investigative Statements and CIRB Testimony

Lieutenant Corey Doggett

Lieutenant Doggett was assigned as the District Lieutenant in ODW in May of 2015. At the time of the incident, he had oversight of 7 District supervisors and 60 officers. He told OPS he was the commander generally in charge of downtown protests. When asked by OPS if he had spoken to Captain Duffy about protest response expectations, he stated he had a conversation with her about dealing with protests when she assumed command of the division, but he could not recall specific details of the conversation. He told OPS he had not mandated a supervisor be present at all downtown protests, noting the volume of protests in the District made that impractical given the demands of daily supervisory responsibilities.

Lieutenant Doggett told OPS he did not expect his supervisors to complete an operations plan for protests with known event organizers with whom they had past experience. He explained that he limited this direction to circumstances involving groups that had historically complied with the law and that had worked with police personnel during protests to facilitate events. Lieutenant Doggett noted the District personnel transitioned to the Incident Command System (ICS) plan format in 2016 and a Microsoft Word document was created to accompany the ICS operations

plan. He noted they maintained the paperwork electronically in the ODW share drive in the District folder. Additional commander and supervisory interviews revealed the majority of personnel were unaware of the existence of the Word document or its location.

Lieutenant Doggett was on pre-approved vacation the week the protest occurred and had no recollection of providing any direction to supervisors regarding this specific event. He noted Lieutenant Turner and Captain Duffy were covering his divisional responsibilities in his absence and this was communicated both in conversation and e-mail.

He told OPS he found out about the protest on Twitter and he also received an e-mail notification while on vacation about the event, which he forwarded to Sergeant Guinee. During his OPS interview he acknowledged that he received an internal e-mail detailing the protest from the department's Regional Intelligence Analyst on February 15th, although he did not recall reading it. Lieutenant Doggett had personal experience with the group staging this protest, noting LUPE historically only moved their marches into the road after coordinating with District personnel. Lieutenant Doggett said receiving notification of a LUPE event would not concern him. He based this on his historically positive interactions with LUPE organizers. Lieutenant Doggett stated that even if he had been on duty at the time of this demonstration, he would not have provided specific direction to personnel on how to handle the event.

Lieutenant Jennifer Turner

Lieutenant Turner was assigned to ODW in May of 2016. She functioned as the Administrative Lieutenant at the time of the protest, serving as liaison for courts, jail, and homeless outreach. She also commanded ODW Motors, Neighborhood Crime Section (NCS) detectives, Red Tag Unit, Alarm Unit, and the Community Resource Sergeant (informally, the "First Shirt").

She told OPS most of her day consists of responding to administrative e-mails and tasks within the office, including attending daily meetings. As an administrative lieutenant, she typically did not get involved in patrol duties. She also stated she is not normally in the communication loop on patrol coverage and that the assigned patrol lieutenants typically cover each other's responsibilities when one of them is unavailable.

OPS asked Lieutenant Turner a series of questions related to the ODW deployment of resources and general expectations. She noted that normally a commander or a sergeant would make contact with the leader of a protest type event. When asked if she expected a supervisor to be present at a protest she said a supervisory response would depend on the type of event, the protest group's intent, and the estimated size of the protest.

Lieutenant Turner said she was unaware of a set plan or defined expectation regarding how to handle protests. She explained that she had not participated in any command group discussion regarding when an operations plan needed to be completed for protests, how the division was going to respond to protests as a general matter, how personnel assignments are made, or what the supervisory and command expectations are for these events.

She acknowledged Lieutenant Doggett was out of town for a week and that she was responsible for assisting with command coverage during the beginning of the week in conjunction with Captain Duffy. Lieutenant Turner said she assumed ODW Patrol Lieutenant Leotaud would be covering the District responsibilities in Lieutenant Doggett's absence. She failed to discuss this with either lieutenant to confirm her assumptions. Lieutenant Turner told OPS she was not assigned any specific duties in the District on the day of the incident. She indicated patrol command responsibilities only default to her in the absence of an on-duty patrol lieutenant.

Lieutenants Turner and Leotaud were the only ODW commanders on duty when the protest started. Although she did not know Lieutenant Leotaud's exact work schedule, she last saw him in the office around 5:00 p.m. At that time, they did not discuss when either of them would be leaving for the day, but they typically left work between 5:00 and 6:00 p.m. They both also knew Lieutenant Tom Hawke, the ODW night time commander, started his shift at 6:00 p.m. At the time of this event, traditional patrol command shifts were 8:00 a.m. to 6:00 p.m. and 6:00 p.m. to 4:00 a.m.

Lieutenant Turner first became aware of the protest by way of a radio transmission when she heard a district officer say they were monitoring the event. She said she knew District officers were monitoring the protest, but she told OPS she did not contact Lieutenant Leotaud to confirm he was aware of the protest.

Lieutenant Turner also told OPS that she did not have knowledge of the protest before it occurred. OPS pointed out that she should have possessed prior knowledge of the event, as she had received the informational e-mail on the protest from the Regional Intelligence Analyst on February 15th. She stated that she had no recollection of reading it, explaining that she had been more focused on an anarchist protest occurring downtown on the 17th.

As Lieutenant Turner prepared to go home for the day, just before 6:00 p.m., she said she heard the emergency tone for assistance (10-84, 10-18) go out over the radio as a result of the protest. She told OPS she advised over the air that she was monitoring and sent a text to Lieutenant Leotaud to ask him if he was monitoring or going to the incident. He replied that he was "way out east," which she interpreted to mean that he was not responding to the incident. She elected to respond to the scene knowing Lieutenant Hawke was getting prepared for work at the station and was not yet ready to respond to the incident.

When she arrived at the protest it was still a dynamic scene. Lieutenant Turner told OPS she chose not to take IC because Lieutenant Hawke arrived at the scene at approximately the same time. She noted it would have caused confusion for her to take IC and then immediately hand it over to Lieutenant Hawke after he was briefed. She told Lieutenant Hawke he needed to take IC of the call per Assistant Chief Hall. She clarified with OPS that she would have taken IC if Lieutenant Hawke had not arrived when he did.

Lieutenant David Leotaud

Lieutenant Leotaud was assigned to ODW as a patrol commander in June of 2015. His last experience with a protest as a lieutenant occurred in 2013, when he was present for a "Black Lives Matter" event. He told OPS he had not participated in any discussions on how to handle protests as an ODW commander. He stated he had limited command exposure to protests, but generally he handled them by monitoring the activity and advising protest leaders to stay out of the street because of the potential traffic hazard.

OPS asked Lieutenant Leotaud about his understanding of the agency practice of letting protestors take/occupy the roadway. He responded, "I think it's a good choice . . . to let them." He noted roadway conditions would need to safely allow for this, but that if he was present for such a situation he would contact the leaders of the group to facilitate a safe way for them to take the road. While he was not aware, at the time of this protest, of a formal directive on letting protestors take the street, he said he had given considerable thought to this topic since the February 16th incident.

Lieutenant Leotaud told OPS that Lieutenant Turner was covering the District for Lieutenant Doggett on the day of the protest. He acknowledged he was on duty at the time of the incident, but did not know the protest was going to occur. When questioned about the informational e-mail from the Regional Intelligence Analyst, he vaguely remembered the e-mail being received by the ODW command/supervisory group.

Lieutenant Leotaud was driving to park his patrol car at a City facility at 7575 East Speedway Boulevard when he heard the emergency tone on the radio. He told OPS he heard the tone, but initially he was not sure what the tone was for. The interview revealed he failed to confirm the reason for the tone. It was not until he received a text from Captain Duffy (who was off duty at the time) asking if he copied the call that he realized the emergency tone was related to a protest downtown.

He did not confirm which supervisor or commander was going to respond to the protest, noting he thought he heard Lieutenant Hawke was on his way to the call (Lieutenant Hawke had not started his shift yet). When asked by OPS why he did not respond to the event, he replied that Captain Duffy was aware of the incident and stated, "[i]f they need me they will call me."

Lieutenant Thomas Hawke

Lieutenant Hawke was assigned to ODW as a night patrol commander in May of 2016. OPS asked Lieutenant Hawke a series of questions related to the ODW deployment of resources and general expectations. He explained he had limited experience supervising protests, noting that his only experience involved pre-planned protests. He told OPS the smaller District protests tend to be handled by the District sergeants.

Lieutenant Hawke stated the pre-planned events and protests he had been involved with in the past had written operations plans. He explained to OPS that when he authors an operations plan he details whether protestors will be permitted to take the street. His operations plans would also include crowd management assignments and street closure designations. He stated he generally sent the operations plan to his captain prior to an event taking place for review and approval.

Lieutenant Hawke told OPS if a protest occurred, standard operating procedure was to establish communication with the group leader if possible and let the protestors take the street if it was safe to do so. This expectation had been set under Eric Kazmierczak, the prior ODW captain. He stated he thought the Chief's Office provided this direction. He noted he has never read a department policy or been part of a larger command conversation on this topic.

OPS questioned Lieutenant Hawke about his knowledge of this event prior to it occurring. He did not remember receiving or reading the informational e-mail sent by the Regional Intelligence Analyst. OPS confirmed he received and opened the e-mail on February 15th. Although he noted to OPS he normally had a conversation with Lieutenant Doggett about pre-planned protests that occurred during his work hours, in this circumstance, he did not have any conversation about the event. He did not have any dialog with anyone about this protest prior to speaking to Lieutenant Turner when he came into the station on the 16th.

Lieutenant Hawke told OPS that he was in the ODW station talking to Lieutenant Turner prior to his shift when the emergency tone for assistance went off for the protest. The call came out before his shift started and he was not dressed out for work yet. Lieutenant Turner told him she was responding to the protest. Lieutenant Hawke quickly dressed out and also responded to the incident location.

Lieutenant Hawke told OPS that, when he arrived at the protest, the scene was still active, and it took a few minutes to locate Lieutenant Turner and Sergeant Baca. He told OPS that Sergeant Baca was working to calm the crowd while Lieutenant Turner provided him a briefing. He was told officers went to effect an arrest on a protestor and the group resisted the arrest. Four protestors who had been arrested were transported to the main station prior to his arrival to the scene. Officer Green was identified as an officer who utilized force and he was also at the main station with a cover officer. After receiving a full briefing, Lieutenant Hawke assumed IC over the radio.

Lieutenant Hawke directed Sergeant Mesa to contact the crowd and to identify any community members who had been exposed to OC. He noted some of the protestors were compliant while others were not. He later identified Lead Police Officer Guevara as the second officer who used force in this incident. He directed that a cover officer be assigned to Officer Guevara, who was subsequently moved to the main station.

Captain Diana Duffy

Diana Duffy was promoted to captain and assigned to ODW in December of 2016. One of her roles is command responsibility of the District area. She confirmed she supervised five lieutenants including Leotaud, Hawke, and Turner during the time of this incident. She told OPS that she provided her divisional expectations to her commanders and sergeants verbally.

Captain Duffy spoke with District Lieutenant Doggett about protest protocol when she started her new assignment. She explained that Lieutenant Doggett generated operations plans for events they knew of in advance, a practice she kept in place. Captain Duffy told OPS that outside of situations where circumstances required additional supervision, she did not mandate that a supervisor be present at all protests. She said on some occasions District sergeants managed protests and at other times officers covered the events. She went on to say after this incident occurred the Chief mandated that a supervisor be present at all protests.

Captain Duffy told OPS that she and Assistant Chief Hall wanted a more consistent approach to working protest deployments. Their expectation was that District staff would follow *General Orders* and attempt to keep people out of the streets during protests unless the protestors had obtained a permit to march in the street.

She provided her general understanding of *General Order 2548* (Civil Disturbances), stating that when protestors take the street, officers should give them notice to get back on the sidewalk where there is usually room for them to safely protest. She stated she did not want to allow protestors to impede traffic, but also noted most situations would not require an immediate arrest of people who refused to comply with the law. OPS challenged her on her understanding of *General Order 2548*, pointing out that it was not as specific as she described.

OPS then questioned Captain Duffy concerning who was assigned to provide command coverage for Lieutenant Doggett during his absence. She indicated she was not part of a conversation on coverage responsibilities for Lieutenant Doggett, noting the divisional lieutenants worked this out amongst themselves. She stated her expectation was that Lieutenant Doggett's responsibilities would be covered by patrol Lieutenant Leotaud, and if he was unavailable Lieutenant Turner would step in.

OPS asked Captain Duffy about her knowledge of the immigration protest prior to it occurring. She did not remember being advised about the event. When presented with the informational e-mail on the protest from the Regional Intelligence Analyst on February 15th, she didn't recall noting anything of concern for this event. She explained that she reads many e-mails during her daily duties and she was primarily focused on an anarchist protest the following day.

Analysis

What were the ODW commander assignments?

CIRB determined the commanders were assigned as follows:

- ODW Captain Duffy, overall ODW Command
- ODW Lieutenant Turner, Administrative Lieutenant
    - Primarily handled routine administrative divisional responsibilities
    - Only handled patrol command coverage in the absence of assigned patrol lieutenants
- ODW Lieutenant Doggett, District Patrol Lieutenant
    - District patrol responsibilities
    - Handled the majority of District protests
- ODW Lieutenant Leotaud, Patrol Lieutenant
    - Primarily handled ODW patrol coverage and also covered the District on Saturdays
- ODW Lieutenant Hawke, evening Patrol Lieutenant
    - Handled ODW patrol and District responsibilities after 6:00 p.m.

Did ODW Command provide general expectations to patrol supervisors and personnel regarding protests?

CIRB found general expectations were provided up and down the ODW chain of command specific to protest activities and police response based primarily upon historical practices. Captain Duffy's desire and expectations for a more consistent approach to protest deployment was not well understood by her subordinates.

How were expectations communicated to the division?

CIRB found expectations specific to protest activities and police response were primarily communicated through verbal direction, which resulted in additional confusion regarding how to handle these types of events.

When does an operations plan need to be completed on a pre-planned protest?

The answer to this question varied throughout the ODW chain of command. Some believed that an operations plan should be completed for every planned protest. Others believed that an operations plan only needed to be completed for events where criminal activity was expected. Finally, some were unsure when an operations plan was necessary.

When does a supervisor need to be on scene at a protest?

CIRB found that, prior to this incident, it was not a general expectation for a supervisor to be present at District protests except when criminal activity was anticipated. Following this incident, Chief Magnus directed a supervisor to be present at all District protests.

What was the department practice specific to making contact with event organizers at a protest?

District supervisors and commanders had a practice of making contact with event organizers to open lines of communication during protests. CIRB concluded the majority of the District personnel involved with this incident were aware of this practice, but in the absence of a supervisor they did not attempt to make contact with the event organizer as the event grew in size.

Who was responsible for covering the District command responsibilities in Lieutenant Doggett's absence?

Lieutenant Doggett was on approved department leave when the informational e-mail about the immigration protest was sent to the ODW chain of command as well as when the incident occurred. He believed both Captain Duffy and Lieutenant Turner were covering his command responsibilities in his absence.

Lieutenant Turner believed Lieutenant Leotaud was covering Lieutenant Doggett's patrol District responsibilities. Lieutenant Leotaud believed Lieutenant Turner was covering the District for Lieutenant Doggett. Captain Duffy told OPS she was not part of a conversation about specific coverage for Lieutenant Doggett's patrol District responsibilities. She expected the Lieutenants to sort out their command coverage responsibilities, but noted she would generally expect Lieutenant Leotaud to be the primary patrol coverage commander.

CIRB determined that Lieutenant Leotaud was not included in the initial correspondence from Lieutenant Doggett regarding his leave coverage. Neither Lieutenant Turner nor Captain Duffy clarified with each other or Lieutenant Leotaud that he was covering District responsibilities in Lieutenant Doggett's absence. CIRB determined divisional practice dictated patrol coverage responsibility would only default to Lieutenant Turner in the absence of an on-duty patrol commander. Therefore, CIRB found Lieutenant Leotaud was responsible for providing patrol coverage at the time of the protest. However, ultimate responsibility for ensuring clearly delineated command responsibilities rested with Captain Duffy.

Who had prior knowledge of the planned immigration protest and was command direction about the immigration protest given to the ODW/District sergeants?

CIRB found the ODW commanders received the informational e-mail sent by the Regional Intelligence Analyst, titled "Rally outside federal building tomorrow" on February 15th. Most of

them did not remember receiving the e-mail or sending it forward to the personnel impacted by the event. The e-mail records indicated Captain Duffy forwarded the e-mail to personnel.

Lieutenant Doggett received an additional e-mail about the event from a federal law enforcement agency while he was on vacation leave. He told OPS he forwarded that e-mail to Sergeant Guinee, as he knew the event would be under his supervision. He also sent the e-mail to Sergeant Guinee's lieutenant, unaware he was also on leave. He did not provide Sergeant Guinee direction on how to handle the event.

Findings and Recommendations

CIRB recognizes the complexities of managing a patrol division, especially one that includes the District service area. CIRB finds that a formalized in-processing procedure needs to be created and implemented for any leadership change that occurs within a bureau or division. This process should focus on communicating the general management expectations and practices unique to that bureau or division. Implementation of this process will result in greater organizational consistency during command and management rotation.

Captain Duffy told OPS prior management had been inconsistent in dealing with protests and protest groups. While she was aware that the standing practice of not "fighting over property" had been established by previous Field Services Bureau Assistant Chief Batista and ODW Captain Kazmierczak, she felt decisions on whether groups would be allowed to take the street were made indiscriminately. She believed this inconsistency created confusion in the field when personnel dealt with protests. To address this concern, she and Assistant Chief Hall wanted to deploy divisional resources in a more consistent manner and not permit protestors to enter the street.

CIRB concluded that complex topics of discussion, such as changing a division practice with a goal of increasing consistency of how protest groups are managed, should include the Chief of Police and Executive Leadership Team (ELT). Recognizing when the Chief should be involved in these types of conversations and decisions comes with experience in upper command roles.

While Captain Duffy had conversations with Lieutenant Doggett and Assistant Chief Hall about increasing consistency when working with protests, she failed to follow up with formal divisional briefings or written direction for her personnel. This created additional confusion amongst personnel in both decision making and enforcement.

CIRB finds that inconsistencies in the conveyance of expectations and practices about when operations plans should be created and utilized existed throughout the ODW chain of command. Captain Duffy had an expectation that operations plans be created to deal with all pre-planned events.

Conversely, Lieutenant Doggett told OPS that he did not expect his supervisors to complete an operations plan for protests with known event organizers who historically complied with the law

and had previously worked with police personnel to facilitate their events. Again, this supports the need for more effective communication within the ODW command structure.

CIRB finds that past deployment outcomes and working relationships with various protest groups should not dictate organizational preparation and deployment of resources for future events. Moving forward, the department should be prepared for the possibility of civil disobedience at all protests. CIRB finds operations plans should be created and utilized on all pre-planned protests. This incident provides a good example of the unpredictable nature of these types of events and demonstrates how a small number of individuals can dramatically change the larger group dynamic.

CIRB finds that ODW commanders and District supervisors utilized a common-sense approach for deciding when a supervisor or commander should be present at a protest. While this may have been a reasonable practice at one time, it has now proven to create inconsistent expectations and outcomes. This practice created an environment that allowed for complacency, which detrimentally impacted planning of future protest deployments.

CIRB finds the *General Order 2548*, "Civil Disturbances," should be evaluated and updated to reflect the input and direction of Chief Magnus and the ELT regarding department response to protests. Supervisory expectations should be incorporated into both the *General Order* and training curricula. The revised *General Order* and a broad discussion of protest management should be incorporated into supervisor and commander training. While no one set plan can be created to address all contingencies, department values, guiding principles, and best practices may constitute the foundation for sound decision-making.

CIRB finds that clear expectations for command coverage need to be set when a commander takes leave. In this incident many assumptions were made about coverage of command responsibilities. CIRB appreciates Captain Duffy's desire to allow her lieutenants to sort out their leave coverage, but this practice resulted in a lack of clearly delineated District command coverage and led to extremely limited command engagement to address this pre-planned event. It also impacted the initial command response between Lieutenants Turner and Leotaud during a time when officers were overwhelmed at the protest. CIRB finds Captain Duffy should have been more engaged in leave coverage and in providing formal command expectations.

Captain Duffy articulated in her OPS interview that Lieutenant Doggett or the on-duty supervisor typically contacts the event organizer. In this case the lack of an operations plan designating an incident commander, and a supervisory shift change occurring during the event, set the stage for a lack of communication with protest organizers. CIRB recognizes that a lack of command and supervisory direction did not relieve the officers monitoring the event of their responsibility to attempt to locate and make contact with an event organizer.

Officers interviewed by OPS stated the on-scene sergeant or commander typically contacted event organizers. Officers Nagore and Mendoza observed the protest group grow significantly in size, but in the absence of management they failed to attempt to locate or make contact with the

protest event coordinator. They made this decision because both understood this was normally something management would do. Their understanding was also supported by the command interviews. CIRB finds this issue should also be clarified within *General Order 2548*.

On scene personnel at protests, including officers, are fully capable of, and should be responsible for, contacting event coordinators with the goal of learning more about their intentions. CIRB acknowledges District personnel have successfully engaged in this manner on a significant number of protests during 2017 and previous years. While CIRB understands that making contact with an event organizer does not always guarantee cooperation and a peaceful outcome for an event, it places the department in a better position to properly assess the appropriate resources needed to safely work an event.

In conclusion, CIRB finds that communication issues within the ODW chain of command did not rise to sustained *General Order* violations. However, this issue does highlight the need for greater levels of personal accountability and communication among command. This will often require more than verbal discussions. It also highlights the need for the department to create a more formalized training and information exchange process for any leadership/management change that occurs within a bureau or division.

CIRB finds Lieutenant Leotaud's failure to determine the cause of and respond appropriately to a "10-99" (emergency response) unacceptable. This is the highest level of emergency call for assistance. Lieutenant Leotaud had command responsibilities he did not meet. His obligation was to coordinate an appropriate agency response and to ensure the safety of all responding personnel.

Sustained *General Order* Violations

CIRB finds Lieutenant Leotaud violated *General Orders 1330.2*, 1330.3 and *1143.6*.

Sergeant Alfred Guinee #42219

CIRB interviewed Sergeant Guinee, addressing **tactics, decision-making,** and **supervision**. CIRB also focused on clarifying his role and actions as the primary sergeant with initial control over the rally.

CIRB's clarifying questions sought to determine:

- When and how did Sergeant Guinee find out about the immigration rights rally?
- Did he receive any direction on how to handle the event?
- Did he create an operations plan for this event?
- What was Sergeant Guinee's understanding of the department policy on allowing protestors to unlawfully march in the street?
- Did he contact LUPE leadership at the event?
- When he left to go home for the day, what direction did he give to his personnel?

Investigative Statement and CIRB Testimony

Sergeant Guinee told OPS he received an e-mail with a flyer for the LUPE rally at the Federal Courthouse from Lieutenant Doggett on February 16th around 1:30 p.m. He also noted he received an e-mail on this event from the Regional Intelligence Analyst on February 15th. He stated he notified his squad that an event was going to start during their shift, around 4:00 p.m. He told OPS that he did not recognize the organizers from the intelligence he received.

Sergeant Guinee stated he had routine contact with Lieutenant Doggett during which they discussed how personnel should be deployed for protests. He told OPS he only created an operations plan if he felt resources would be needed from outside of the District. As a result, he did not feel that an operations plan was needed for the LUPE event. He explained that since this event took place, he now checks in with his chain of command on pre-planned protests to verify whether an operations plan will be generated.

CIRB asked Sergeant Guinee if an operations plan would have been helpful for personnel during a squad and supervisory shift transition to clarify roles and expectations. Sergeant Guinee stated he had a tenured squad and that they knew what do at these events, but acknowledged an operations plan could have been helpful during the squad shift transition. He noted that having only four sergeants assigned to the District made communication and coverage a challenge at times, and that additional personnel would be helpful.

OPS asked Sergeant Guinee to explain how he typically handled protests. He stated he always arrives at a protest location before an event to find an event organizer. He does this so he can attempt to meet with them and get a sense of the group's plan. He noted he asks the organizer or group leader how many people are expected to attend the event and whether they are planning to remain stationary or march to another location.

OPS asked Sergeant Guinee how he would manage a stationary protest that became mobile. He explained that he would need to "adapt to the flow" of what was taking place, and that if he could safely move the group from one location to another he would do so. He told OPS his practice was to let groups take to the street in an attempt to get them to their destination safely. He said, "We let them go, try to get them to the right (curb lane) and explain how to go. I do it with a couple bike units and officers in vehicles or golf carts."

He indicated it is difficult to keep large groups on the sidewalk because there is not enough room, and large groups get so drawn out his staff must do point control to get the group safely through intersections. He said in his experience, it's often easier and safer for everyone if police block one lane of traffic and facilitate the movement of large groups. Sergeant Guinee told OPS that his squad members knew that if protesters started to march, his expectation was that they would help facilitate their safe movement. He told OPS every protest is different, and that Lieutenant Doggett has given him the latitude he needs to make fluid decisions. He told CIRB, "I am going to do what's best for the department and for the citizens."

Sergeant Guinee said he and Officer Lopez rode their bikes to the event area prior to the start time. He stated they rode around the Federal Building, Federal Courthouse and Senator McCain's Office. Other than two females who were protesting another matter and were unaware of the LUPE protest, the larger group had not yet assembled. He also spoke to Department of Homeland Security (DHS) staff, who confirmed a protest was supposed to occur. Sergeant Guinee and Officer Lopez positioned themselves across the street at the Hotel Arizona property to take advantage of the elevated driveway, which provides a good platform to observe Congress Street.

Officers Nagore and Mendoza arrived and set up with Sergeant Guinee. He told OPS he never contacted the event organizer(s) since it did not appear that anyone was in charge up to the point in time when he left. At 4:30 p.m., Sergeant Guinee advised that there were fewer than five protestors. He and Officer Lopez went back to the main station to let the incoming nighttime squad officers know about the protest. He told OPS he left Officers Nagore and Mendoza in charge. He did not designate one of them as the incident commander, but told OPS that these officers knew what his expectations of engagement were.

Sergeant Guinee arrived at the station but was unable to locate Sergeant Baca. He told OPS he thought Sergeant Baca was in department mandated training. However, he later learned Sergeant Baca was generating an operations plan for the anarchist protest scheduled for the following day. Sergeant Guinee sent Sergeant Baca a text message asking if it was okay for him to end his shift; he responded, "Yes sir, I am listening (to the radio traffic)." When asked by OPS why he didn't mention the protest, Sergeant Guinee explained that because it was such a small group of people he was comfortable with having told the nighttime squad officers that they needed to relieve his personnel. He noted this is a routine occurrence in the District. Sergeant Guinee ended his shift at 5:00 p.m. and Sergeant Baca started his shift at 5:00 p.m.

Analysis

What was Sergeant Guinee's practice in dealing with protests in the field and did he receive any direction on how to handle these types of events?

CIRB finds Sergeant Guinee used a hands-on approach working protests in the District area over the course of his 12 months in the assignment. He told OPS he always attempted to contact event organizers before an event took place in order to develop a relationship, open lines of communication, and gather information on the group's intent.

Due to the timing of his shift and the event start time Sergeant Guinee did not contact the event coordinators in this incident. CIRB finds he had open lines of communication with his supervisor, Lieutenant Doggett, and that they both operated under a philosophy set by the prior administration allowing protestors to take the street if it was safe to do so. Notwithstanding his testimony that his personnel knew what to do at protests, his officers failed to attempt to make contact with event organizers in his absence.

Did Sergeant Guinee create an operations plan for this event?

Sergeant Guinee did not create an operations plan for this event. With his commander's approval, he worked under the assumption that an operations plan did not have to be created for every event. Outside of special circumstances or the need to coordinate non-District resources, he did not typically create operations plans.

When CIRB asked Sergeant Guinee about his thoughts on operations plans, he testified that he had over a year of experience working protests in the District. He explained that he had worked 8 events the week of this incident without operations plans and did not experience problems at any of the protests.

CIRB understands it is not realistic to create an operations plan for every protest that occurs in the District, but recommends operations plans be created for events that the agency has been notified of in advance. Many of the personnel interviewed by OPS and CIRB noted a lack of communication and clear expectations among those working these types of events.

Creating an operations plan and e-mailing it to the division will provide broad foundational knowledge about an event and clearly designate the incident commander responsible for managing the event (IC does not have to be a supervisor). This ensures the appropriate resources and coordination when there is a transition of personnel leaving and coming into work.

What was Sergeant Guinee's understanding of department practice regarding allowing protestors to take to the roadway?

CIRB finds Sergeant Guinee had a reasonable approach to working with protestors who wanted to march as part of their event. He testified to CIRB he would allow large groups of protestors to take the curb lane of traffic if it was safe to do so in order to quickly get them to their destination.

Did Sergeant Guinee ensure the appropriate resources were assigned to the protest prior to going home at the end of his shift?

Sergeant Guinee designated an appropriate number of personnel to monitor the event. When Sergeant Guinee and Officer Lopez left the Hotel Arizona property, there were fewer than five protestors at the LUPE rally. Sergeant Guinee told OPS he left two of his senior officers in charge of monitoring the event (the two-person unit of Officers Nagore and Mendoza).

The officers were present to watch the group grow from fewer than five to an estimated 50 people. Officer Nagore told OPS she thought the demonstration was an anti-Trump event. She noted she observed counter protest pro-Trump supporters on an opposite corner of the LUPE protest and observed an individual wearing a brown beret (believed to be a Brown Berets de Aztlan member). She said Officer Moreno told her what the brown beret signified.

While both officers articulated they knew what Sergeant Guinee's practice was regarding handling protest events, neither officer attempted to identify or contact an event coordinator. Officer Nagore told OPS typically Sergeant Guinee contacts the event coordinator; he also gives the officers direction regarding what to do if a protest group becomes mobile. Officer Mendoza took a short video clip of the crowd and sent it to Sergeant Baca to keep him apprised of the crowd size.

Officer Green arrived first in the GEM car (similar to a golf cart) and Officer Moreno arrived on his bicycle a short time later. Officers Mendoza and Nagore left their Tahoe with Officer Green and took the GEM car to secure for the day.

Findings and Recommendations

CIRB finds Sergeant Guinee's OPS interview and CIRB testimony support the need for clearly established protest policies. *General Order 2548* should be updated to clarify expectations associated with First Amendment event basic response, operations plans, and IC.

Sergeant Albert Baca #51780

CIRB interviewed Sergeant Baca, addressing **tactics, decision-making,** and **supervision**. CIRB also focused on clarifying his role and actions as the sergeant who had control over the rally after Sergeant Guinee ended his shift for the day.

The CIRB's clarifying questions sought to determine:

- When and how did Sergeant Baca find out about the immigration rights rally?
- Did he receive any direction on how to handle the event?
- Did he create an operations plan for this event?
- What was Sergeant Baca's understanding of the department policy on allowing protestors to unlawfully march in the street?

Investigative Statement and CIRB Testimony

Sergeant Baca told CIRB that he has worked in the downtown area for two years and has overseen multiple protests in his capacity as a supervisor. Sergeant Baca said that his normal procedure when working a protest would be to review the event information, check social media for what to expect, and make contact with the protest organizers. He said he attempts to make a connection with the organizers to promote contact with one another in order to facilitate marching or to address other concerns. Sergeant Baca also noted that his general direction to officers is to monitor protests from a distance in order to observe the situation and call for additional resources as necessary.

CIRB asked Sergeant Baca about any expectations from his command staff regarding how to handle protests. Sergeant Baca told CIRB he generally creates an operations plan for any pre-planned event or protest from a template he utilizes. He said that he did not disseminate the guidelines saved on his computer drive with other personnel, using it for his own planning purposes and operations plan development. He did note he discusses the plan verbally with officers working the event. Sergeant Baca told OPS he had not completed an operations plan for this protest and recalled receiving an e-mail about the event approximately two hours before the scheduled start time.

Sergeant Baca told CIRB that he had not received any specific direction from his command staff regarding his expected supervisory involvement with protest response. Sergeant Baca noted that he had arrived an hour early to work on a community policing project. Sergeant Baca arrived at 4:00 p.m. and his normal shift begins at 5:00 p.m. Sergeant Baca said he received information at approximately 4:45 p.m. from an officer at the scene of the protest, who advised him the main protest group was LUPE and that it was currently peaceful. Sergeant Baca noted this was a protest group he was familiar with and had worked with in the past.

CIRB asked Sergeant Baca who was in charge at the scene while he was not present. Sergeant Baca said that Officer Mendoza was initially IC, but that Officer Hatch took over when he relieved Officer Mendoza. Sergeant Baca noted that he had not identified anyone specifically to be in charge of the incident in his absence.

Sergeant Baca told CIRB that when he advised his officers he would get more resources if the group moved into the street, he was referring to getting assistance from the neighboring divisions and also from the SWAT Quick Reaction Force team if necessary. Sergeant Baca noted that he had three officers monitoring the situation. He told the officers to contact him if there were any changes in the demeanor of the crowd or if additional assistance was necessary. Sergeant Baca told OPS that the group had not marched in the past, but if they decided to march he would allow them to march and would facilitate their movement.

Sergeant Baca decided to respond to the scene once Officer Hatch advised there were 50-70 participants who appeared ready to march. Sergeant Baca noted that this occurred at approximately 5:45 p.m. As he was responding to the scene, officers called for additional assistance and noted that they were being surrounded by the crowd. Sergeant Baca transmitted over the radio that officers needed emergency assistance and responded to the scene. Upon his arrival, Sergeant Baca described the scene as, "[a]ctually very chaotic . . . there was a siren on in the background, a handheld protestor bullhorn siren, there was a lot of yelling, a lot of screaming, and so for me to hear the radio was almost close to impossible."

Sergeant Baca stated that, at approximately 6:00 p.m. as the protestors took the street, traffic was heavy, and included not only passenger vehicles but also Sun Tran and Sun Link transportation. Sergeant Baca said that he made contact with Officers Moreno and Green for a quick briefing so that he could assume IC. Sergeant Baca told OPS he was IC until Lieutenant Hawke was briefed and assumed IC.

As he spoke with Officers Moreno and Green, Sergeant Baca observed several members of the crowd surrounding the Tahoe and linking arms. Sergeant Baca believed that the arrestee was still inside the police Tahoe and he was concerned for the officers' safety, as well as the safety of the arrestee inside of the vehicle. His fear was that the crowd would start to rock the Tahoe and potentially tip it over with the arrestee still inside. Sergeant Baca directed officers to clear the roadway and remove the protestors who had linked arms in front of the Tahoe. Sergeant Baca noted due to the amount of noise, he had not heard Officer Hatch transmit that he had already moved the arrestee into another vehicle and then away from the protest location.

CIRB asked Sergeant Baca about the strategy to remove the protestors from the front of the Tahoe. Sergeant Baca said that after having time to reflect, he considered several factors including the safety of the arrestee and the safety of the community and pedestrians. He noted that there were numerous vehicles in the area due to rush hour traffic. Sergeant Baca said his immediate concern was to get the vehicle with the arrestee out of the area, separate the crowd from the vehicle, and allow the officers to de-escalate the situation more effectively. Another consideration was if the street was shut down, it could have allowed the protestors to link arms,

which might have required a device team[1] to be called out in order to facilitate removing protestors from the roadway.

Video from the scene of the protest shows Sergeant Baca talking on his cell phone shortly after arriving at the incident. CIRB asked him to clarify why his phone call was more important than actively managing the scene. Sergeant Baca said he was providing a status update to Lieutenant Turner on the phone. He felt that this was a necessary step to ensure that a commander had a clear picture of what was occurring so that decisions could be made and additional resources could be managed effectively.

Sergeant Baca was asked about the officers' use of OC spray during the protest response. He stated if officers felt they were facing defensive resistance, per policy, they could use OC spray. Sergeant Baca said he had not reviewed the video, but that he would not have used OC spray based on his perspective and experience. Sergeant Baca noted that Officer Green and Officer Guevara reported to him that they had utilized force against certain protestors in the form of OC spray use and Sergeant Baca noted that he had not been concerned by what they disclosed. He also told OPS that Tucson Fire Department (TFD) Paramedics were on the scene and the protestors exposed to OC refused medical treatment from TFD.

Sergeant Baca was asked about his perspective on allowing an incident such as this to be managed by an officer versus a supervisor. He responded by noting that *General Order 2548*, which governs police response to civil disturbances, allows for an officer to respond and monitor while keeping a supervisor updated. Sergeant Baca said that his personal preference is to have a supervisor at the scene to monitor, since he or she will be able to marshal the necessary resources. He also said that crowd size should not necessarily be the determining factor, since small crowds have done more damage than larger crowds in past protests.

CIRB asked Sergeant Baca for his thoughts on the timing of Mr. Leon's initial arrest. He responded that in his personal opinion, with only three officers to manage 70 people, absent any life-threatening concerns, he would monitor the suspect and make an arrest at a later time once it was safer to do so and more resources were available to manage and communicate with the crowd. He also stated that for future unplanned marches, he would recommend that personnel allow protestors to take the street and help facilitate the march, as he has directed several times in the District with positive results. Sergeant Baca did note the difficulty in facilitating this type of activity without pre-planning since the resources generally would not be available to ensure marchers' safety without staffing the protest appropriately.

CIRB asked Sergeant Baca if his officers knew his expectation of allowing protestors to take the street. Sergeant Baca stated that in the past, division command would allow the protestors to take the street, however with the recent change of Field Services Bureau Assistant Chiefs there had been changes in protest expectations. He said the previous Assistant Chief made it clear that

[1] Officers specially trained and equipped to separate and remove protesters who have used chains, plastic zip-ties, sleeping dragons and other like devices to link themselves together as a form of protest.

he expected officers to allow the protestors to take the street if they chose to do so. However, he understood there had been recent conversation between Captain Duffy and Assistant Chief Hall that giving the roadway up to protestors was possibly not the best option. Sergeant Baca believed that some of the ongoing discussion may have filtered down to the officers, who might have been confused between discussions and an actual change in practice.

Sergeant Baca reported that Assistant Chief Hall determined OPS would be called out to investigate the police response and uses of force in this incident. Sergeant Baca told OPS, "I announced to the crowd that if anyone would like to make a complaint about the officers' behaviors or use of force, or things of that nature, to meet by or behind the Sunlink area." Sergeant Baca noted OPS Sergeant Campos arrived at the incident. He briefed him on the incident and the use of OC spray.

Sergeant Baca recommended that the *General Orders* be updated to reflect the department's position on how officers should handle protests, especially covering arrests and, specifically, how to possibly delay the arrest of a protestor as an officer safety tactic. He also said he appreciated that the commanders trusted him to run the protest. His final comment was that he needs to do a better job of providing his written expectations to each of his officers.

Analysis

Did Sergeant Baca supervise the protest effectively?

Sergeant Baca was not at the scene of the incident initially because he started work early to attend a meeting and also to create an operations plan for the anarchist protest scheduled for the following day. CIRB found that there was deficient communication between Sergeant Guinee and Sergeant Baca and the transfer of IC was not done, leaving the incident unmanaged.

Once it was clear the situation was devolving, Sergeant Baca correctly determined he needed to respond to the scene. Once on scene, Sergeant Baca was observed on the telephone away from personnel rather than immediately managing the ongoing dynamic situation. CIRB determined the supervisory priority for Sergeant Baca was to establish control of the situation, manage the scene and responding resources, and provide direction to personnel. It was not a priority for him to brief the responding commander. His actions resulted in uncertainty on the part of officers at the incident and the additional officers responding to the scene.

Did Sergeant Baca have sufficient information to prepare for this protest?

There was a clear lack of communication from all ranks within the ODW division in reference to this event. CIRB determined that Sergeant Baca was not aware of this protest until shortly before it began and he was focused on another matter at the time of this incident. With his past experience with the LUPE group, the protest did not raise any concerns for him. CIRB determined Sergeant Guinee had the primary first-line supervisor responsibility of preparing the agency for this event.

Findings and Recommendations

CIRB finds that Sergeant Baca did not violate any department *General Orders*.

CIRB identified communication failures at all levels within the ODW division and that this contributed to Sergeant Baca not being fully briefed and prepared to manage this event. Many of the final recommended actions at the conclusion of this document will seek to remedy this issue.

CIRB finds Sergeant Baca did not appropriately prioritize the need for scene management upon arrival to this event. Additionally, CIRB found Sergeant Baca hesitated to engage and direct officers, both those already on-scene and those additional units who were enroute. These factors contributed to the delay in de-escalating the situation. CIRB recommends Sergeant Baca receive remedial training from his command staff on prioritizing supervisory responsibilities at dynamic events.

Officer Ryan Green #51068

Officer Green was interviewed by CIRB. The areas addressed with Officer Green were **tactics**, **decision-making**, **use of force**, and **policy**, with a specific focus on the force Officer Green used against the protestors.

CIRB's clarifying questions sought to determine:

- What was Officer Green's understanding of who had IC of the protest?
- How did he become involved in this incident?
- Did he have any knowledge of the incident prior to being asked to monitor the rally?
- What was Officer Green's understanding of the department policy on allowing protestors to unlawfully march in the street?
- Why did he move his police Tahoe into the roadway?
- Who did Officer Green deploy force on and why?

Investigative Statement and CIRB Testimony

Officer Green was assigned to the District area at the time of the protest. He told CIRB that he first learned of the protest as he drove into work and observed it in progress. Officer Green said Sergeant Guinee directed him to relieve officers monitoring the protest at the federal court house. Officer Green responded to the protest along with Officers Moreno and Hatch; they ultimately relieved Officers Nagore and Mendoza so they could end their work shift.

Officer Green told OPS they monitored the rally for approximately 20 to 30 minutes before the crowd began to march. He told CIRB that among the three officers, none of them took incident command because there was no activity at the protest and they were just monitoring the group. He also acknowledged that they did not discuss a contingency plan if the group went mobile.

Officer Green told CIRB that he did not receive an operations plan for this event. He said he had worked numerous protests with and without an operations plan while assigned to the District; there had not been a consistent practice or policy for handling rallies when protestors moved into the street. Officer Green stated he had not developed any contingency plans on the day of this incident to handle the protest.

He said if demonstrations turned into marches and moved into the street, that he would call for additional units and take a "fly by the seat of your pants" approach in adapting to the protestors. Officer Green reported that an incident commander was not designated for the protest. He told OPS that the crowd was initially calm and acknowledged officers might have been a bit "lax" because everything had been fine up to the point when the crowd began to march.

Officer Green told CIRB this was his first time working a protest situation without a supervisor present, but that the officers on scene had worked several of these types of protests in the past

during their assignment to the District. He said that once the crowd began to move into the roadway during the march, he decided to move the marked police Tahoe into the roadway. He reported that police vehicles and police bikes have been used in the past to block the roadway and that by moving the police Tahoe into the street, he was attempting to move people back onto the sidewalk area.

He told OPS and CIRB that clear direction was not given to the officers by a supervisor concerning if or when the marchers would be allowed to leave the sidewalk and take control of the street. He reported that officers will generally try to keep marchers safely on the sidewalk, but if they left the sidewalk, Sergeant Baca's practice was to allow them to take the street and work towards ensuring their safety. Officer Green said that different supervisors had different response practices as it related to protestors taking the street.

CIRB determined Officer Green did not request further clarification about supervisory expectations during the time he monitored the event and prior to the protest group beginning to march on Congress Street.

Officer Green said he moved his Tahoe in the roadway because it was heavy rush hour traffic at the time, and he was trying to get the protestors marching in the street to return to the sidewalk. He told CIRB if the protestors walked around the Tahoe and remained in the street, he had planned to drive the Tahoe behind the group to keep the crowd from "getting plowed down by a car." He would have also notified Sergeant Baca.

Officer Green stated Officer Moreno was on his bicycle and Officer Hatch was in another police vehicle when he pulled out into the street. Officer Green told OPS that he told Officer Hatch that he was going to pull his Tahoe out in the road to redirect the group. He said Officer Hatch pulled his vehicle up to the roadway and gave commands over the vehicle's loud speaker system, advising the group to clear the roadway and go back to the sidewalk. Most of the crowd began to move around the back of the Tahoe and continued to march eastbound on West Congress Street.

Officer Green told OPS he observed one of the protestors marching in the street assault Officer Moreno. Officer Green told CIRB when Officer Moreno placed this individual under arrest it caused the mood of the crowd to turn and several marchers became very aggressive.

Officer Green told CIRB that the three officers intended to allow the group to march in the roadway with the officers following behind the march. He went on to say, when an individual decided to assault an officer in front of the Tahoe, they could not let an aggravated assault against an officer go, especially since they did not know the identity of the suspect. Officer Green explained that a group of the protesters then surrounded the officers and the Tahoe while this arrestee (later identified as Mr. Leon) was detained inside of it.

Officer Green told one of the protesters, Ms. Cichon, to move away from the door of the vehicle. He stated he also observed Ms. Cichon being moved back away from the Tahoe door by Officer Hatch several times. Officer Green told CIRB he felt an urgency to get out of the vehicle when

officers began to address the protestors who had begun to grab onto the front of the Tahoe, preventing him from leaving with Mr. Leon. He told OPS he gave Ms. Cichon repeated orders to move away from the door.

The video shows Officer Green push the door outward, pushing Ms. Cichon back away from the Tahoe. In response, Ms. Cichon pushed the door back onto Officer Green's leg as he attempted to exit the vehicle. Officer Green then forcefully pushed the door (and as result Ms. Cichon) a second time to free himself. This resulted in her being arrested for assaulting Officer Green. It was during her arrest that Officer Hatch removed Mr. Leon from the Tahoe while the crowd was distracted.

Officer Green reported to CIRB he was not aware that Officer Hatch had removed Mr. Leon from the back of the Tahoe and had placed him into another patrol vehicle, allowing him to safely leave the scene. Due to the high level of noise at the scene, he was unable to hear Officer Hatch's radio transmission. He said had he known Mr. Leon had been safely moved, he would have considered a tactical retreat as an option until additional officers arrived to assist.

Officer Green said he moved to the front of the Tahoe to assist the other officers after Ms. Cichon was removed from the area. A small group of protestors, including Ms. Redgrave, continued to protest the arrest of both subjects. Video of the protest captured Officer Green having physical contact with Ms. Redgrave. Officer Parris's body worn camera (BWC) clearly captured Officer Green using his right hand to push Ms. Redgrave back as she waved her right hand at him.

CIRB asked Officer Green if he told Ms. Redgrave to get back. He could not recall if he did, but said he issued orders to the protestors to clear the road throughout the event. Officer Green told OPS he said he didn't recall pushing Ms. Redgrave and he would not have intentionally pushed her down. CIRB determined Officer Green's actions resulted in Ms. Redgrave falling down to the ground.

Officer Green told CIRB, "The older female (Ms. Redgrave) fell to the ground," and as he went to step over her, he noticed two individuals rushing towards him while officers were next to him trying to arrest another protestor (Ms. Rainey).

He stated he used his OC spray at the two individuals, including a female protestor dressed in all gray clothing and a male dressed in black clothing carrying a brown satchel, because they were rushing towards him despite numerous orders to stay back. Officer Green said he perceived the two individuals rushing towards officers, who were making a nearby arrest, as a threat towards those officers.

Officer Green said the crowd was given numerous commands to stay back and return to the sidewalk. He also noted the crowd's actions rose at times to the level of active aggression, allowing him per department policy to deploy OC spray. Officer Green said he used the OC spray

in a targeted manner. Officer Green told OPS during his first interview that he did not impact push[2] any of the protestors.

Through analysis of Officer Parris's BWC footage, the CIRB determined that the female in gray and the male in the black shirt referred to by Officer Green appeared to be attempting to assist Ms. Redgrave who was on the ground. The male in the black shirt subsequently used his body weight and positioning to shield Ms. Rainey from the officers attempting to arrest her.

Multiple officers then carried Ms. Rainey, who was highly uncooperative, to the sidewalk area. As this was taking place, BWC footage showed Officer Green lightly push a female protestor (wearing a purple sweater and black pants) attempting to walk past him towards Ms. Rainey, as if directing her away from the arrestee. The female wearing the purple sweater immediately tried to walk around Officer Green a second time, which resulted in him pushing her with both hands (impact push) with enough force that she fell to the ground.

OPS provided Officer Green the opportunity to view both the Federal Court Building and Officer Parris's BWC video prior to his second OPS interview. Officer Green told OPS he used an impact push on the female protestor wearing a purple sweater during her second attempt to get around the officers who were arresting Ms. Rainey.

As officers neared the sidewalk area with Ms. Rainey, an unidentified female in a red shawl headed towards the officers. Video captured Officer Green attempting to keep the crowd away from the officers and responding to the female in the red shawl by deploying OC spray towards her face. While the video doesn't capture the exact interaction between Officer Green and this female, the video clearly captures her reaction to the spray as she turns and moves in the opposite direction of the officers.

CIRB determined Officer Green was not questioned about his deployment of OC spray on the female in the red shawl during his OPS interviews. During CIRB proceedings, Officer Green was allowed to view Officer Parris's BWC video to refresh his memory of deploying OC spray at the female in the red shawl. After viewing the video, Officer Green told the CIRB he still did not have an independent recollection of deploying the OC spray on this individual.

CIRB asked Officer Green about his actions and demeanor during the incident. Video taken from multiple vantage points showed Officer Green operating at what looked like a higher level of intensity than the other officers around him who were in the same circumstances. The other officers were more measured in their responses.

Officer Green told CIRB that he felt the situation was hectic and out of control from the onset. He stated the event was extremely stressful and tense before additional units arrived to help regain control of the situation. He told CIRB he felt that his OC spray deployment was warranted and

[2] Impact Push: An impact push is a forceful push with two hands intended to drive the recipient back.

that it worked well in this situation. Officer Green said that he felt he was in control and that he knew what he was doing. He noted additional officers showing up to the scene made the situation "less hectic and crazy," allowing better control of the incident.

Officer Green was not in possession of his duty firearm at the protest scene, which was investigated by OPS (Case #17-0129). CIRB asked about his lack of firearm at the protest in an attempt to understand Officer Green's state of mind. CIRB asked Officer Green whether he felt not having his firearm with him affected his overall disposition or thought process at the time of the incident. Officer Green said, "I don't think so, just because I wasn't necessarily concerned at the time that it was going to be a lethal encounter, especially with more people showing up." He went on to say, "[h]onestly it was scary, I was scared, especially at first being surrounded by so many people and not being in control."

Officer Green told CIRB he felt more training on crowd control is necessary for officers, especially as it relates to a crowd suddenly surrounding an officer or a vehicle. He expressed his concern that Mobile Field Force (MFF) training is designed to deal with pre-planned events while this incident occurred rapidly. He reported that the equipment available was sufficient. Officer Green felt that he and the other officers were complacent because this was a protest group that the officers had dealt with before and had not experienced problems in the past.

Officer Green said the current investigation into this incident and the lack of policies to guide officers' actions at protests has made officers fearful of engaging in any upcoming demonstrations. He noted that there is an Arizona Revised Statute (13-2906 – Obstructing Roadway) which prevents individuals or groups from blocking the road and he recommended the agency be consistent in enforcing this statute.

Analysis

Was moving the police Tahoe into the roadway an appropriate tactic?

CIRB determined that Officer Green moved the Tahoe into the roadway in an effort to redirect the protesters back onto the sidewalk. CIRB concluded this maneuver was not reckless as alleged at the Ward I town hall meeting. This is supported by video showing the police Tahoe did not drive at, or get close to, the larger group of protestors. This does not mitigate the fact that Officers Hatch, Moreno, and Green failed to have a meaningful conversation with each other on how to tactically handle the large group of moving protestors prior to Officer Green pulling his vehicle into the roadway.

Were Officer Green's uses of force appropriate and justified?

CIRB determined Officer Green used both justified and non-justified force at various times during the incident. His uses of force and the corresponding findings are broken down by specific actions in the "Findings" section of this report. CIRB expressed concern regarding Officer Green not being able to recall many aspects of this incident. Even after viewing video of the events that clearly

captured his use of force, he was unable to consistently recall and justify the reasons for his actions.

CIRB had additional concerns that Officer Green was far less composed during the protest than other officers who faced similar operational stress during this event.

Was Officer Green's behavior influenced by not having his firearm available?

Officer Green denied that being unarmed negatively influenced his behavior during the protest. While CIRB could not definitively determine this caused Officer Green to act in the manner he did, not having a firearm while surrounded by an unruly crowd would be unnerving to most police officers. Officer Green faced a large number of protestors who outnumbered the officers by more than 20 to 1 and that had become increasingly aggressive following the arrest of Mr. Leon. CIRB found that the missing firearm may have contributed to Officer Green's increased use of force.

Findings and Recommendation

CIRB finds Officer Green did not attempt to make contact with event organizers to learn what the group's intentions were.

CIRB finds that with the exception of Officer Green telling Officer Hatch he was going to place his police vehicle in the street in an attempt to redirect the crowd, there was no communication among the officers about how to handle the group if they began to march or take the street.

CIRB finds Officer Green was not reckless when he drove onto Congress Street. Video reflects the Tahoe movement was slow and deliberate. It did not make contact with any members of the demonstration.

After reviewing the OPS investigation, video, and CIRB testimony, CIRB determined the following regarding Officer Green's uses of force:

Use of force on Ms. Cichon – **Justified/In Policy**

CIRB finds Officer Green and Officer Hatch gave Ms. Cichon ample opportunity to move away from the driver side door of the Tahoe. CIRB found her actions prevented Officer Green from exiting the vehicle, thereby jeopardizing his safety. His need to exit the vehicle, and the force he used to open the door while she was trying to keep him from getting out of the Tahoe, was necessary and reasonable.

Use of force on protestors around the Tahoe – **Justified/Training Opportunity**

CIRB finds Officer Green and other officers pulled several people off of the bumper of the Tahoe and then let them go in the same area. Many of the protestors immediately returned to the front

bumper area of the Tahoe. While justified, this was an ineffective tactic without more officers to move the protestors from the area.

Use of force on Ms. Redgrave – **Not Justified/Out of Policy**

CIRB finds although Officer Green said he did not intend to push Ms. Redgrave down, he did push her arm and is therefore responsible for her welfare as a result of the fall. It should be noted that Ms. Redgrave not only ignored direction from officers to clear the roadway, but had returned numerous times after being escorted away from the area. This doesn't justify Officer Green's actions, but reflects some degree of culpability on the part of Ms. Redgrave.

Use of force (OC spray) against unidentified female wearing all gray clothing and unidentified male with a black shirt, brown pants, and satchel – **Justified/In Policy**

CIRB finds the subject in the black shirt incited the crowd, intentionally pushed up against officers to block their movements, and continually disobeyed lawful direction to clear the roadway. The female wearing all gray clothing interfered with the officers' actions and disobeyed lawful direction to clear the roadway. Both individuals had ample opportunity to move back to the sidewalk as directed by police personnel prior to being exposed to OC spray.

Use of force on unidentified female wearing purple sweater – **Not Justified/Out of Policy**

CIRB finds Officer Green's impact push was an excessive tactic given the circumstances. This female could have been directed away from the area using considerably less force.

Use of force (OC spray) against unidentified female wearing the red shawl – **Not Justified/Out of Policy**

CIRB determined Officer Green was not questioned about his deployment of OC spray on the female in the red shawl during his OPS interviews. Officer Green did not have independent memory before or after being allowed to view Officer Parris's BWC video which captured him deploying OC spray at the female in the red shawl. Police officers are required to articulate their reasoning for all uses of force. Without further information to review in conjunction with the video evidence, CIRB found this use of force excessive.

Sustained *General Order* Violations

CIRB finds Officer Green violated *General Orders 1330.2, 1330.3, 1330.7, 2020 and 2030*.

Officer Albert Moreno #51098

Officer Moreno was not called before CIRB. His statements to OPS allowed CIRB to evaluate his involvement and state of mind during this incident.

CIRB's review sought to determine:

- What was Officer Moreno's understanding of who had IC of the protest?
- How did he become involved in this incident?
- Did he have any knowledge of the incident prior to being asked to monitor the rally?
- What was Officer Moreno's understanding of the department policy on allowing protestors to unlawfully march in the street?
- Did Officer Moreno have a contingency plan if the protestors refused to follow direction to get back on the sidewalk?

Investigative Statement Review

Officer Moreno told OPS that he was directed by Sergeant Guinee to relieve the day shift officers currently monitoring the Federal Building protest when he reported for duty at 5:00 p.m. He said the first time he heard about the protest was when Sergeant Guinee provided direction to him at the station. He told OPS he deployed for duty on his patrol bicycle and met with Officer Green. He said they relieved the day shift District personnel who had been monitoring the crowd. He said that Officer Kent told him the group had been peaceful and that they didn't have any conversations about an operations plan or a designated incident commander.

Officer Moreno said he identified three people who had signs and appeared to be part of the protest riding their bikes three abreast, which he felt was unsafe and illegal. He stated they were impacting the flow of traffic so he rode over and spoke to them. He said the bicyclists returned to the larger group of protestors after he spoke to them.

Officer Moreno returned to monitor the group with Officers Green and Dragon from across the street at the Hotel Arizona property. He said a short time later the protest group of 60 to 70 began to march. He said initially the group used the crosswalk and stayed on the sidewalk. He said he was aware Sergeant Baca had been notified that the group had decided to march.

The protestors moved into the street and blocked all eastbound traffic on Congress Street. Officer Moreno stated he and Officer Green entered the street at an angle and attempted to move the crowd back to the sidewalk. Officer Moreno told OPS he didn't discuss trying to keep the crowd on the sidewalk with other officers; they just intuitively worked together to do this.

Officer Moreno said he received direction from Sergeant Baca during past protests not to allow protestors to take over the street. He told OPS that he blocked the median lane of eastbound Congress Street; Officer Green blocked the curb lane; and Officer Hatch gave direction to the

crowd to get back on the sidewalk over his public announcement system. Video from the Federal Courthouse captured the scene described by Officer Moreno.

Officer Moreno told OPS the majority of the group started moving back towards the sidewalk at the direction of the officers. Despite being directed back to the sidewalk, Mr. Leon walked around Officer Moreno and Officer Green. As Mr. Leon walked back towards Officer Moreno's position, Officer Moreno put his hand out to stop Mr. Leon and told him to go over to the sidewalk area. Mr. Leon responded by saying, "Don't touch me," and then assaulted Officer Moreno by striking him in the back.

Officer Moreno responded to the assault by detaining Mr. Leon. Some of the demonstrators reacted to the arrest by stopping and chanting, "[l]et him go!" as they surrounded Officers Moreno and Green. Mr. Leon defensively resisted the officers' efforts by pulling away and keeping his arms and hands from being placed behind his back.

The officers moved Mr. Leon to the area in front of the Tahoe so they could leverage him against the vehicle to fully detain him. Officer Moreno noticed that Mr. Leon was wearing a belt that contained a collapsible baton and OC spray. He was concerned he might have additional weapons on his person. As the officers were surrounded by members of the crowd, Officer Green called for emergency assistance (10-99) over his police radio.

OPS asked Officer Moreno if there was a plan if the protestors refused to follow commands to get back on the sidewalk. He said they would have just let the demonstration continue and protected the group by pulling up behind them while calling for additional resources. Officer Moreno noted this occurred during a busy traffic period with a traditionally heavy call load.

Analysis

Was Officer Moreno's decision to make a physical arrest of Mr. Leon in the midst of the volatile crowd the best tactical decision?

One alternative to effecting an immediate arrest within a non-compliant crowd is to identify the suspect for an arrest at a later time, such as when additional officers are present to assist with crowd control.

Tactically repositioning or retreating until additional resources are available prior to effecting arrests among the crowd could have reduced the level of agitation among the protestors and reduced Officer Moreno's potential to be harmed by the more volatile members of the demonstration.

Did the officers engage in any contingency planning prior to arresting Mr. Leon?

Officers Hatch, Green, and Moreno did not discuss possible contingency plans on how to manage the large group of protestors. When the crowd moved off of the sidewalk and into the street, they

had limited discussion before they attempted to redirect the crowd back onto the sidewalk. This lack of communication led to confusion among the officers once some members of the crowd decided not to follow the lawful orders of the officers.

Findings and Recommendations

Officer Moreno did not violate any department *General Orders*.

CIRB determined that in the past, officers working protests relied on the supervisors to make contact with event organizers and gather information on what protest groups were going to do. Officer Moreno told OPS that typically a sergeant was on scene to direct their actions during protests and marches. CIRB finds that in the absence of a supervisor at the scene to provide direction, the officers failed to communicate with each other or the event organizers. The officers did not receive an operational plan to work this event, nor did they make any effort to generate their own plan prior to the group beginning to march.

CIRB finds Officer Moreno received limited information from Sergeant Guinee and no direction from his own supervisor, Sergeant Baca, regarding this event. This level of complacency likely stems from the historical success that District personnel have experienced managing weekly protests and impromptu marches. A long history of routine, coordinated protests and cooperative demonstration organizers created an environment where District supervisors and officers assumed this protest would proceed as others have in the past. When suddenly faced with a large number of protestors who did not follow lawful direction, the officers quickly became overwhelmed.

This incident also highlighted the danger of deploying personnel without a briefing from a supervisor. Had either of Officer Moreno's sergeants met with the officers in their squad prior to the protest, there could have been an opportunity to strategize and coordinate various contingency plans. This should serve as a reminder to sergeants that conducting briefings at the beginning of shifts sets their squads up for success.

CIRB also recommends future training and policy discussions to determine the need for and timing of physical arrests in these types of environments. Having the luxury of hindsight, CIRB concludes delaying the arrest of Mr. Leon until additional personnel arrived to the scene would be a more appropriate tactical decision. CIRB supports training and policy changes that encourage personnel to evaluate delaying arrests and tactically repositioning as two of many viable options in the course of daily police work.

Officer Eric Hatch #51940

Officer Hatch was interviewed by CIRB. The areas addressed with Officer Hatch were **tactics, decision-making,** and **policy.**

CIRB's clarifying questions sought to determine:

- How did Officer Hatch become involved in this incident?
- As an officer in Operations Division West, did Officer Hatch have any knowledge of the immigration rally prior to the call for assistance?
- Who had incident command?
- What was Officer Hatch's understanding of the department policy on allowing protestors to unlawfully march in the street?

Investigative Statement and CIRB Testimony

Officer Hatch told CIRB he first learned about the protest when he was driving to work for his shift. He recalled hearing that there were approximately 70-100 people in front of the Federal Building on the northeast corner of Congress Street and Granada Avenue. Officer Hatch noted that when he drove past the scene, the protest group appeared larger and more organized than most Federal Building protests he had previously experienced. Officer Hatch continued his drive to the main police station where he changed into his uniform and logged on for his shift.

Officer Hatch deployed to the protest location at approximately 5:00 p.m. He told CIRB that typically officers hear about protests from their supervisors; however, this did not happen on this occasion. Officer Hatch did not recall who advised him of what his role would be, but stated that either a peer or Sergeant Baca told him that officers were simply monitoring the protest activity and that he was to relieve one of the day shift officers currently monitoring the protest. Officer Hatch told CIRB he was not sure who the incident commander was for the protest and that he was not aware of an operations or contingency plan for this event.

Officer Hatch took a patrol car and went to the protest location where he met with Officer Green and Bicycle Officers Moreno and Kent. Officer Kent left shortly thereafter since it was the end of his shift. Officer Hatch told CIRB he monitored the group for the next 20 to 30 minutes from across the street at the Hotel Arizona property with Officers Moreno and Green. He said the protest group began to move south, crossing at Granada Avenue before heading eastbound adjacent to Congress Street. Officer Hatch advised CIRB that he contacted Sergeant Baca over the telephone to advise him that the group was marching. Officer Hatch noted Sergeant Baca told him that if the group was on the sidewalk, his expectation was that the officers continue to monitor the group.

Officer Hatch told CIRB that the group of marchers entered the roadway just prior to reaching the officers' location. In response, Officer Hatch began giving verbal direction to the crowd over his

car's public announcement system to move back onto the sidewalk. CIRB asked Officer Hatch who was IC at this point. He told CIRB that IC was not clearly articulated over the air or discussed, but he could have been considered IC since he was giving verbal commands to the protest group.

At this point, Officers Green, Moreno, and Hatch were the only officers at the scene and they were having difficulty persuading the group to move back onto the sidewalk. Officer Hatch said he did not have any discussion, nor had he received specific supervisory direction, about whether the protestors could march in the street. Officer Hatch told OPS he was aware of previous examples of department personnel both facilitating unpermitted marching in the street and also examples of limiting the marchers only to the sidewalk.

Shortly after the marchers entered the street, Officer Hatch said he was made aware that Mr. Leon had been arrested for assaulting Officer Moreno. Officer Hatch told CIRB that the situation was hectic and that there was so much happening around him that he did not participate in handcuffing Mr. Leon. Once the arrest occurred, Officer Hatch noted that the crowd became more agitated and began to wrap around the Tahoe where Mr. Leon was being detained. Officer Hatch told CIRB that the crowd began to chant, "Let him go!," as some members became more aggressive toward the officers.

Officer Hatch asked several members of the group with megaphones to use the megaphones to encourage the crowd to move back to the sidewalk, for their safety and in an attempt to de-escalate the situation. Two or three protestors attempted to assist Officer Hatch but Ms. Rainey (who was later arrested) told him, "Fuck you! I don't have to do what you say."

Officer Hatch told CIRB that he recognized Mr. Leon had become a focal point for the group that was growing more and more agitated. He recognized Mr. Leon's safety was the responsibility of the officers, so he began looking for ways to remove Mr. Leon from the location.

Officer Hatch reported that Officer Green, who was in the driver's seat of the Tahoe, was surrounded by protestors and he was unable to safely move the police vehicle. He observed one of the protestors, later identified as Ms. Cichon, pushing on the driver's side front door of the Tahoe as she yelled at Officer Green. Officer Hatch heard Officer Green tell Ms. Cichon to move away from the door so he could get out, but she refused to do so.

Officer Hatch asked Ms. Cichon to move away from the vehicle door so that Officer Green could leave. Officer Hatch said Officer Green then opened the door to get out of the Tahoe, pushing Ms. Cichon away from the door. He said this angered Ms. Cichon and she pushed back on the door, slamming Officer Green's leg as he attempted to exit the vehicle. Ms. Cichon was arrested for this assault after she moved to the front of the Tahoe, which drew the crowd's attention.

Additional police personnel began arriving at the scene. Officer Hatch stated he knew he had to be strategic in removing Mr. Leon from the protest location, and that this would require additional resources. With Officer Dragon's assistance, they were able to move Mr. Leon to Officer Hatch's police car without the larger crowd noticing. He moved Mr. Leon to safety in the alley adjacent to

the Hotel Arizona property while the crowd was distracted by Ms. Cichon's arrest. He advised officers over the radio of his location change. Officer Kidd took custody of Ms. Cichon and moved her away from the crowd to the same staging location where Officer Hatch had taken Mr. Leon. Officer Hatch told CIRB that he advised on the radio that the arrestees were moved away from the scene.

CIRB asked Officer Hatch if, reflecting back on the incident, he thought it was the best tactical decision to make an immediate arrest of Mr. Leon, considering they were so outnumbered by an agitated protest group. Officer Hatch told CIRB, "[i]n hindsight, I don't believe making the arrest was the best decision at that time. Problems may have been avoided if we pulled him aside to get his information and arrest later."

Analysis

Who had Incident Command?

CIRB determined Officer Hatch did not know who had IC. Officer Hatch noted that he had contact with Sergeant Baca over the cell phone, however Sergeant Baca was not present at the location and Sergeant Guinee had already left the location prior to his arrival. CIRB determined that none of the officers at the scene identified themselves as the Incident Commander. Officers Hatch, Green, and Moreno were at the protest location for nearly thirty minutes before the protestors began to march. None of the officers used this time to discuss or assign incident commander duties.

Is department policy clear on whether or not protestors can enter the roadway during a march?

CIRB agrees with Officer Hatch's assessment that there was not clear department policy or direction regarding the appropriate response to demonstrators who enter the street. While the department is fully invested in ensuring and protecting First Amendment rights, it must also ensure the safety of the public, the protestors, and law enforcement personnel. Besides being unlawful, entering and remaining in the roadway during rush hour without communicating with law enforcement endangers motorists and demonstrators. CIRB recognizes that a clear departmental policy is necessary in order to ensure officers have a solid framework to guide their decision-making during dynamic situations.

Findings and Recommendations

CIRB finds that Officer Hatch did not violate any departmental *General Orders*.

Officer Hatch acknowledged sergeants normally make contact with protest organizers to assess their intentions. CIRB believes Officer Hatch missed the opportunity to gather information from the event organizer(s) and this was not a task that required a supervisor. CIRB supports training and policy changes that direct personnel of any rank to gather this critical information.

CIRB noted that Officer Hatch made an excellent decision when he decided to move Mr. Leon from the scene for his safety, as well as the safety of the officers. He and Officer Dragon quickly transported Mr. Leon from the area in a low profile manner that attracted minimal attention from the crowd.

Officer Adrian Guevara #49552

Officer Guevara was interviewed by CIRB. CIRB addressed **tactics** and **decision-making** with Officer Guevara, with a specific focus on the force he used on the demonstrators.

CIRB's clarifying questions sought to determine:

- How did Officer Guevara become involved in this incident?
- Did Officer Guevara have any knowledge of the immigration rally prior to the call for assistance?
- Who had IC of the incident?
- What was Officer Guevara's understanding of the department policy on allowing protestors to unlawfully march in the street?
- On whom did Officer Guevara deploy force and why?

Investigative Statement and CIRB Testimony

Officer Guevara stated that he and Officer Kelly Ewings were working as a two-person patrol unit in Operations Division West (ODW) when they heard the emergency assistance request (10-99) from officers at the protest. He stated they were not aware of the protest prior to the call for assistance, but as a past Downtown District officer he assumed the officers calling for assistance were dealing with a protest based on their District designators and the nature of the radio transmission.

Officer Guevara said as they arrived at the protest he and Officer Ewings could see the police Tahoe in the middle of the road, but there were so many people in the street they could not immediately see the other officers. He said they arrived at the protest at approximately the same time as Sergeant Baca. Officer Guevara told OPS he thought it would be best for the three of them to "move as a cell," but they were quickly separated within the large crowd.

As he walked further into the group of protestors he observed officers attempting to get the non-compliant crowd to move away from the Tahoe, out of the street, and back onto the sidewalk. He observed protestors yelling at officers and holding signs with sticks. Some of the protestors wore masks to hide their identity. Officer Guevara told OPS despite his 10 years of District experience working other protests, he had never before encountered a protest like this one.

Officer Guevara told OPS that as more officers arrived at the scene, some of the protestors began to comply with the officers' orders to move back to the sidewalk. However, some of the protestors continued to disregard the officers' directions. A small group of protestors attempted to interlock their arms around the front push bumpers of the Tahoe. Officer Guevara said he felt the officers were too dispersed to effectively manage the large crowd.

Officer Guevara identified a few protestors who were actively trying to keep the officers from clearing the street. One of these subjects was an unidentified male using his bicycle as a tool to interfere with the officers. Officer Guevara told OPS that at one point he had to forcefully push the bicycle back towards the subject, which resulted in a shoving match back and forth over the bicycle. Officer Guevara said the male was taller and heavier than he was and he did not want to fall and end up under the bicycle dealing with the aggressive male by himself. He was finally able to push the male back towards the median away from the front of the Tahoe when he realized that protestors were now re-entering the roadway.

Officer Guevara told OPS he felt the officers were beginning to be overrun by the protestors. He pulled out his OC spray and displayed it to the crowd while ordering them to get back on the sidewalk. Officer Guevara said he then used his OC spray on a Hispanic female wearing a red t-shirt and blue jeans, holding a megaphone, after she advanced on him, ignoring repeated commands to back away from the officers. Officer Guevara said he used his OC spray in a short directed burst.

CIRB determined Officer Parris's BWC captured the female's movement, which appeared to be in response to Ms. Redgrave falling to the ground. Officer Guevara was unaware Ms. Redgrave had fallen until OPS showed him the video footage. He told OPS he believed the confrontational male with the bicycle might have been exposed to the spray he directed at the Hispanic female because this male left the area after the first OC spray usage.

Officer Guevara said that after spraying the female he helped her get up and handed her off to another officer. He later told OPS that in hindsight, he and the other officers should have taken all of the protestors who were exposed to OC spray, or subjected to a use of force, to the northern side of Congress Street (behind them), not back to the larger group of protestors on the south curb. This would have allowed the officers to arrest those they used force on.

Officer Guevara said he observed the female he sprayed with OC getting water for her face from other demonstrators. He said she was surrounded by a group of demonstrators, so he made the decision not to make contact with her to gather information for use of force reporting purposes. He told OPS he felt if he went back into the crowd, it would have further incited the group. He said that if this female had been arrested he believed the crowd would have tried to free her, which would have dramatically escalated the situation. He said he thought there were many people who should have been arrested during the incident, but were not taken into custody because of concerns about the crowd.

In his first interview, Officer Guevara told OPS he only remembered using OC spray against the female in the red shirt. He said it was brought to his attention that news footage possibly captured him using OC spray twice during the incident. He said he saw the media coverage and did not think he had used OC spray on two people.

Officer Guevara was brought back to OPS for a second interview. He was provided an opportunity to watch Officer Parris's BWC prior to being re-interviewed. While watching the video, he

observed a Hispanic male wearing a black shirt with a red number "7" on it rushing towards the officers. Officer Guevara told OPS, "I perceived the threat in front of me where the subject was coming at me, so *[sic]* that's why I deployed the pepper spray." He also noted the moment in the video when he used OC spray against that female in red as she moved directly at him.

Officer Guevara stated that TFD was requested for medical assistance for the protestors exposed to OC spray just before 6:00 p.m. He acknowledged that TFD personnel were unable to immediately respond into the crowd because officers were still trying to make the scene safe.

Officer Guevara told OPS during his second interview that he recognized Mr. Bannon as a subject recently released from the Arizona Department of Corrections. Mr. Bannon had been involved in a weapon-related assault incident earlier in the day. Mr. Bannon was present at the protest as a non-compliant crowd agitator. Officer Guevara noted Mr. Bannon was running in and out of the crowd and yelling at the officers. Officer Guevara told OPS that when Mr. Bannon advanced on the officers he attempted to use OC spray on him, but was unsuccessful.

OPS asked Officer Guevara to describe the demeanor of the crowd. He described the crowd as "hateful." He went on to say they were shouting obscenities at the officers and were generally non-compliant. Officer Guevara stated he thought the people at the event who wanted to make a complaint to OPS were those who had not been arrested after OC spray was used on them during the incident.

Officer Guevara told CIRB he thought Sergeant Baca had incident command of the protest. He noted that there were no commanders present at the protest when he arrived. He stated Lieutenant Hawke arrived towards the end of the incident and assumed IC.

Officer Guevara told CIRB that he did not have any knowledge of the protest until the call for assistance was made by the officers on scene. He felt that in the future it would be appropriate for all members of the affected division, not just the District area staff, to be notified of an active or planned protest. He also suggested that it would be advantageous to advise neighboring divisions of protests, so they would be ready in the event they needed to send additional resources.

Officer Guevara's final recommendation to CIRB addressed updating the department's policy on whether protestors can enter and remain in the street without a permit. He noted recent national and global events involving subjects who utilized vehicles to intentionally run into groups of people, protestors, and pedestrians as a major reason to move everyone out of the roadway to keep the public safe.

Officer Guevara told CIRB he commended the department practice of having initial OPS investigative questioning occur before members view any related video. He stated watching video of the event before his interview could have changed his perception of some aspects of the event.

Analysis

How did Officer Guevara become involved in this incident?

Officer Guevara responded to the scene as a two-person unit with Officer Ewings. They cleared a call for service when they heard the request for emergency assistance from the officers at the demonstration.

As an officer in Operations Division West, did Officer Guevara have any knowledge of the immigration rally prior to the call for assistance?

Officer Guevara told OPS neither he nor Officer Ewings were aware an immigration-related protest had been planned to occur downtown. As a past District officer he assumed they were dealing with a protest based on the District designators of the officers involved and the nature of the radio transmissions. He noted in his OPS interview it would have been helpful if the officers working the original rally at the Federal Courthouse had advised over the radio that the protest group had turned into a march, which would have allowed other officers to immediately respond and assist.

Who had IC of the incident?

CIRB determined that Sergeant Baca and Officer Guevara arrived at the protest scene at roughly the same time. Officer Guevara told OPS he thought Sergeant Baca had IC of the protest. Sergeant Baca called for emergency assistance over the radio and gave clear direction to responding units. While Sergeant Baca did not advise that he had IC until he arrived to the incident location, he was clearly the supervisor managing the incident. CIRB noted that IC was later assumed by Lieutenant Hawke after he arrived at the incident and received a briefing from Sergeant Baca.

On whom did Officer Guevara utilize OC and why?

CIRB determined Officer Guevara used his OC spray on two individuals at the protest. His first use of OC spray was on an unidentified Hispanic female wearing a red t-shirt and blue jeans. Video obtained from the event shows this individual refusing to follow lawful commands and moving towards officers prior to being sprayed.

An unidentified Hispanic male with a beard, wearing a black shirt with a red number “7” on it and a black hat, was the second person Officer Guevara used OC spray on. This male moved quickly towards officers who were dealing with numerous aggressive protestors. Video shows the male acting aggressively and moving quickly towards officers, continually disobeying their direction.

Findings and Recommendations

CIRB finds both of Officer Guevara's uses of OC spray were **Justified/In Policy.**

Officer Guevara requested TFD respond to assist individuals who had OC spray used against them, however the response was delayed until the scene could be made safe.

Officer Guevara told CIRB that deploying additional pepper ball systems[3] or calling out specific tactical personnel for situations like this could have been helpful. He believed that, in this situation, pepper saturation around the front of the Tahoe could have cleared the area faster and potentially reduced the need for OC spray on individual protestors. CIRB recommends further discussion with the academy training staff related to the feasibility of employing this tactic.

CIRB determined most of the units responding to provide emergency support were unaware a protest was taking place. CIRB supports Officer Guevara's suggestion that operations plans to address protests be more widely distributed throughout the department.

Officer Guevara told CIRB that even with a radio earpiece, he could not hear radio communications once he was on scene. CIRB recommends that responding officers deactivate their sirens as they arrive to a protest scene to improve officers' ability to communicate and decrease tension within the crowd.

CIRB finds personnel responding to incidents such as this should attempt to separate arrestees from the larger group of protestors. This can potentially de-escalate the situation and keep everyone safer.

CIRB agrees with Officer Guevara who felt, after watching video footage of the event, that officers should have taken the arrestees to the north side of Congress Street. This would have separated the officers and arrestees from the larger group of protestors.

CIRB commends Officer Guevara on his willingness to share his thoughts on how the incident was handled while the OPS investigation was still underway. Officer Guevara's level of candor should serve as a model for other officers.

CIRB appreciates the testimony Officer Guevara provided on the value of making an initial statement during an investigation such as this prior to watching BWC video. This is a fairly new department practice and it has been a point of discussion within the agency. CIRB finds this practice is critical to understanding the officer's perspective, which may include observations not captured by video, prior to the officer watching any footage. CIRB recognizes the limitations of video technology and believes this incident illustrates the importance of first memorializing what the officer actually experienced.

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[3] Pepper ball systems – Capsules filled with a capsaicin powder and fired from a compressed-air powered launcher. Pepper balls may be fired directly at a subject, or may be fired to strike near a subject to deliver a dispersed OC payload.

Officer John Parris #34961

Officer Parris arrived on scene of the protest after the initial call for emergency assistance. CIRB interviewed him to gain his perspective of the event.

CIRB's clarifying questions sought to determine:

- How did Officer Parris become involved?
- Did Officer Parris have any knowledge of the immigration rally prior to the call for assistance?
- Who had IC?
- What involvement did Officer Parris have?
- What was Officer Parris's understanding of the department policy on allowing protestors to unlawfully march in the street?

Investigative Statement and CIRB Testimony

Officer Parris was working as a Motor (motorcycle) officer on the day of the incident. He observed the protest earlier in the day when he rode past it on Congress Street. He responded to the protest when he heard the emergency call for assistance. Officer Parris said when he arrived at the scene he observed that the street was inundated with protestors. Eastbound traffic had already stopped, but he placed his motorcycle in a position with the lights visible to traffic to keep the large group safe while they were in the road.

He estimated that 100 to 150 protestors were present and that 20 to 30 of them were surrounding the police Tahoe. He said officers were trying to move the protestors away from the Tahoe and out of the street. He did not realize initially that Mr. Leon (arrested protestor) was inside of the Tahoe and that officers were trying to get him away from the scene. Officer Parris said ensuring officer safety and restoring order were his primary concerns.

CIRB asked Officer Parris who had IC of the scene. He stated he heard Sergeant Baca giving direction on the radio while he was riding to the protest, but he did not initially see him when he arrived. He said he did not hear anyone take IC of the incident. He told OPS that there were only three officers on scene at that time and he did not receive direction from them about what was occurring or what needed to be done. Officer Parris told OPS the scene was chaotic and extremely loud, making it difficult to communicate with his peers. Though unable to verbally communicate with each other, he believed the officers were all trying to get the Tahoe out of the scene.

CIRB asked Officer Parris to explain the tactics he used to handle the crowd. He stated as the other officers were getting people to move to the sidewalk, he noticed some protestors trying to circle back around behind the officers. He said he intended to protect the "officers' backs" as they tried to encourage people to move to the sidewalk.

Officer Parris told OPS that he observed Officers Green and Guevara each use one burst of OC spray to address non-compliant protestors, which he thought was appropriate. Officer Parris said the crowd ignored repeated orders to move back and get onto the sidewalk. He said the OC spray was effective because it created space and moved people away from officers.

He stated that he did not use force during this incident, but did put his hands on peoples' shoulders to direct them to the sidewalk. While he thought a number of protestors could have been arrested for several charges, he articulated they did not have enough resources or equipment to arrest everyone breaking the law.

Officer Parris told CIRB his BWC camera has a fisheye, wide angle lens, which distorts the video when people are up close to the camera. Officer Parris was asked about a portion of his BWC footage that captured Ms. Redgrave waving her finger in his face. He stated that while the video made it appear as though she was coming up to him, she was not.

He stated that she was actually moving towards other officers and his camera distorted the distances between Ms. Redgrave and the officers. Officer Parris said he saw her come up towards the other officers with her hand raised, but could not hear their interaction because the sirens were on and the environment was very loud and chaotic. He told OPS he observed Ms. Redgrave fall after Officer Green pushed her hand. He said he believed Officer Green intended to push her hand away from his face.

He also observed Officer Green push an unidentified black female wearing a purple sweater. Officer Parris told OPS this female appeared to be moving towards officers who were attempting to carry an arrestee out of the roadway. His perspective was that the female may have been trying to intervene in the arrest, and Officer Green's push kept her back.

Officer Parris said as additional officers arrived at the scene the crowd calmed down and the officers regained control of the street. He said as the street was clearing, he observed Sergeant Baca interacting with Lieutenant Turner, who appeared to be providing direction to personnel.

Officer Parris told OPS that the agency has vacillated over the years in terms of allowing protestors to enter the street and break the law. He said he believes this has created an expectation among protestors that they can enter the street and impede traffic. He said he feels this has created a dangerous situation for officers and that the department needs to properly update the policy.

Analysis

How did Officer Parris become involved?

Officer Parris responded to the incident when he heard the officers' emergency request for assistance on the radio.

Did Officer Parris have any knowledge of the immigration rally prior to the call for assistance?

Officer Parris rode past the protest earlier in his shift, but did not receive any department generated information on the event.

Who had IC?

Officer Parris assumed Sergeant Baca had IC of the event, but did not hear anyone formally assume IC.

What involvement did Officer Parris have?

Officer Parris stated he realized protestors who were removed from the street were circling back on the officers causing a safety issue for them. Officer Parris took a position to protect the officers who were trying to get protestors out of the street and make arrests.

What is Officer Parris' knowledge of department policy regarding allowing protestors to take the street?

Officer Parris told OPS and CIRB the department needed to create clear policy on allowing or not allowing protestors to take the street. He said years of inconsistent expectations in this area have caused confusion for officers and protest groups.

Findings and Recommendations

CIRB finds Officer Parris's BWC camera footage did not accurately capture distances and perspectives as he experienced them at the protest. The department needs to develop additional training for personnel in both the deployment and review of BWC camera footage.

CIRB commends the way in which Officer Parris carried himself at this event. As captured on his BWC, he was calm, firm in his direction, and in control throughout the event. CIRB believes his demeanor aided in the de-escalation of the incident.

GENERAL RECOMMENDATIONS AND FINDINGS

Policy

During the CIRB process it became clear *General Order 2548*, "Civil Disturbances," was in need of significant revision. The version of the *General Order* in place at the time of the protest was deficient in terminology, the role of incident command, expectations for pre-planning, and arrest protocols. CIRB also recognized that there was a need for policy and training to clearly address the critical factors to be considered whenever protestors choose to occupy the roadway.

CIRB determined that because many factors impact First Amendment activities, department personnel need the latitude to make independent and flexible decisions as situations rapidly evolve. While CIRB does not recommend adopting a hard line on allowing or disallowing groups of protestors to be in the street during First Amendment activities, department personnel and members of the community need guidance related to the various enforcement and discretionary options.

CIRB determined a need to clarify expectations on the pre-planning and preparation for events. This includes having a defined incident command structure and making advanced contact with event organizers. Taking these steps will ultimately provide personnel the information they need to make comparative cost-benefit decisions on what action might be the best option for each event. Members use their judgment every day, when faced with a violation of the law, in deciding what level of enforcement is appropriate. With few exceptions, members are expected to use tactics, strategy, and the law to benefit not only the individuals with whom they are interacting, but also the department and the community at large.

The department and the community would not benefit from a policy that reflexively allowed protestors to take over a street and impact the flow of traffic or, conversely, a policy where personnel would be required to conduct enforcement on groups in the street. As Downtown District Sergeant Guinee noted, it is often safer and more efficient to allow larger groups to occupy the curb lane of traffic to expeditiously move them through intersections and ultimately to their final destination.

Using input from the staff involved in this incident and CIRB feedback, the ELT updated *General Order 2548*, newly titled "First Amendment Activity," to reflect the lessons learned from this event. The result is policies which provide the agency and the community with a framework of expectations and factors for consideration.

Another outcome of the discussions following the protest is the creation of a new group of department personnel, the Community Network Team (CNT), whose members are specially

selected and trained to deploy during large events and protests. CNT personnel are encouraged to engage using an open and welcoming demeanor that promotes positive dialog within diverse crowds. One of CNT's goals is to affirmatively contact event organizers or participants and establish a cooperative relationship before an event takes place. When this is not possible, CNT will contact organizers or participants as soon as they arrive at an event. CNT personnel operate with minimal reliance on use of force and seek to maintain a high level of neutrality with all members of the public involved in protests, marches, assemblies, rallies and sit-ins.

This incident highlights the need for continuous communication between CNT officers and community members involved in a protest. CNT will deploy during the entirety of an event to work amongst the crowd, allowing for constant visual presence and open communication with the participants. CNT will safely facilitate demonstrations and marches, always remaining mindful of the Constitutional rights of all involved.

Equipment

CIRB received testimony that deploying additional less-lethal crowd dispersal equipment and requesting the response of specially trained personnel for situations like this could have been helpful. Some officers believed that, in this situation, using additional crowd dispersal techniques/equipment around the front of the Tahoe could have cleared the area faster potentially reducing the need for the use of OC spray on individual protestors.

Officer Guevara testified about the benefits of having a wider range of tools to utilize on larger groups engaged in fights outside of bars where it is imperative to quickly disperse a crowd. This is particularly true when officers are significantly outnumbered and it is unsafe for officers to enter a crowd. CIRB recommends further discussion within the Chief's Office and training staff on the feasibility of expanding the department's deployment of additional resources.

Personnel involved in this event consistently reported difficultly hearing radio transmissions and communicating with each other. This was due in part to the chanting of the large crowd, the crowd's use of multiple megaphones, and patrol car sirens left on by responding personnel. Members with and without radio earpieces reported difficulty hearing each other at the incident. This serves as a reminder that it is important for personnel to turn off their sirens when they arrive at a critical incident. The new patrol fleet includes updated technology which will turn the siren off automatically when the vehicle is placed in park.

Training

Use of force training, the department's incident review processes, and related software have undergone significant evaluation and modification since this event. See Appendix A for a detailed explanation of use of force related changes.

One of the benefits of the CIRB review process is the inclusion of training academy staff on the board. This allows the academy to make real time changes to department training curricula from

information gathered during CIRB investigative processes. Mobile Field Force basic academy training, MFF Advanced Officer Training (AOT), and crowd control training were updated after this event transpired and department personnel received the updated training in 2017.

Sergeant Tim Froebe developed an additional crowd management technique for use by small teams of officers (Small Unit Tactics or "SUT"). The Small Unit Tactics training was designed to provide field personnel additional options to handle a developing crowd control issue without waiting for an entire MFF to mobilize. SUT techniques were developed to be quickly assembled and rapidly deployed to both pre-planned and spontaneous events. The techniques provide responding personnel defined tactical and communication options to facilitate better deployment of resources.

See Appendix C for a detailed explanation of the Arizona Peace Officer Standards and Training Board (AZPOST) lesson plan cover sheet on 2017 Crowd Control and MFF training.

Use of Force

CIRB recognized that both protestors and responding police officers engaged in some level of force during this incident. Police personnel used force that was both justified and not justified based on department policy. This event highlights that one person, either within the protest group or among police personnel, can transform an otherwise peaceful gathering into a significant incident.

CIRB recognizes that there were community members involved in the protest who viewed various actions taken by the police as unwarranted or unnecessary. Based on this perception, they engaged in unlawful conduct that included assaults, resisting arrest, and obstructing governmental operations. Such conduct, especially assaults on police personnel, is not acceptable and constitutes an inappropriate and unlawful reaction to lawful police direction. If there were protestors who believed police actions were unlawful or outside of department policy, a variety of means exist to challenge the direction or legality of such conduct that does not involve interfering with or resisting arrest.

Conversely, the community has a high level of expectations that their police force is appropriately trained, equipped and staffed to handle the variety of interactions police officers face. Police personnel are required to have effective communication and de-escalation skills, and must possess the ability to remain calm and controlled in the face of adversity.

As one final note of concern, while CIRB understands some officers' reluctance to go back into the crowd towards the end of the event to identify individuals upon whom force had been used, CIRB believes these persons must be identified and interviewed. This is necessary to determine if the use of force was consistent with department policies and training.

All use of force disciplinary recommendations will be made by Captain John Leavitt and Assistant Chief Carla Johnson.

Supervision

CIRB finds command and supervisory expectations specific to protest activities and police response were primarily communicated through verbal direction, resulting in confusion throughout the chain of command.

Communication issues within the ODW upper command did not rise to sustained *General Order* violations. However, this issue highlights the need for greater levels of personal accountability and communication among command, often requiring more than verbal discussions. It also highlights the need for the department to create a more formalized training and information exchange process when there are leadership/management changes within a bureau or division.

Similarly, CIRB finds command and supervisory expectations regarding when an *Incident Action Plan*- formerly referred to as "operations plans" or "ops plans" - needed to be completed varied throughout the ODW chain of command. Some members believed that an ops plan should be completed for every planned protest. Others believed that an ops plan only needed to be completed for events when criminal activity was expected. Many were unsure when an operations plan was necessary.

CIRB finds that prior to this incident, it was not generally expected that a supervisor be present at District protests unless criminal activity was anticipated. Following this incident, Chief Magnus directed a supervisor be present at all District protests, which is now delineated in policy.

CIRB identified that command direction and supervision of this incident was inadequate. The event wasn't properly prioritized nor was it designated as the responsibility of a particular incident commander. CIRB finds that there was deficient communication between the on-scene supervisors, leaving the incident unmanaged.

Decision Making

The preceding sections detail the various deficiencies identified by CIRB with respect to policy, equipment, training, use of force, and supervision. CIRB recognizes that these inadequacies all contributed in some manner to the outcome. Notwithstanding this acknowledgment, CIRB finds that individual decision-making contributed significantly to how the incident evolved.

While there were members who made thoughtful decisions, a number of personnel at various ranks, and at various critical junctures, made decisions that negatively impacted the course of events. Because instances of poor decision-making are fully detailed in the member-specific sections of this report (that includes interviews with various members and an analysis of their respective roles associated with the protest), they will not be reiterated here.

That said, CIRB also noted multiple examples of strong decision-making and timely, thoughtful engagement by several members. For example, CIRB noted Officer Hatch demonstrated quick thinking in creating a plan to transport the detained protestors away from the scene.

Officers Parris and Ewings were present for the majority of the event. CIRB observed these two officers comport themselves in a confident, controlled, persuasive manner, which ultimately aided in de-escalating and gaining control of a highly dynamic situation. CIRB commends them on their actions during this event.

Additional Recommendations

Departmental staffing numbers and shift start times were brought to CIRB's attention during CIRB testimony. Members noted it is difficult to have fluid and consistent transitions of events when there is no overlap of shifts[4] in the Downtown District to cover the middle of the day. District personnel reported the late swing shift was sparsely staffed due to the shift change, therefore in the future it would be beneficial to have additional officers available to cover those periods between shifts.

[4] Officers end their day at the same time others come to work, with no overlap period.

CIRB DIRECTION and ACTION ITEMS

The findings and recommendations of the CIRB will be forwarded to the affected members' chains of command for review and appropriate action, unless otherwise noted. Recommendations impacting equipment, training, and policy will be forwarded to the appropriate units as well as the training academy for prompt action. Implementation will be monitored and tracked by the department's Audit and Best Practices Unit.

During the review process, the CIRB recommended *General Order 2548*, "Civil Disturbances," be significantly revised. Based on CIRB feedback, this *General Order*, retitled, "First Amendment Activity," underwent significant revisions to provide clarity and improved understanding of the responsibilities and considerations associated with First Amendment events.

Captain Matt Ronstadt of the Audit and Best Practices Unit is responsible for facilitating all *General Orders* updates.

CIRB finds Officer Green violated *General Orders 1330.2, 1330.3, 1330.7, 2020 and 2030*.

- These violations will be reviewed by Captain Leavitt and Assistant Chief Johnson for the appropriate application of the Discipline Guide.

CIRB finds Lieutenant Leotaud violated *General Orders 1330.2, 1330.3* and *1143.6*.

- These violations will be reviewed by Captain Leavitt and Assistant Chief Johnson for the appropriate application of the Discipline Guide.

CIRB recognizes the complexities of managing a patrol division, especially one that includes the Downtown District service area. CIRB finds that a formalized in-processing procedure needs to be created and implemented for any leadership change that occurs within a bureau or division. This process should focus on communicating the general management expectations and practices unique to that bureau or division. Implementation of this process will result in greater organizational consistency during command and management rotation.

CIRB concluded that complex topics of discussion, such as changing a division practice with a goal of increasing consistency in how protest groups are managed, should include the Chief of Police and ELT. Recognizing when the chief should be involved in these types of conversations and decisions comes with experience while assigned to upper command roles.

CIRB MEMBERS

Chairperson, Deputy Chief Chad Kasmar

Vice Chair, Captain Eric Kazmierczak

Scribe, Lieutenant Colin King

Member, Lieutenant Jennifer Pegnato

Member, Lieutenant Robert Garza

Member, Lieutenant Michelle Pickrom

Member, Lieutenant Alisa Cunningham

Peer Officer, Robert McCusker

Peer Sergeant, Jack Woolridge

City Attorney, Ms. Julianne Hughes

City Attorney, Ms. Rebecca Cassen

Police Legal Advisor, Ms. Lisa Judge

Independent Police Auditor, Ms. Liana Perez

CPARB Representative, Mr. Glenn Parin

Community Member, Ms. Margo Susco

Ward One Representative, Ms. Laura Dent

<u>Non-Voting Observers</u>

TPOA Grievance Chair, Officer Don Jorgenson

Office of Professional Standards, Sergeant Luis Campos

APPENDICES

- Appendix A – Use of Force Policy, Review, and Training
- Appendix B – Proposed New General Order 2548
- Appendix C – AZPOST Board Lesson Plan Cover Sheet on 2017 Crowd Control and Mobile Field Force Update
- Appendix D – Community Network Team Manual

APPENDIX A

Use of Force Policy and Training Review

Even with an increased concentration of resources, a series of comprehensive policies, and an overall focus on de-escalation training, Tucson Police Department officers must still use force when circumstances require it. It remains an inherent, unavoidable consequence of keeping order in society and a necessary, albeit unfortunate, component of policing.

As part of the department wide emphasis on continued improvement, the department's Executive Leadership Team engaged in a wholesale rewrite of our "Use of Force" *General Order*. This policy team, which drew upon the expertise of both internal and external stakeholders, invested considerable time and resources in appropriately balancing constitutional requirements and considerations with the difficult and challenging realities of police work. The entirety of that revised *General Order* follows this abstract.

A central, and perhaps the most critical, aspect of the *General Order* revision involves the way front line officers and supervisors memorialize and investigate use of force situations that occur in the field. Rather than asking individuals separated from a use of force both temporally and spatially to put together the relevant facts and circumstances, we now place our officers and sergeants in a position where they can capture the critical information first hand. This results in a more accurate, more detailed, and more transparent factual account than what past practice afforded.

This evolution also serves to enhance the role that sergeants and lieutenants play in the investigation and review of uses of force. Sergeants act as field level fact finders and lieutenants make important determinations about the development and review of those facts. To ensure that all members were appropriately prepared for this change in responsibilities, the Audit and Best Practices Unit (ABP) trained sergeants and lieutenants on the dimensions that they will be required to investigate and evaluate when they are assessing a use of force situation. The training focused on key concepts in the *General Order* as well as the use of software purchased to improve the department's ability to document, analyze, and archive use of force-related data.

Another key element in the rewrite of this *General Order* involves department review of discrete uses of force. Working closely with the Independent Police Auditor, ABP developed a Force Review Board (FRB) that features direct participation by community members in collaboration with a team of department members who will examine more significant uses of force.

This comprehensive review includes all aspects of the use of force incident, including pre-force decision making, de-escalation efforts, supervision, and the subsequent investigation, review, and findings made by the chain of command. By reviewing the entire process, we hope to identify

opportunities for improvement in training, policy, and other issues associated with a particular use of force.

To ensure the department's community partners were in the best position to help with this endeavor, APB hosted two training days for Force Review Board members. The first training day, held at the Southern Arizona Law Enforcement Training Center on July 22, 2017, included classroom presentations, demonstrations of current TPD training, and interactive scenarios that allowed FRB members to experience dynamic force/no force decision making in the immersive VirTra simulator (which uses state of the art technology to place officers in a near 360 degree virtual training environment).

The second, held at TPD's main station on September 22, 2017, included introduction of the board, a presentation on the effects of stress on memory from the department's psychologist, an opportunity for FRB members to be interviewed by TPD's Office of Professional Standards investigators after a simulated incident, a group review of a sample use of force captured on video, and assignment of "training" cases. The final training held on November 1, 2018, included a presentation from Hostage Negotiators and a review of the "training" cases that were assigned at the previous meeting. The FRB has since met on November 28, 2017, and January 29, 2018, for formal case review.

Finally, it should be noted that all of the referenced use of force policy, practice and review enhancements are set against a backdrop of a modernized set of training curricula, scenarios and protocols. Over the last eight months the department's Training Division placed heavy emphasis on department "Advanced Officer Training"[5] increasing this vital area by nearly 400%.

The Training Division achieved this remarkable increase through the de-centralization of classroom and practical instruction while leveraging technology in ways that take advantage of the latest concepts in adult learning. This approach places a premium on agility, allowing training programs to be developed quickly and distributed to personnel as soon as possible so the department can address emerging use of force issues with unprecedented speed.

The foundation of this new, more responsive, educational approach is "Module Training." Module Trainings consist of one-hour blocks of lecture/case study designed by the Training Academy. Once developed, section heads, typically commanders at the rank of Lieutenant, then attend an immersive "train the trainer" session taught by Training Academy subject matter experts. This equips lieutenants with the technical and academic knowledge to provide the training in a way that incorporates the perspective and context unique to the individual unit each lieutenant oversees. Each successive module builds upon the knowledge and skillsets presented and mastered in the preceding module, while simultaneously reinforcing key advancements in the use of force concepts and practice of policing.

[5] Training provided to department members beyond initial academy training and throughout their career.

Finally, another key improvement in our use of force training involves a larger reliance on scenario-based lessons that combine discrete concepts in a way that more closely resembles the realities of police work. Rather than dryly conveying singular concepts, the department now blends core use or force concepts throughout a series of scenarios, over the course of the days, and as part of a yearlong curriculum.

APPENDIX B

Proposed General Order 2548 - First Amendment Activity

2548.1 General

All persons have the right to march, demonstrate, protest, or engage in similar activity protected by the First Amendment to the United States Constitution. Freedom of speech, association, assembly, and the right to petition the government are only subject to reasonable time, place and manner restrictions.

The content of the speech does not provide a basis for imposing limitations on these rights. First Amendment protected activity may include marches, vigils, distribution of literature, display of banners and signs, street theater, or other means of expression, so long as they are done lawfully. This recognizes a distinction between lawful assembly or expression in the form of some type of march or demonstration, and an unlawful assembly or riot.

The fundamental role of the police during an event involving the exercise of First Amendment activity is protecting the rights of all participants to peacefully assemble, demonstrate, protest, or rally. Department members shall act to ensure public safety and to protect the lives and property of all involved.

2548.2 Definitions

First Amendment Activity: Includes all forms of speech and expressive conduct used to convey ideas and/or information, and to express grievances. It includes both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, rallies, vigils, picketing, distributing literature, holding banners or signs, using puppets to convey a message, street theater, and other artistic forms of expression.

Lawful Assembly: A gathering of persons, with or without a permit, who have organized primarily to express political or social views. Such assemblies tend to occur on parks, sidewalks, and streets, and include, but are not limited to, speeches, marches, demonstrations, rallies, picketing, public gatherings, protests, and celebratory events. These events generally allow opportunity for planning and can often be handled using standard crowd management techniques. Though a permit may be appropriate in some circumstances and is helpful for planning and assuring adequate resources are in place, an assembly does not require the issuance of a permit to be lawful. A group entering a roadway without a permit in itself does not necessarily transition a lawful assembly to an unlawful assembly.

Isolated Unlawful Behavior: Unlawful activity by individuals or small groups within a crowd. Isolated unlawful activity or behavior should not automatically form the basis to declare an assembly unlawful. Examples of such activity may include isolated incidents of destruction of property, acts of violence, rock or bottle throwing, and/or individual demonstrators sitting down on private property.

Unlawful Assembly: A gathering that poses a threat of collective violence, destruction of property, or other unlawful acts. A type of civil disturbance, this activity may be dispersed using crowd control techniques and tactics. If a crime is occurring, action may be taken to stop it prior to a "*Dispersal Order*" being given. An unlawful assembly is defined in A.R.S. §13-2902 as two or more persons assembling:

- With the intent to engage in conduct constituting a riot,
- Who are engaged in, or who have the readily apparent intent to engage in, conduct constituting a riot and knowingly remain there and refuse to obey an official order to disperse.

Riot: A.R.S. §13-2903 provides that a person commits a riot if, with two or more other persons acting together, such person recklessly uses force or violence or threatens to use force or violence, if such threat is accompanied by immediate power of execution, which disturbs the public peace. Examples of this are group violent behavior and/or group acts of significant property damage.

Demonstration: Is used in this policy to include a wide range of First Amendment activities which require, or which may require, police traffic control, crowd management, or enforcement actions in a crowd situation. This includes, but is not limited to, marches, protests, student walk-outs, rallies, assemblies and sit-ins. Such events and activities may attract a crowd of persons, including participants, onlookers, observers, media and other persons who may disagree with the point of view expressed by the demonstration organizers.

APPENDIX C

Arizona Peace Officer Standards and Training Board

LESSON PLAN COVER SHEET

COURSE TITLE: Crowd Control/Mobile Field Force Update 2017	**HOURS:** 2
DATE FIRST PREPARED: November 14, 2017	**PREPARED BY:** Lt. Jennifer Pegnato
DATE REVISED / REVIEWED: (Please Circle one)	**BY:**
DATE REVISED / REVIEWED: (Please Circle one)	**BY:**
DATE REVISED / REVIEWED: (Please Circle one)	**BY:**
DATE REVISED / REVIEWED: (Please Circle one)	**BY:**
DATE REVISED / REVIEWED: (Please Circle one)	**BY:**
DATE REVISED / REVIEWED: (Please Circle one)	**BY:**
LIST ANY PREREQUISITES:	
LEAD INSTRUCTOR: Sgt. Tim Froebe	**BACK-UP INSTRUCTOR(s):** Lt. Jennifer Pegnato
APPROVAL NUMBER:	
COURSE DESCRIPTION:	
INSTRUCTOR REFERENCES:	**TRAINING AIDS, EQUIPMENT, MATERIALS:**
METHOD OF INSTRUCTION:	**PRE-TEST:** Yes No
	POST-TEST: Yes No
SUCCESS CRITERIA:	

PERFORMANCE OBJECTIVES:

- Identify the basic dismounted crowd control formations.
- Identify the principles of crowd control.
- Identify the procedures when responding to a potentially dangerous crowd.
- Identify the responsibilities associated with the Community Network Team (CNT)
- Identify the responsibilities associated with Small Unit Tactics (SUT)
- Identify the use of force reporting requirements for force utilized in a crowd control situation.
- Demonstrate the use of both dismounted MFF crowd control formations and Small Unit Tactics.

AGENCY APPROVAL	**Name (Type or Print)**	**Signature**	**Date**
	Title (Type or Print)	**Agency Name (Type or Print)**	

Lesson Plan Title	Notes:
Performance Objectives 1. Identify the basic dismounted crowd control formations. 2. Identify the principles of crowd control. 3. Identify the procedures when responding to a potentially dangerous crowd. 4. Identify the responsibilities associated with the Community Network Team (CNT) 5. Identify the responsibilities associated with Small Unit Tactics (SUT) 6. Identify the use of force reporting requirements for force utilized in a crowd control situation. 7. Demonstrate the use of both dismounted MFF crowd control formations and Small Unit Tactics. At the conclusion of this training, the officer will be able to identify or demonstrate: -Dismounted Crowd Control Formations -Principals of Crowd Control -Procedures when responding to a potentially dangerous crowd -Responsibilities associated with Community Network Team -Responsibilities associated with Small Unit Tactics -Use of Force Reporting Requirements in a crowd control situation -MFF Crowd control formations and Small Unit Tactics The objective of the following training is intended to refresh all personnel on current MFF dismounted formations and tactics, as well as introduce new concepts and MFF "tools". New Small Unit Tactics (SUT) and crowd management concepts are introduced to expose all personnel who have the potential for deployment as well, to strategies and tactics which could be utilized in the field. The crowd composition and dynamics will influence both response organization and tactics utilized in future deployments. Actual "hands on" practical training will be demonstrated and conducted in the coming months for personnel to exercise these concepts and the practical application will reinforce the comprehension of this training. Any questions regarding the content of this training material or application of the tactics should be directed to Sgt. Tim Froebe at timothy.froebe@tucsonaz.gov (520) 336-7444 or any of the TPD MFF Training Committee Members **Review of Tactical Incidents** Some of the recent deployments of TPD resources in both crowd management and control have been met with both success and failure. The failures and shortcomings in response actions only serve to reinforce necessary changes in the business of crowd management. The recent addition of crowd management resources such as the RRT, as the Community Network Team, has added additional tools and techniques in addressing crowd actions. Trump Rally, March 19, 2016 ▪ MFF on standby ▪ Device Team Activated ▪ No significant incidents or major police involvement The Trump Rally in March 2016 saw a very active crowd representing both sides of interest, however the pre-staging of MFF resources and Device Team were successful in keeping the police involvement at a minimum. McCain Protest, January 31, 2017 ▪ Device Team Activated ▪ No significant incidents or major police involvement During the McCain Protest of Jan 2017 the crowd control resources were kept to a minimum and no significant incidents occurred. Downtown Anti-Deportation Protest, February 16, 2017	P.O.s

Lesson Plan Title	Notes:
▪ On duty Resources ▪ Significant lessons learned On Feb 16, 2017 a small but very emotional and aggressive crowd formed with little to no prior notice. Formal crowd control resources were not deployed and only limited on-duty resources addressed were responsible for the crowd response. Many issues arouse from the event and some issues are still under review by the CIRB. In any case, many significant lessons came from this incident and can be used in developing future response guidelines. Some of these ideas will be discussed later in this presentation as a new technique in deploying on-duty resources in Small Unit Tactics. March Against White Supremacy, August, 8, 2017 ▪ Community Network Team (CNT)/Rapid Response Team (RRT) activated ▪ Blocking Teams implemented ▪ Counter protest groups separated ▪ No significant incidents or major police involvement Additionally, over the summer, further crowd response options were developed by the use RRT personnel deploying as the Community Network Team (CNT). Although the primary goal of the CNT is to manage the crowd actions, crowd intervention strategies, including blocking teams and physical separation of counter protest groups, were utilized. The actions of the crowds resulted in no significant incident or MAJOR police involvement. DACA March, September 6, 2017 ▪ 1,000 marchers contained by CNT ▪ No significant incidents or major police involvement The CNT was utilized during a DACA march of over 1000 demonstrators by early liaison with the crowd, constant integration of CNT personnel within the crowd and continued communication with event organizers to keep the marchers contained during their procession. The active involvement of the CNT resulted in no significant incidents occurring. **Community Network Team (CNT)** ▪ RRT members have been selected to assist with Crowd Management and Intervention during events as the Community Network Team (CNT). ▪ New "tool" in the "tool chest of crowd management". ▪ (Another tool will be the inclusion of Small Unit Tactics (SUT) to be discussed in greater detail later.) ▪ The CNT is an evolution of strategies in managing crowds and are deployed with a mission of minimizing acts of unlawful behavior through remaining deployed during the event within the crowd allowing for: ▪ Constant visual presence; ▪ intelligence gathering; and ▪ open and continuous lines of communication with the participants, including explaining the risk of safety to all persons involved. ▪ To assist with crowd management and intervention, but NOT crowd control ▪ Not all crowd situations involve unlawful behavior. CNT seeks to facilitate lawful expression by groups who are present even when unlawful activity occurs. ▪ The goal is to protect lawful activity while identifying and isolating unlawful behavior. ▪ CNT will work to safely facilitate demonstrations and marches, always remaining mindful of the Constitutional rights of all those involved. RRT members have been selected to assist with Crowd Management and Intervention during events as the Community Network Team (CNT). This is a new "tool" in the "tool chest of crowd management". Another tool will be the inclusion of Small Unit Tactics (SUT) to be discussed in greater detail later. The point is that the department is continuing to evolve and develop strategies in managing and controlling crowds. The CNT is a means of deploying our RRT to work to minimize further acts of unlawful behavior through open communication that explains the risk of safety to all persons involved. The communication is continuous and CNT remains deployed during the event to work amongst the crowd allowing for constant visual presence, Intel gathering and open lines of communication with the participants. CNT	P.O. #4

Lesson Plan Title	Notes:
will safely try to facilitate demonstrations and marches, always remaining mindful of the Constitutional rights of all those involved. The CNT officers' policy is to operate with minimal reliance on the use of physical force and authority needed to address a crowd, rather the goal is present a non-threatening approach that initiates and welcomes open communication with the organizers and participants in the group. In the action of intervention, CNTs role is to work to minimize further acts of unlawful behavior through open communication that explains the risk of safety to all persons involved. When isolated unlawful behavior exists the CNT officers will isolate, arrest and remove law violators under direct supervision. (P.O.) **Crowd Management vs. Crowd Control (Crowd Intervention)** Crowd Management Strategies and tactics employed by law enforcement agencies to deal with lawful assemblies in an effort to prevent escalation of events into unlawful assembly or riot. Crowd Intervention Strategies and tactics employed by law enforcement during an event, activity, or occurrence to address unlawful activity. Strategies include but are not limited to: ▪ Maintaining a police presence ▪ Traffic management ▪ Identification, containment and arrest of those individuals or groups responsible for unlawful conduct Crowd Control Law enforcement response to a pre-planned or spontaneous event, activity or occurrence where there is potential for unlawful activity or the threat of violence. ▪ Not all crowd management incidents involve civil disobedience. ▪ The primary objectives of crowd management with lawful assembly is to: ▪ Protect first amendment rights; ▪ observe the crowd; ▪ establish contact and communicate with the crowd; ▪ obtain voluntary compliance with police directives; ▪ monitor activities; and ▪ minimize enforcement action. As a review, Crowd Management is the strategies and tactics to deal with the event. Crowd Intervention is the implementation of those strategies and tactics in certain specific circumstances and Crowd Control is the necessary response to those events. Not all crowd management incidents involve civil disobedience. The mission of crowd management with lawful assembly is to protect first amendment rights, establish contact with the crowd, monitor activities as much as possible, communicate with the crowd and if marching to tell them to keep moving but not push the crowd and hopefully minimize enforcement action. **Crowd Control** ▪ The mission of the Tucson Police Department during a civil disorder (riot) is to restore conditions to normal as rapidly and efficiently as possible. ▪ Initially responding officers should only monitor and report the crowd actions, not take individual action. ▪ Should crowd control be initiated, the objectives during a civil disorder in priority order are:	

Lesson Plan Title	Notes:
▪ The protection of life; ▪ restore order; ▪ arrest violators (if necessary); and ▪ protect property. ▪ Containment, isolation and dispersal are principles of crowd control. Should Crowd Control be initiated, the objective in civil disorder is the protection of life, restore order, arrest violators if necessary and protect property. Initially, responding officers should only monitor and report the crowd actions noting crowd size and activity, NOT take individual action. The principles of Crowd Control are containment, isolation and dispersal. (P.O.)	P.O. #2
Types of Crowds ▪ Casual ▪ No common bond, interest or purpose ▪ Typically individuals not part of an organization or group ▪ Conventional ▪ A deliberate and appointed purpose ▪ Deliver a message and commitment to a cause; emotional ▪ Typically announce their intent to demonstrate ▪ Hostile/aggressive ▪ Likely to erupt into unlawful behavior ▪ Riot/Mob ▪ Intensive excitement/agitation ▪ Loss of sense of reason and respect for law ▪ Follow leaders in lawless acts ▪ Anonymity in actions/mob mentality ▪ This type of crowd should be broken down into smaller, isolated groups	
To classify a crowd, responding officers should monitor from a distance, report the type of crowd, and determine if the crowd agitation level is increasing. Casual crowds are typically individuals not necessarily organizations or a group. The next 3 can be compared to Ferguson type protests. Conventional crowds typically announce their intent to demonstrate. They have a commitment to a cause. It can be emotional or committed, like the DACA gathering here in September. Even our NCAA basketball riots can become aggressive and become unlawful. This can be an example of a hostile crowd. A riot/mob is where loss of reason and respect for law and feeling of anonymity and the mob mentality takes over. This type of crowd should be broken down into smaller, isolated groups. To classify a crowd, they should be initially monitored from a distance and for their actions to see if the type crowd increase in agitation. (P.O.)	P.O. #3
The Media ▪ Has the constitutional right, **without interfering with police operations**, to cover events involving criminal incidents, terrorism, natural disasters, explosions, fires, and public assemblages. ▪ To the extent reasonably possible, TPD will make efforts to accommodate the right of the media to report these events by providing a "viewing area" (outside the area of the disbursal order). ▪ Media can be denied access to crime scenes or an area that has been secured to preserve evidence. ▪ The Incident Command Post can be closed to the media as well. ▪ After declaring an unlawful assembly the department will designate a dispersal	

Lesson Plan Title	Notes:
route for all persons, including the media, to use when evacuating. **It should also be recognized a dispersal order applies to everyone and the media are not exempt from that order. Common sense should prevail however if the media, or other citizens and unintended participants find themselves caught up in the area subject to the order. The assistance of law enforcement to provide safe passage should be considered when declaring an unlawful assembly.* **Declaration** ▪ Unlawful activity determined ▪ Document time and delivery of declaration ▪ Not until control forces are in position to accommodate crowd movement ▪ Video recorded for additional documentation ▪ Given in multiple languages ▪ Signage provided with declaration provided ▪ Public address system utilized ▪ Repeated multiple times ▪ Record for additional documentation ▪ Reasonable amount of time to disperse given with direction for crowd movement The erosion of a lawful assembly into an unlawful activity leads to the declarations of unlawful assembly and order to disburse. In addition to these, once the declaration of an unlawful assembly and the order to disperse has been issued, the group should be given guidance on direction for dispersal along with the amount of time they have to disperse. This time should be continuously updated to indicate the remaining time. **Unlawful Assembly** ▪ ARS 13-2902 ▪ 2 or more persons ▪ Gathered with the intent to engage in conduct constituting a riot ▪ Knowingly remaining there and refusing to obey an official order to disperse This tends to be first violation cited in demonstrations growing out of crowd management and into a crowd control situation. **Riot** ▪ ARS 13-2903 ▪ 2 or more persons ▪ Acting together, recklessly uses force or violence or threat of using force or violence, if threat is accompanied by immediate power of execution, which disturbs the public peace The key elements of a Riot are that there must be 2 or more acting together and that the use of force OR even the threat of use of force is accompanied by action. **Use of Force** **NO EXCEPTIONS** to the law or policy regarding "Use of Force" during crowd control situations! In crowd control situations it does not meant that use of force is any greater in that event. The law and policies still apply equally regardless of the event. We have no greater authority for an increased use of force just because of a crowd control situation. Authority… ▪ The authority to use force is provided under the law, ARS 13-3881 ▪ No unnecessary or unreasonable force shall be used and the person shall not be subjected to any greater restraint than necessary. ▪ General Order 2010 Definitions ▪ Proportionality: "Officers shall, when feasible, balance the totality	

Lesson Plan Title	Notes:
of the circumstances, known to or perceived by the officer at the time with the severity of the offense committed and the subject's level of resistance." ▪ Graham v. Conner ▪ Severity of the crime at issue ▪ Whether the suspect poses an immediate threat to the safety of the officers or others ▪ Whether the suspect is actively resisting arrest or attempting to evade arrest by flight Use of Force becomes a large area of scrutiny anytime the police take action at an event and are often accused of excessive force. The use of force is based on what a reasonable person would believe that such conduct is required in the performance of our job and that we have the legal authority to do so. **Objective Reasonableness**... ▪ Officers must make split second decisions in tense, uncertain and evolving circumstances ▪ Based on totality of circumstances ▪ Force must be reasonable based on the situation ▪ Judged from the perspective of a reasonable officer at the scene The suspect's behavior plus the officer's response determines the objective reasonableness. That use of force is judged by the objectively reasonable standard and supported by case law under Graham v. Conner 1989 **Reporting**... ▪ Force Types ▪ Type 0: Arm bars/Wrist locks/Non-strike pressure points ▪ Type I: Show of Force ▪ Type II: Hard empty hand control/Intermediate weapon/Any force with claim of injury ▪ Type III: Significant injury (Broken bones/Head injury/Dislocation/Sutures*) or Indications of unreasonable/disproportionate force *Sutures are not by themselves considered a serious physical injury but extensive suturing may rise to this level depending on the circumstances. ▪ Force used by **organized** squad, unit, component, or force during crowd control (i.e. line formation) ▪ This includes crowd movement by a line formation as well as gas deployment ▪ Reported to supervisor after emergency ▪ Narrative in supplement to master case ▪ Supervisors account for **your** actions in supervisors log ▪ Blue Team report completed by IC (or designee) When force is used by an officer who is part of an organized unit in a crowd control situation or riotous situation where the crowd exhibits hostile behavior or crime and does not respond to verbal directions from a department employee, the force used will be considered applied by the "unit' i.e. line formation, ART, etc...and documented by the supervisor as the organized component action in the supervisors log. Isolated incidents committed by an individual resulting from a crowd control situation may require a use of force investigation as determined by a supervisor at the scene. (P.O.) ▪ Isolated Incident ▪ Examples: ▪ Use of baton strike or impact push during line formation	P.O. #6

Lesson Plan Title	Notes:
causing injury ▪ Use of less lethal munitions (i.e. Grenadier targeted deployments) ▪ Reported to supervisor as soon as practical ▪ Narrative in supplement to master case ▪ Individual Blue Team reports (whether subject is known or unknown) Incidents will likely be recorded through BWC but additional documentation should be logged in the Supervisors log and supplement, with possible Blue Team reporting. (P.O.)	P.O. #6
Supervision Log – Crowd Control (Force Application & Significant Events) ▪ Recorded (Documented) by recorder/scribe ▪ Use of video recording ▪ Camcorder/BWC/Department cell phone ▪ No arrestee ▪ Use of baton as impact push ▪ PepperBall deployment ▪ Punches, kicks, thrown objects ▪ In organized crowd control formation ▪ Officer notifies supervisor: ▪ Account for time, place, officer involved & type of force application ▪ Incident Commander (or designee) prepares Blue Team describing use of force	
All applications of force should be documented by back up means such as notes and times, video recording and photos and noted in the Supervisors Log. (P.O.)	P.O. #6
Medical Treatment Required ▪ Any arrestee taken into custody ▪ With evidence of injury ▪ Struck by any Less Lethal Munition ▪ Before Booking process ▪ Any subject claiming injury as a result of a force application ▪ Document "Officer Injuries" and complete required report(s)	
Any subject claiming injury or having evidence of an injury must be seen by medical personnel and the injuries documented. Any application of force which would reasonably cause injury. (P.O.)	P.O. #6
Mobile Field Force Configuration ▪ Rapid organized, disciplined response to a preplanned or spontaneous event, utilizing "task organized" resources in order to ensure peace and restore order. ▪ "Task organized" refers to building a MFF with resources proportional to crowd size and dynamics. When "task organized" is mentioned, it refers to building a MFF with resources proportional to crowd size and dynamics. MFF Personnel & Equipment Personnel: 1 Lieutenant 7 Sergeants 42 Officers Equipment: Long sleeve shirt Helmet with face shield Gas mask with carrier 36" baton Leather boots	

Lesson Plan Title	Notes:
Logistics: 1 MFF Kit 8 Voice amplifiers (for gas mask) 8 Radios Extra LLM/RCA Water Riot Shields	
Dismounted Formations The purpose of crowd control formations is to have a mutually supporting method of contact. (P.O)	**P.O. #1** **Practical Demonstration P.O. #7**
Line Formation ▪ The line formation is the primary formation for crowd movement and control. Behind the line formation will be the Arrest Rescue Team (ART) and the command cell. The formation will either be tactically spread from building to building or tight spacing with officers closing gaps to almost shoulder to shoulder The Platoon Sgt will form a line formation using hand and arm signals by holding both arms out to the side and parallel with the ground. (P.O.)	**PowerPoint Slide 35** **P.O. #1**
Column Formation ▪ The primary administrative movement formation is the column formation. The column formation is indicated utilizing hand and arm signals by the Platoon Sgt raising both arms parallel above the head (P.O.)	**PowerPoint Slide 36** **P.O. #1**
Diagonal Formation (New Formation) ▪ The diagonal formation is utilized to move a crowd from one side of the road to another. The Diagonal formation is indicated with hand and arm signals by the Platoon Sgt raising one are in an angle above the head and the other arm at an angel below the waist. (P.O.)	**PowerPoint Slide 37** **P.O. #1**
Wedge Formation ▪ The wedge formation is utilized to penetrate and separate a crowd. The Platoon Sgt will indicate the wedge formation with hand and arm signals by extending both arms above the head in a V. (P.O.)	**PowerPoint Slide 38** **P.O. #1**
Cross Bow Formation ▪ The cross bow formation is utilized by the arrest team to provide security for the arresting officers. It is imperative officers in the cross bow formation maintain continued shoulder to should contact until they return to the working area behind the line formation. The command for crossbow is given by the ART Sgt with direction of which subject is to be arrested. The ART should move quickly to the arrestee and simultaneously at the contact is made; the other officers should be forming a tight security circle around the arrest. Upon command of the ART Sgt the circle should remain intact until all the way behind the security of the line formation. (P.O.)	**PowerPoint Slide 39** **P.O. #1**
Wheel Turn ▪ The wheel turn is utilized to make a 90 degree directional change of the line formation. The wheel is utilized to move a line formation direction without stopping. The Platoon Sgt gives a hand and arm signal by pointing one arm parallel with the ground and rotating the opposite arm in a circle to signal the turn.	**PowerPoint Slide 40** **P.O. #1**

Lesson Plan Title	Notes:
Small Unit Tactics (SUT) ▪ MFF elements combining two or more squads to form a "platoon" size unit for mutually supporting method of contact. ▪ Developed to provide a fast, effective method to assemble and deploy a platoon size (multiple squads) tactical force from existing on-duty personnel and have a mutually supporting method of contact. ▪ Adaptable to both pre-planned and spontaneous events which require the rapid assembly of a large number of officers into an organized MFF element. ▪ Can be deployed for crowd management, crowd intervention, and crowd control utilizing ON-DUTY resources. ▪ Allows for deployment of on-duty resources for squad size tactics with the ability to add personnel to build up to full platoon size tactics (i.e. through alpha/beta deployment) if the event requires a full MFF deployment.	
Small Unit Tactics (SUTs) can be deployed for crowd management, crowd intervention and crowd control utilizing ON-DUTY personnel resources. Depending on the size of the crowd balanced against the mission, the "task organization" of the SUT may utilize division on duty resources for squad size tactics or can add additional division personnel to build up to full platoon size tactics. These resources of the squad or platoon size SUTs can utilize their tactics until initiation of a full alpha/beta deployment can be applied to increase to a full MFF deployment if required. (P.O.)	**P.O. #5** **Practical Demonstration P.O. #7**
SUT Line Formation ▪ Linebackers (LPOs or senior officers) repeat all squad leader commands and should be hands on with the officers if needed. Small Unit Tactics will be deployed in dismounted formation utilizing limited basic formations. Like the full MFF line formation the SUT line formation is used in the movement of a crowd. Linebackers are behind the line controlling the integrity of the line and can be either LPOs or senior officers. The Squad leader (Sgt) is behind the line issuing instructions Batons are at the port arms carry. (P.O.)	**PowerPoint Slide 43** **P.O. #5**
SUT Column Formation ▪ Administrative movement formation or support squad formation. Again similar to MFF, the Column formation is the basic formation used while traveling from one point to another. Largest officers up front for psychological effect Linebackers to the rear Batons at port arms carry (P.O.)	**PowerPoint Slide 44** **P.O. #5**
SUT Arrest/Rescue Circle ▪ There is no set distance on how far we pursue a suspect. This is guided by the squad leader; use "good judgment". Same as the MFF ART, the crossbow maneuver will be used to arrest and individual within a crowd. Slightly different from MFF, the SUT Arrest Rescue Circle can also be deployed as a blocking force to control crowd movement. (P.O.)	**PowerPoint Slide 45** **P.O. #5**
T – Formation The T-Formation will be built with at least 2 squads. 1 squad on line and 1 squad in a support squad in column formation. This squad can function as an ART or another line for a blocking force. (P.O.)	**PowerPoint Slide 46** **P.O. #5**

Lesson Plan Title	Notes:
SUT Dismounted Formations Multiple squads or personnel can be added to squads to re-enforce or strengthen positions or to expand officer presence. Diagrams 1. This diagram indicates SUT with a line blocking one direction of the roadway and the support squad in column behind the line positioned in T-Formation 2. This diagram shows the line formation holding one direction of the line as a blocking force and the Support squad forming into an Arrest Rescue Circle to move forward of the line and conduct a crossbow (arrest) maneuver. Once gaining control of the arrestee, the entire Arrest Circle will move back behind the line with retaining the integrity and protection of the tight security circle. 3. This squad shows multiple squads deployed in SUT line formations to control and contain the crowd, denying them access up or down the roadway, along with a support squad prepared to execute a crossbow maneuver from the right side of the line formation. 4. Two squads can utilized SUT as a blocking force to control the crowds direction while one additional squad utilized SUT to channel the crowd up the roadway 5. This diagram shows all three squads utilizing SUT to act as a large single blocking force and channel the movement of the crowd in one direction.	**PowerPoint Slide 47** **P.O. #5** **PowerPoint Slides 48-52**

APPENDIX D

Community Network Team Manual

SECTION 700 – COMMUNITY NETWORK TEAM (CNT)

701 CNT Role and Purpose

The fundamental role of law enforcement at First Amendment protected events is to protect the rights all people to peacefully assemble, demonstrate, protest, or rally. Law enforcement also has the responsibility to ensure public safety and to protect the lives and property of all people.

A select group of officers or detectives who are members of the Rapid Response Team may be chosen to fill an auxiliary assignment as a member of the Community Network Team based on their strong communication and interpersonal skills. Their purpose is to function as police department ambassadors to members of the public engaged in First Amendment activities with the goal of building positive relationships and facilitating crowd safety. The CNT model is predicated on the concepts of negotiated management, respectful dialogue, and effective interaction.

CNT members shall operate with minimal reliance on the use of physical force or any action that may antagonize the crowd, without compromising safety. Members will use a non-threatening approach that fosters open communication with organizer(s) and participants in the event. It is essential that CNT members maintain neutrality and open lines of communication with all community members involved in protests, marches, assemblies, rallies or sit-ins. Members shall treat all persons equally and without bias during any contact or encounter. CNT must build trust and legitimacy with organizations and individuals based on transparency and consistency of action.

CNT members shall not allow their actions or attitudes be influenced by the content of speech or opinions being expressed, nor by the race, ethnicity, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, appearance, familial or marital status, political opinions, beliefs, or affiliations of anyone exercising their lawful rights. Members shall not let personal, political, or religious views affect how they perform their duties.

702 Definitions

First Amendment Activity: Includes all forms of speech and expressive conduct used to convey ideas and/or information, and to express grievances. It includes both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, rallies, vigils, picketing, distributing literature, holding banners or signs, using

puppets to convey a message, street theater, and other artistic forms of expression.

Lawful Assembly: A gathering of persons, with or without a permit, who have organized primarily to express political or social views. Such assemblies tend to occur on parks, sidewalks, and streets, and include, but are not limited to, speeches, marches, demonstrations, rallies, picketing, public gatherings, protests, and celebratory events. These events generally allow opportunity for planning and can often be handled using standard crowd management techniques. Though a permit may be appropriate in some circumstances and is helpful for planning and assuring adequate resources are in place, an assembly does not require the issuance of a permit to be lawful. A group entering a roadway without a permit in itself does not necessarily transition a lawful assembly to an unlawful assembly.

Isolated Unlawful Behavior: Unlawful activity by individuals or small groups within a crowd. Isolated unlawful activity or behavior does not automatically form the basis to declare an assembly unlawful. Examples of such activity may include isolated incidents of destruction of property, acts of violence, rock or bottle throwing, and/or individual demonstrators sitting down on private property.

Unlawful Assembly: A gathering that poses a threat of collective violence, destruction of property, or other unlawful acts. A type of civil disturbance, this activity may be dispersed using crowd control techniques and tactics. If a crime is occurring, action may be taken to stop it prior to a "Dispersal Order" being given. An unlawful assembly is defined in A.R.S. §13-2902 as two or more persons assembling:

- With the intent to engage in conduct constituting a riot,
- Who are engaged in, or who have the readily apparent intent to engage in, conduct constituting a riot and knowingly remain there and refuse to obey an official order to disperse.

Riot: A.R.S. §13-2903 provides that a person commits a riot if, with two or more other persons acting together, such person recklessly uses force or violence or threatens to use force or violence, if such threat is accompanied by immediate power of execution, which disturbs the public peace. Examples of this are group violent behavior and/or group acts of significant property damage.

Demonstration: Is used in this policy to include a wide range of First Amendment activities which require, or which may require, police traffic control, crowd management, or enforcement actions in a crowd situation. This includes, but is not limited to, marches, protests, student walk-outs, rallies, assemblies and sit-ins. Such events and activities may attract a crowd of persons, including participants, onlookers, observers, media and other persons who may disagree with the point of view expressed by the demonstration organizers.

Crowd Event: Includes sporting events, festivals, concerts, celebratory crowds and demonstrations as defined above.

Crowd Management: Techniques used to manage lawful public assemblies before, during, and after the event for the purpose of maintaining their lawful status. This can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques. Additionally, effective planning, pre-event communication, and a defined incident command structure will support effective crowd management strategies.

Crowd Intervention: The action or process of proactive engagement with demonstration or crowd event organizers to gain cooperation when isolated unlawful behavior is present or an impact to public safety. Crowd intervention is intended to allow the event or activity to continue. This intervention can include the act of inserting officers between unlawful actors and those participating in the lawful assembly.

Crowd Control: Techniques used to address unlawful assemblies, including but not limited to, a display of a significant number of police officers, crowd containment, dispersal tactics and arrest procedures. These techniques are generally utilized by a Small Unit Tactics (SUT) or a Mobile Field Force (MFF) deployment during an unlawful assembly and/or riotous events and are not meant to be used by the Rapid Response Team (RRT) CNT members.

Community Stakeholders: Entities having a legal, professional, economic or community interest/responsibility in a public assembly or gathering. They may include:

- Advocacy groups
- Business associations
- Civil rights organizations
- Elected officials
- Labor organizations
- Leaders of local/state government
- Neighborhood associations
- Religious groups/clergy
- Schools/colleges/universities
- Special interest groups

703 CNT Uniform

The RRT uniform when deployed with CNT squad is the short/long sleeve working Class B patrol uniform. Members can refer to the department's Dress and Personal Appearance Manual for proper wear of the uniform. Additionally, each member assigned to the CNT shall wear an issued green reflective vest to be easily visible and identifiable to the community and other officers. CNT members may wear a black hydration pack under their reflective vest. In addition to the reflective vest, each member shall carry eye protection with them. In the event that projectiles are thrown at CNT officers, the wearing of eye protection is imperative to ensure eye safety. Wearing protective headgear (e.g., baseball cap or other approved headgear) is optional.

704 CNT Issued Equipment

RRT members deployed with CNT will wear standard issued equipment. All CNT members shall deploy with their assigned Body Worn Camera. CNT members shall have available their personal protective equipment, helmet, and gas mask in the event a crowd control incident occurs, however they will not deploy as CNT officers with MFF equipment. Additional equipment will be stored in a designated area prior to deployment.

705 CNT Principles of Crowd Management

Crowd management is employed during a lawful assembly to protect First Amendment rights, establish contact with the crowd, facilitate the activities of the crowd, communicate with the crowd, and provide for the safety of all participants. If the crowd is mobile, crowd management may be used to facilitate the safe movement of the crowd. Ideally, enforcement action during crowd management is minimal. When it is necessary to take enforcement action, it should be an organized and well communicated effort involving more than one officer, and supervisory oversight whenever possible. When possible, enforcement action should be taken by designated arrest teams who are not CNT officers.

CNT's response to crowd management events requires consideration and training regarding the following:

- Knowledge of Constitutional law with an emphasis on the First Amendment
- Knowledge of law and agency policies as they relate to use of force and information gathering
- Proper planning
- Clear instruction on the need for self-control, teamwork and adherence to commands
- Willingness to reach out to protest groups, organizers, event planners and stakeholders without regard to whether a permit has been sought or obtained
- Use of time, patience, and communication to attempt to facilitate lawful protest activities and obtain voluntary compliance when feasible
- Tolerance of and discretion in enforcing minor violations of the law
- Training and instruction on de-escalation techniques
- Proper incident documentation, to include documenting violations of law for follow up action
- Understanding and working with social media and other forms of electronic communication
- Seeking support from the community and other public agencies

706 Crowd Management Strategies

These strategies and responses shall be considered during a lawful assembly (not in priority order):

- Meeting with event organizers and stakeholders
- Risk assessment
- Creating a planning team
- Developing an Incident Action Plan (IAP) that incorporates a vast array contingencies
- Identifying and assigning resources
- Monitoring and assessing crowd behavior
- Separating opposing factions
- Maintaining a video log under a master case number
- Supervisor's Log
- Providing direction, expectations, and specific assignments at an organized briefing
- Interacting with organizers and participants to gain cooperation and promote safety
- Post event after action to include follow up with event organizers for feedback

707 Crowd Intervention Strategies

Crowd Intervention is the implementation of strategies and tactics in certain targeted circumstances to address isolated acts of unlawful conduct in an otherwise lawful gathering.

These strategies and responses are appropriate to consider when isolated unlawful behavior occurs (not in priority order):

- Using organizers and monitors (e.g., Vets for Peace) to gain voluntary compliance
- Isolating, arresting and removing law violators under directed supervision
- Video recording the actions of officers and criminal actors
- Using amplified sound to communicate instructions or gain compliance
- Using low profile tactics to avoid becoming the focus of the demonstration
- Implementing Passive Arrest Teams
- When it is not possible or feasible to make an immediate arrest, identifying and tracking suspects using cameras, observation posts, air support, or shadow teams

CNT members will work to minimize acts of unlawful behavior through open communication with participants that explains the safety risks to all persons involved. Once the CNT Incident Commander determines that isolated behavior is expanding into group action, with the potential to involve conduct constituting a riot, the Incident Commander may request the assistance from the appropriate Division(s) or, if in place, standby arrest teams.

Crowd behavior will be monitored closely for changes in demeanor and dynamics. CNT supervisors and officers are in a pivotal role to gauge and determine the appropriate response if tension in the crowd appears to be increasing. The intentions of the crowd overall, as opposed to a few provocateurs, can be best managed and influenced by CNT personnel who are embedded in the crowd. CNT supervisors will work with organizers to identify and isolate individuals or small groups from the larger crowd, stripping them of their anonymity. Identifying different factions of crowd and their intentions is important, as these factions or individuals may exert considerable influence over the entire crowd.

If the incident commander is not a CNT supervisor, that commander must employ considerable tolerance for what may appear to be a rapidly escalating event if CNT personnel communicate that the situation is under control. Coordination between CNT members and off site supervisors and/or commanders is crucial so that premature deployment of crowd control officers or tactics does not occur.

Should the CNT supervisor determine that, due to unlawful or riotous behavior, crowd control officers should be deployed, they will coordinate the response, keeping in mind the impact that crowd control officers will have on the crowd. Absent an order from a commander, the decision to remain in a crowd will rest with the CNT supervisor, even if crowd control officers are deployed. Factors to consider for transitioning from crowd management to crowd control include, but are not limited to:

- Egress paths for both the crowd and CNT officers
- Continuous communication with organizers to explain why crowd control is occurring
- Continuous communication with incident commander regarding the presence of children, older adults, individuals with disabilities, or similarly vulnerable persons
- Ability for CNT personnel to scale or abort the deployment of crowd management personnel
- Constant communication with IC regarding the location of CNT officers in the crowd.

If chemical munitions are deployed by grenadiers CNT officers will egress from the event to a pre-designated staging location.

708 Planning and Deployment

The Division where the event is planned should notify the RRT Coordinator when the anticipated crowd size is likely to exceed 50 people or they determine that the event would be more appropriate for a CNT deployment. The RRT Coordinator or designated RRT Supervisor responsible for the event shall develop a written Operational Plan. The RRT Coordinator or designated RRT Supervisor shall make every effort to establish contact and communication with the event or demonstration planners and document the contact within the operations plan.

Some examples of the information that should be gathered and shared during the pre-event communication with the event organizer(s) may include:

- Number of people expected
- Potential for counter-protestors
- If a permit has been obtained, and whether there is an exclusive use or non-exclusive use permit for the venue
- If participants expect to march, the route they will take and whether they will stay on the sidewalk
- Contact information for the person who will function as the group's liaison with CNT during the event (this includes providing the event organizer the CNT Incident Commander contact information)
- If the event will have their own "safety" personnel assigned
- Providing the event organizer with an explanation of the role and purpose of CNT
- Provide the event organizer and aides with the contact numbers of the event CNT supervisor
- Purpose of event
- How long the group intends to conduct the event

Communication with event organizers and participants shall be continuous throughout the planned event. An organizer's failure to respond to communication attempts or to cooperate in planning prior to a demonstration shall not excuse CNT's responsibility to establish positive communication with the group as early as possible at the scene of the demonstration or crowd event.

If counter-protestors are identified, CNT shall follow the same steps to establish communication and cooperation with these individuals prior to and during the event.

Spontaneous demonstrations or crowd events that occur without prior planning or prior notice provide less opportunity for planning and prevention efforts. Nonetheless, the same crowd management and intervention strategies shall be utilized.

The RRT Coordinator or the CNT Incident Commander will base staffing levels on the projected number of event participants and any pre-event information indicating potential for criminal acts.

During an event, CNT personnel shall maintain a professional demeanor, and remain neutral in word and actions, even in the face of unlawful or disorderly behavior by crowd members. Unprofessional police behavior can inflame a tense situation and make crowd management or control efforts more difficult and dangerous. Directed supervision and command are essential to maintaining unified, measured, and effective police response.

Logistical support for the CNT deployment shall include the following:

- Water
- Rest intervals
- Specialized equipment
    - Personal protective equipment, to include helmet and gas mask stored near event location
- Marked support vehicle(s)

Tactical Considerations: Members and supervisors shall constantly evaluate the circumstances surrounding a demonstration or crowd event. The continual assessment of the circumstances and conditions of the demonstration or crowd event shall include, but is not limited to the following factors:

- Threat to public safety
- Movement of vehicular traffic
- Number of participants
- Unlawful behavior of people involved
- Duration and location of the event
- Damage to public or private property
- Level of communication and cooperation of demonstrators or event organizers
- Environmental factors such as weather and light conditions, location, and types of streets involved
- Tactical repositioning
- Availability of police resources
- Critical infrastructure within the crowd event

Based on these circumstances and conditions, members and supervisors may use discretion in the immediate enforcement of Title 28 provisions, including the decision not to enforce various Title 28 provisions or to delay enforcement of such provisions. If the demonstration or crowd is mobile, crowd management techniques and tactics should be used to facilitate the safe movement of the crowd, even when the group is in a roadway. When the Incident Commander is deciding to clear the roadway, he or she shall take into account the comparative costs and benefits associated with officer and community safety, proportionality, and community perception and expectations.

709 Information Gathering, Assessment and Documentation

Any gathering of information must be for a reasonable law enforcement purpose and shall respect the Constitutional rights of all involved. A reasonable law enforcement purpose means that the information being collected is intended to:

- Assist the agency in facilitating event-related activities
- Assist the agency in providing a public safety response

- Address unlawful conduct – either past, present, or anticipated
- Not relate to the exercise of rights guaranteed by the First Amendment, but rather to ensure the safety of the participants

Information pertaining to criminal activity, possible riot, or civil disturbance shall be forwarded to the JTTF detectives and/or the RRT sergeant.

A pre-event assessment may include:

- Determining the time, duration, location, and type of activity for the event
- Estimating the number of persons expected to participate or observe
- Reviewing any previous events involving the same or similar groups
- Assessing actions and equipment utilized by groups in prior incidents
    - Analyzing the expected time of arrival and departure, routes of travel, and potential hazards for participants (gauge impact on public transportation, freeways, roadways, commerce and public accessibility)
- Analyzing the potential for opposing/counter groups
- Assessing public safety concerns

Methods of documentation may include (not in priority order):

- Photo, audio, and video recording (to include body worn camera)
- Supervisor's log
- Reports (including AAR and case reports)
- Media reports/open source footage
- Communication, dispatch tapes and printouts

In the event that video or photographs are taken, these will be done in a manner that minimizes interference with First Amendment protected activity. Individuals shall not be selected for photographing or recording simply because they appear to be leaders, organizers, or speakers. The purpose for photographing or video recording is to capture those participating in criminal activity.

710 Command, Control and Leadership Responsibilities

The deployment of personnel during demonstrations shall follow the Incident Command System (ICS). The CNT IC shall have responsibility for the event, including monitoring developing crowd situations that may require law enforcement presence and assistance. The IC shall establish objectives for the incident operational plan. He or she shall continuously consider new information and re-evaluate the situation, assess available resources, and balance competing agency demands to best achieve incident objectives. At minimum, a division commander shall be made aware of a demonstration or crowd event and evaluate the need for larger distribution of the event ICS.

To establish unity of command it is essential that each individual in a command or supervisory role knows the following:

- To whom he or she reports
- His or her role, responsibilities, and objectives
- What resources are allocated and available
- His or her geographical or functional area of operation

The transfer of command, at any level, requires the person assuming command to:

- Receive a briefing from the current Incident Commander
- Assess the situation with the current Incident Commander
- Determine an appropriate time for the transfer of command
- Document the transfer of command
- Notify others of the change of command

Leadership responsibilities may include (not in priority order):

- Understanding and maintaining focus on objectives
- Remaining accessible for consultation on key decision-making
- Accepting responsibility
- Using a proactive approach to control the emotional responses of on-scene personnel
- Making adjustments to operational tempo
- Communicating throughout the chain of command as required
- Instilling confidence
- Emphasizing teamwork and curtailing inappropriate individual action
- Recognizing and addressing safety concerns of personnel
- Continuously reassessing the situation and adjusting the response as necessary

GENERAL ORDER DEFINITIONS

The following *General Orders* were in effect at the time of the incident. Many of these have been updated as a result of this review. For all current policies, please refer to our website, tucsonaz.gov/police.

1143.6 Authority of Supervisors

Supervisors shall constantly direct their efforts toward the intelligent and efficient performance of the functions of the Department and possessing the authority to do so, shall require their subordinates to do the same. They shall not regularly perform the duties assigned to a subordinate when the subordinate is available. Supervisors shall be responsible for their own conduct and performance and for the conduct and performance of their subordinates. They shall investigate any misconduct or non-performance of duty that comes to their attention. When it is appropriate, supervisors will notify their superior or their supervisor of matters of concern.

Non-sworn employees shall not have tactical authority over sworn employees in the exercise of police power.

Supervisors may issue orders that deviate from existing orders in an emergency for the duration of the emergency. Supervisors shall immediately report to their superior any deviation from existing orders.

Supervisors shall ensure that subordinates complete all required duties and functions required of their positions. Supervisors shall be responsible for the evaluation, training and development of their subordinates. When a supervisor is absent, the supervisor shall designate a member of the next lower rank to act in that capacity. The member so designated shall have all the authority necessary to perform that assignment.

1330.2 Obedience to* General Orders*, Procedures and Policies Required

All members shall observe and obey all laws, City Administrative Directives, Department General Orders, Department procedures and policies, as well as any procedures and policies established by their Commanders.

1330.3 Required Knowledge

All officers shall have a working knowledge of all criminal, constitutional, and motor vehicle laws, and ordinances in force in the City of Tucson, as well as City Administrative Directives, Department General Orders, and policies and procedures of their respective divisions and bureaus, as may be appropriate to their assignment or classification. Non-sworn employees shall have a working

knowledge of all laws, City Administrative Directives, Department General Orders, and policies and procedures of their respective divisions and bureaus as may be appropriate to their assignment or classification. All members are responsible for seeking and obtaining any additional information or clarification necessary in order to comply with laws, ordinances, City Administrative Directives, Department General Orders, Department policies and procedures or any other subject area with which they must be familiar.

1330.7 General Standards of Expected Conduct

Members shall not engage in any conduct, whether on or off duty, which is unbecoming or detrimental to their duties, position, or the Department. All members shall conduct their private and professional lives in such a manner as to avoid adverse reflection upon the Department or themselves as members of the Department. Members shall treat each other and all persons with whom they have contact with respect and courtesy.

2020 Force Model

The force model has been developed for illustrative purposes, to explain the various levels of resistance and force that may take place during a use of force incident. The model is based on the concept that, as the resistive individual(s) increases the level of resistance or threat to the officer, the officer may increase the level of force necessary to overcome the resistance. Conversely, the officer may decrease the level of force as compliance is attained.

When applying the concept of a force model, the totality of the circumstances involved in the incident must be considered. Officers may initiate the use of force at any level of the force model that is appropriate under the circumstances. Circumstances that may influence the level of force used by the officer may include, but are not limited to:

- The nature of the offense
- The behavior and actions of the subject, such as resistive actions, aggressive acts, *etc*.
- Physical size and conditioning of the subject and the officer
- The feasibility and availability of alternative responses
- The availability of additional officers

The levels of resistance by a subject include:

- <u>Psychological Intimidation:</u> Includes non-verbal cues indicating the subject's attitude, appearance and physical readiness.

This is often referred to as the "body language" of the subject and may influence an officer's decision on how to approach a subject, or what level of force to use if the subject starts to resist a detention or an arrest. Non-verbal intimidating actions may include, but are not limited to: clenching the fists; widening the foot stance; or wearing a blank expression, which may

warn officers of an individual's emotional state. These non-verbal actions often warn an officer of a subject's potential for violence when the subject has offered no verbal threats. A subject's non-verbal intimidation should be used as information to mentally prepare officers for attack, not as justification for the use of force.

- Verbal Non-Compliance: Verbal responses indicating the subject's unwillingness to comply with direction; may include verbal threats made by the subject.

  A person has a constitutionally protected right to express verbal protest to an officer. As a general rule, speech directed at an officer is protected by the First Amendment. In addition, as a general rule, fighting words are not protected speech. The appropriate reaction to verbal threats made by a subject will depend on the specific facts faced by an officer. An officer's decision regarding the level of force necessary to control the subject will be based in part on the officer's perception of the verbal threat and the subject's apparent ability and willingness to carry out that threat. An additional factor is the officer's knowledge of his or her own capabilities to manage the threat presented.

- Passive Resistance: Physical actions that do not directly prevent the officer's attempt at control.

  At this level, the offender never makes any attempt to defeat the physical actions of the officer. Passive resistance is usually in the form of a relaxed or "dead weight" posture intended to make the officer lift, pull or muscle the subject to establish control.

- Defensive Resistance: Physical actions that attempt to prevent the officer's control, but make no directed attempt to harm the officer.

  At this level of resistance the offender attempts to push or pull away in a manner that does not allow the officer to establish control. However, the subject never attempts to strike the officer.

- Active Aggression: Behavior that is a physical assault on the officer where the offender prepares to strike, strikes, or uses techniques in a manner that may result in injury to the officer.

- Aggravated Active Aggression (deadly force): Assaultive acts of aggression directed towards an officer or another that are likely to cause serious injury or death.

The levels of force are:

- Officer Presence: The officer is clearly identified as an officer and his/her authority is established, by presence in uniform, or by clearly displaying a badge or identification.

It is at this initial stage of police/subject contact that the officer uses presence, to the greatest extent possible, to take control of the situation and avoid escalation. The first aspect is non-verbal communication skills, starting with the officer's facial expressions. The officer should consciously attempt to maintain eye contact with the subject. This is not only a tactically sound action but will show the officer's concern and interest.

The second form of non-verbal communication skill is body language. This may range from the officer being very relaxed in the upper body in an effort to calm the subject or showing strong muscle tension in the arms and hands in an effort to convince the subject to comply with the officer's request without physically touching the subject.

In the event that the presence of the officer does not curb or decrease the amount of resistance, or stop the violation of law, the officer must be prepared to escalate the use of force.

- Verbal Direction: Communication directed toward controlling the actions of a subject, including direction or commands.

  The majority of situations can be resolved by good communication skills and verbal direction. In any verbal confrontation, fear and threat must be defused so the subject can better understand the officer's commands. This requires good communication skills and patience.

  Voice control will often indicate emotional control. The slow, soft and deliberate voice of the officer will usually convey control, diffusing the hostile, verbally aggressive subject. The officer should remember that it takes a great deal of physical energy for a subject to maintain a high emotional level. The officer should attempt to maintain a lower emotional state, as the subject will often tire emotionally.

  Successful communication skills may prevent many physical confrontations from escalating to higher levels. However, if resistance continues after using proper verbal and non-verbal skills, the officer must be prepared to further escalate the use of force.

- Empty Hand Control: Techniques that cover a number of subject control methods.

  These may be as simple as gently guiding a subject's movement or more dynamic techniques such as strikes. They are divided into two (2) categories:

- "Soft" control techniques that present a minimal risk of injury. Generally, these techniques are used to control passive or defensive resistance. However, soft control techniques can be utilized for any level of resistance if tactically possible and legally permissible. Examples of soft empty hand control include standard handcuffing, wrist locks, arm bar control holds, and touch pressure points.

- "Hard" control techniques that might cause minimal injury, i.e. striking techniques using the hands or feet. "Take-downs," that is the forceful direction of the suspect to the ground, are also considered under this use of force category. Generally, these techniques are used to counter defensive resistance, active aggression, or aggravated active aggression (deadly force) and are applied when lesser forms of control have failed or are not applicable because the subject's initial resistance is at a heightened level. In such situations, officers may risk injury to themselves or may have to utilize higher levels of force (such as intermediate weapons) if hard empty control techniques are not used.

- Intermediate Weapons: The use of authorized less lethal weapons, including canines, impact weapons, chemical and OC agents, flex-batons, and other specialized less lethal munitions.

  These provide a method of controlling subjects when deadly force is not justified and when empty hand control techniques are either not sufficient or not tactically the best option for the safety of others, the suspect and/or officer. When intermediate weapons are used, injury is likely and appropriate medical care shall be provided.

  The following are types of intermediate weapons:

  - Oleoresin Capsicum (OC) Spray – OC spray can provide a means of defense when the officer is facing resistance at the level of defensive resistance or greater.

  - Impact Weapons – A straight or expandable baton can provide a means of protecting the officer or others from injury. Escalating to an impact weapon is a means of controlling subjects when the officer is facing defensive resistance, and the officer's empty hand control is insufficient to overpower the resistance or, when the officer is facing active or aggravated active aggression (deadly force). The impact weapon may be used in lieu of chemical agents when appropriate, given the limitations on the use of the spray and the time available to the officer.

- Taser – the Taser is a less lethal conducted energy weapon that deploys an electromuscular disruption charge that affects the sensory and motor functions of the central nervous system.

- Less Lethal Munitions/CN CS Gas – These include Department approved flex batons and other specialized less lethal munitions (such as pepper balls) and the use of CN (chloroacetophenone) and CS (Orthochlorobenalmalononitrile) gas.

The goal of deploying CN or CS gas is to temporarily incapacitate the subject to attain compliance and control. Officers may utilize CN or CS gas when no other means of subject control may be asserted without endangering the life or safety of the officers or others.

The use of kinetic energy impact rounds (flex baton) is restricted to instances of subject resistance at the active aggression or aggravated active aggression (deadly force) level. These may also be used in instances where a subject is physically causing serious or life threatening injury to him or herself or is threatening to cause such injury.

- Deadly Force: A use of force that is likely to cause serious injury or death. Use of a firearm is not the only means of employing deadly force. It may become necessary for officers to protect themselves or others with means other than a firearm.

  Officers may employ all the techniques outlined in this General Order, and others that may be available under the circumstances of the particular situation, including those considered deadly force, in order to protect themselves or others from the use of deadly force.

2030 Non-Deadly Physical Force

Non-deadly physical force includes tactics and intermediate weaponry that, when properly applied, have a minimal risk of causing serious injury or death.

Non-deadly physical force and intermediate weapons may be used in instances where an officer reasonably believes that it is immediately necessary to take action, such as:

- Protecting the officer or another person
- Preserving the peace
- Preventing the commission of an offense
- Making a lawful arrest
- Preventing a person from harming themselves

UPDATED USE OF FORCE GENERAL ORDER 2000

Updated and published September 2017

2010 GENERAL POLICY

In accordance with the Law Enforcement Code of Ethics and the Tucson Police Department Mission statement, it is the sworn duty of every officer to safeguard and protect human life. Members shall treat all persons with respect, professionalism, and courtesy. If the use of force becomes necessary, members shall use force proportional to the threat.

It is neither the policy of the Department nor the intent of these General Orders that officers unnecessarily or unreasonably endanger themselves or others. The force model is to be used as a general guide to using force when necessary.

A member who observes another member using inappropriate, unnecessary, or unreasonable force shall intervene to stop the use of force when there is a reasonable opportunity to do so. A member who witnesses inappropriate, unnecessary, or unreasonable use of force by another member shall report it as soon as practicable to a supervisor.

2020 DEFINITIONS

De-Escalation

De-escalation is taking action and/or communicating verbally or non-verbally during a potential force encounter to stabilize the situation and reduce the immediacy of a threat so that more time, options, and resources are available to resolve the situation using the least force necessary. De- escalation is also an effort to reduce or end the use of force after a threat has diminished.

When reasonable, officers will gather information about the incident, assess the risk, assemble resources, attempt to slow momentum, communicate with the subject, and coordinate a response. Officers should use advisements, warnings, verbal persuasion, and other tactics as alternatives to higher levels of force. When feasible, an officer may withdraw to a position that is tactically more secure or allows greater distance in order to consider or deploy a greater variety of force options.

Force

Any physical effort by a Department member to compel compliance by an unwilling subject.

Lawful Purpose

A use of force must be for a lawful purpose. Officers may use force in the performance of their duties to:

- Effect a lawful arrest, detention, or search;
- Overcome resistance or prevent escape;
- Prevent the commission of a crime;
- Defend themselves or others;
- Gain compliance with a lawful order; or

- Prevent a person from injuring himself/herself - however, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an imminent threat of serious bodily injury or death to another person.

Objectively Reasonable

Officers must make split-second decisions regarding the use of force in circumstances that are tense, uncertain, and rapidly evolving. Reasonableness of force is based on the totality of circumstances known by the officer at the time force was used. This is an objective standard to be judged from the perspective of a reasonable officer rather than with the benefit of hindsight, and without regard to underlying intent.

There are many components that factor into an objectively reasonable decision to use of force, including:

- The purpose of the force (Was it lawful?);
- Efforts to de-escalate the situation;
- The proportionality of the force being used to the force encountered;
- The nature and seriousness of the threat being encountered;
- If the officer's actions unnecessarily contributed to the need to use force.

Proportionality

Officers shall balance the totality of the circumstances, known to or perceived by the officer at the time, with the severity of the offense committed and the subject's level of resistance. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in serious physical injury or death, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.

Provocation

Provocation includes conduct that may create or contribute to a need to use force that might not otherwise be necessary. This can include illegal searches, detentions, and entries to residences. It can also include unprofessional exchanges or other acts done intentionally or recklessly that provoke the subject or contributes to the need for force. This conduct must be documented and considered in determining the reasonableness of the force used.

Significant Injury

A significant injury is a physical injury resulting from a use of force that creates a reasonable risk of death or causes serious disfigurement, serious impairment of health, or loss or impairment of any bodily organ or limb. Examples of significant injury include broken bones, closed head injuries, loss of consciousness, impairment of a limb and/or any injury that could result in death or disfigurement. Sutures are not by themselves considered a significant injury but extensive suturing may rise to this level depending on the circumstances.

2030 USE OF FORCE PROHIBITED

An officer shall **not** use physical force:

- To punish or retaliate;
- Against individuals who only confront them verbally unless the vocalization significantly impedes a legitimate law enforcement function creating an immediate safety concern (e.g. incitement to violence or destruction of property, threats to officers or others); or
- On handcuffed or otherwise restrained subjects, except in exceptional circumstances when the subject's actions must be immediately stopped to prevent injury, escape, or destruction of property. In such circumstances, officers shall articulate:
    - Why force was necessary, and
    - Why no reasonably effective alternative to the use of force appeared to exist.

2040 FORCE MODEL

This model describes levels of resistance officers may encounter and the levels of force officers may use to lawfully overcome that resistance.

Force situations are dynamic and require an officer to continually assess the subject's actions to ensure an objectively reasonable response. Officers may initiate and transition to levels or types of force, including attempts to de-escalate, in relation to the amount of resistance offered by a subject. Circumstances that influence the level of force used by the officer include, but are not limited to:

- The nature of the offense;
- The behavior and actions of the subject, such as resistive actions, aggressive acts, etc.;
- The physical size and conditioning of the subject relative to the officer;
- The feasibility and availability of alternative responses; and
- The availability of additional officers.

Officers shall consider whether a subject's failure to comply is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

- Medical conditions;
- Mental impairment;
- Developmental disability;
- Physical limitation;
- Language barrier;
- Drug interaction;
- Behavioral crisis; and
- Hearing impairment.

When it is necessary for an officer to exercise physical control of a violent, assaultive, or resisting individual to make an arrest or protect others from harm, they shall:

- Recognize that their conduct prior to the use of force, including the display of a weapon, may influence the level of force necessary in a given situation;
- Exercise reasonable care that their actions do not precipitate an unnecessary, unreasonable, or disproportionate use of force by placing themselves or others in jeopardy, or by not following policy or training; and
- Continually assess the situation and changing circumstances, and adjust the use of force appropriately.

2041 Levels of Resistance

The levels of resistance by a subject include:

- Psychological Intimidation: Non-verbal cues indicating the subject's state of alertness, agitation, and physical readiness to resist.
- Verbal Non-Compliance: Verbal responses indicating the subject's unwillingness to comply with direction. This may include verbal threats made by the subject. A person has a constitutionally protected right to express verbal protest, and speech directed at an officer is generally protected by the First Amendment. However, threats (or "fighting words") are not protected speech. Verbal provocation alone is not justification for a use of force.
- Passive Resistance: Physical non-compliance that does not directly prevent the officer's attempt at control.

  **** A force response to resistance at the psychological intimidation, verbal non-compliance or passive resistance level shall be limited to verbal direction, handcuffing, escort and control holds. ****

- Defensive Resistance: Physical actions that attempt to prevent the officer's control, but make no direct attempt to harm the officer.

- Active Aggression: Behavior that is a physical assault on the officer where the subject prepares to strike, strikes, or uses techniques in a manner that may result in injury to the officer.
- Deadly Force: Assaultive acts of aggression directed towards an officer or another that are likely to cause serious injury or death.

2042 Levels of Force

The levels of force employed by members are:

- Officer Presence: Authority is established by the officer's presence in uniform, by verbal identification as a peace officer, or by clear display of department badge or identification.
- Verbal Direction: Communication directed at a subject to control their actions. Officers will, when reasonably possible, attempt to use verbal communication skills to control subjects before resorting to physical control methods.
- Empty Hand Control: Force techniques using the officer's body without the aid of weapons or equipment. Empty hand control is divided into two (2) categories:
    - "Soft" control - physical interaction (except strikes) meant to separate, guide, and/or control, and that does not cause injury greater than temporary pain or redness.
    - "Hard" control – physical interaction (including strikes) meant to separate, guide, and/or control, or which are likely to result in injuries greater than temporary pain or redness.

**** The use of vascular neck restraint (carotid) or choke holds are prohibited. ****

**** Note: It is understood that the policy regarding the use of vascular neck restraint (carotid) or choke holds may not cover every situation that may arise. ****

- Intermediate Weapons: Weapons that provide a method of controlling subjects when deadly force is not justified and when empty hand control techniques are either not sufficient or not tactically sound. The following are types of intermediate weapons:
    - Oleoresin Capsicum (OC) spray – Shall only be used to counter defensive resistance or greater.
    - PepperBalls – Capsules filled with a capsaicin powder and fired from a compressed-air powered launcher. PepperBalls may be fired directly at a subject, or may be fired to strike near a subject to deliver a dispersed OC payload. Pepperballs shall only be used to counter defensive resistance or greater.
    - Impact Weapon – Any object used to strike a subject in a manner that is reasonably likely to cause injury. An impact weapon shall only be used to counter defensive resistance when the officer's empty hand control is insufficient to overpower the resistance or when the officer is facing greater force. In limited circumstances an impact weapon may

be used in lieu of OC spray when the properties of OC spray would make its use ineffective or dangerous to the officer, e.g., inside a small, confined area.

- o Conducted Electrical Weapon (CEW) - Any less lethal conducted energy weapon, e.g., TASER. The use of CEWs shall be limited to counter active aggression or deadly force.
- o Less Lethal Munitions – Kinetic impact or chemical-agent munitions designed to disrupt a subject's threatening action with minimal risk of serious injury or death.
    - Kinetic impact rounds include Department approved flex batons and other specialty munitions, e.g., 37 mm foam rounds. Generally, the use of kinetic energy impact rounds shall only be used to counter active aggression or greater. However, kinetic impact rounds may be used in instances where a subject is causing serious or life threatening injury to him or herself or is immediately threatening to cause such injury, and has the means to do so.
    - Chemical agents include o-chlorobenzylidene malononitrile (CS) and shall only be utilized during tactical team operations or similar deployments.

- Deadly Force: Force that is likely to cause serious injury or death. Use of a firearm is not the only means of employing deadly force. It may become necessary for officers to protect themselves or others with means other than a firearm.

2050 POINTING FIREARMS

Officers shall not point a firearm at an individual unless it is reasonable to believe that it is necessary to protect against a potential use of physical force or deadly physical force.

Unholstering or displaying a firearm, including at a low-ready position without pointing it at a person, does not require a use of force report. Firearms shall be secured or holstered as soon as possible after the perceived threat has ended.

2060 DEADLY FORCE

Deadly force is authorized when an officer reasonably perceives an imminent threat of serious physical injury or death to the officer or another person. Deadly force is a measure to be employed only in the most extreme circumstances when all lesser means of force have failed or could not be reasonably employed.

Officers shall, whenever possible, identify themselves as police officers and issue a verbal warning prior to using deadly force, unless such identification and warning would jeopardize their safety or the safety of another person.

2061 Use of Firearms

Officers may discharge a firearm:

- During Department qualifications or firearms training at an approved range;
- For test firing by the Crime Lab;
- To kill a dangerous or seriously injured animal; or
- When justified in using deadly force.

Officers shall not discharge a weapon:

- As a warning shot;
- At a moving vehicle;
- From a moving vehicle.

**** Note: It is understood that the policy in regards to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. ****

Officers shall not handle a firearm in a careless or reckless manner.

2070 USE OF FORCE REPORTING, INVESTIGATION, AND REVIEW

The Tucson Police Department recognizes the magnitude of the responsibility that comes with the constitutional authority to use force. This responsibility includes maintaining vigorous and transparent oversight systems to ensure accountability and maintain public trust. In order to ensure transparency and accountability, all members shall adhere to the reporting requirements and responsibilities contained in General Orders.

The requirements for reporting, investigating, and reviewing use of force incidents are separated into types based on the nature of the incident. The listed table for **Use of Force – Classifications and Review Mechanism** shall be followed when reporting and documenting the use of force.

2071 Chain of Command (COC) Requirements

Generally, uses of force will be investigated by the COC. The COC will evaluate and/or respond to all reportable uses of force and will refer cases to the Office of Professional Standards (OPS) as appropriate.

- Officer Responsibilities
  Upon being involved in a reportable use of force, officers shall:
  - Ensure that a supervisor is verbally notified of the use of force as soon as practical;
  - Remain on scene until released by a supervisor; and
  - Complete accurate written reports documenting the use of force by the end of the shift, unless otherwise directed by a supervisor.

- Witness Officer Responsibilities

  A witness officer is any officer who is on scene at the time that force is used and who did not use reportable force. Witness officers shall:
  - Ensure that a supervisor is verbally notified of the use of force as soon as practical;
  - Remain on scene until released by a supervisor; and
  - Complete accurate written reports documenting the use of force by the end of the shift, unless otherwise directed by a supervisor.

- Supervisor Responsibilities

  Upon being advised of a reportable use of force, a supervisor shall:
  - When required by GO 2080, respond to the scene of the incident;
  - Identify involved parties and witnesses;
  - Identify and preserve evidence;
  - Appropriately classify the type of force incident, making investigative and command notifications as outlined in GO 2080;
  - Ensure that involved and witness officer reports are thorough and accurate; and
  - Document investigative actions taken.

  Commander notification is mandatory in the following situations:
  - Use of force resulting in significant injury, e.g., broken bones, sutures, loss of consciousness;
  - Hard control against a restrained person;
  - Police Service Dog bites;
  - Use of deadly force, regardless of the level of injury sustained by the involved officers or subjects; or
  - Use of force with evidence of unreasonable or disproportionate force, or other serious policy violations, to include constitutional violations.

- Commander Responsibilities

  Commander response to the scene is generally at the discretion of the commander. At a minimum, a reviewing commander shall:
  - Ensure the type of force incident is appropriately classified;
  - Ensure the on scene investigation and documentation completed by the sergeant is thorough and complete; and
  - Document their review and analysis of the use of force.

Any commander who directs or authorizes the use of force during a crowd management setting shall complete a use of force report, unless otherwise directed. The use of force type classification shall be based upon the highest level of force used during the incident.

The review of the use of force report(s) shall be conducted by the Critical Incident Review Board (CIRB) or the Force Review Board (FRB), as directed by the Chief of Police or designee.

2072 Office of Professional Standards Requirements

The Office of Professional Standards (OPS) commander shall be notified under the following circumstances:

- Use of force against a person that results in his/her transportation to a hospital for treatment/evaluation.
- Use of force resulting in significant injury.
- Any allegation of excessive use of force.
- The discovery of information that conflicts with the officer's account of the incident (e.g. witness statements, video evidence, etc.).
- Use of force prohibited by policy (e.g. carotid choke hold, strikes to the head with blunt objects, etc).
- Any indication(s) the level of force used was out of policy.
- Hard control against a restrained person.
- K-9 bites of an unintended subject.
- K-9 bites resulting in significant injury.
- K-9 bites to the head, neck or groin.

Cases involving deadly force, or other use of force incidents as directed by the Chief of Police or designee, will be reviewed by the CIRB.

2080 USE OF FORCE – CLASSIFICATIONS AND REVIEW MECHANISMS

Force Type	Threshold	Examples	Components of Notification, Investigation, and Review
TYPE 0 includes soft empty hand contact	Physical interaction meant to separate, guide, and/or control that does not cause injury greater than temporary pain or redness, un-resisted or minimally – resisted handcuffing, application of tools designed to control movement or prevent attack	Arm bars and wrist locks Non-strike pressure points Push, not including impact strike Temporary redness or abrasions on wrists from appropriately-applied handcuffs **TARP and/or Spit Sock application**[1]	**No BlueTeam Report required** Documentation required in Incident Report and/or Supplementary Reports Supervisory review of reports for thoroughness
TYPE I[2] **Show of Force**	Threatened use of force through the aiming of a lethal or less-lethal projectile weapon at a person, without firing, or any arcing of an CEW to gain compliance of a subject	Aiming a weapons system at a person, including: Any firearm, Flex Baton, PepperBall system, CEWs, 37mm and 40mm munitions	**BlueTeam Type I Report required** Supervisor shall be notified at time of incident but response to the scene is discretionary Documentation required in Incident Report and/or Supplementary Report(s)

[1] For Total Appendage Restraint Procedure (TARP) and Spit Sock applications, notification to supervisor at the time of the incident is required (response to the scene is discretionary).

[2] Type I involving SWAT operations will be handled by the SWAT sergeant in single report.

Force Type	Threshold	Examples	Components of Notification, Investigation, and Review
TYPE II	Use of force at a level of "hard" empty hand tactics, the use of Intermediate Weapons, or any use of force, to include Type 0, resulting in injury or claim	Arm bars with claim of injury Force resulting in abrasions Strikes or kicks Impact strikes Hard takedowns Use of: Flex Baton, PepperBall, OC spray, baton, CEW, et cetera	**<u>BlueTeam Type II Reports required</u>** Supervisor shall investigate incident at the scene, including: • Interview with officer(s) using force; • Interview with witness officer(s); • Interview with subject(s); • Canvas for civilian witnesses and conduct interviews; • Canvas/collection/review of BWC, MVR, 3rd party video; and • Photos of officer and subject, whether or not injured. Officer(s) complete use of force (following template) in BlueTeam Subject to random selection by the Force Analysis Unit for review by the Division Commander or Force Review Board
TYPE II-K9	Use of force by Police Service Dog with no or minor injury	K9 bite of intended subject with no or minor injury	SDU officer shall notify on-duty sergeant Investigating sergeant shall respond to the scene to initiate the investigation following the Type II protocol Commander notification COC reviews completed Use of Force report Reviewed by Force Review Board
TYPE III K9[3]	Use of force resulting in significant injury or with indications of unreasonable or disproportional force, or other serious policy violations, to include constitutional violations	Broken bones Closed head injuries Sutures Dislocations Loss of consciousness due to application of force Hard control against a restrained person	**<u>BlueTeam Type III Reports required</u>** Supervisory response and screening at the scene OPS Commander **<u>shall</u>** be notified OPS consultation with CID for CID response and investigation Reviewed by the COC Reviewed by Force Review Board

[3] Force Review Board reviews all K9 bites.

Force Type	Threshold	Examples	Components of Notification, Investigation, and Review
TYPE III-K9[3]	Use of force by Police Service Dog upon unintended subject or resulting in significant injury	K9 bite of unintended subject K9 bite to head, neck, or groin K9 bite resulting in significant injury	SDU officer shall notify on-duty sergeant Investigating sergeant shall respond to scene to initiate the investigation following the Type III protocol above
TYPE IV	Use of deadly force, regardless of whether officers' actions resulted in injury or death	Officer discharge of firearm[4] Deliberate use of vehicle or other tool in a deadly force encounter Impact weapon strike to the head Use of force resulting in death Vascular neck restraint Choke hold[5]	**OPS BlueTeam Report required** Supervisory response and screening at the scene OPS and/or CID response and investigation Reviewed by Critical Incident Review Board (CIRB)

[4] Does not include the dispatching of a vicious dog or other animal, which in the absence of additional factors, will be investigated and reviewed by the member's chain of command as a Type II incident. In all such cases, the Incident Commander shall immediately notify the Chief of Staff or designee, who will determine if an OPS response and/or CIRB review is warranted in lieu of a COC investigation.

[5] Vascular neck restraint and choke holds are prohibited by Department policy.

2090 FORCE REVIEW MECHANISMS

The Tucson Police Department employs a variety of administrative review mechanisms when evaluating use of force incidents. These reviews are intended to promote community trust, enhance transparency, and improve member safety by evaluating all aspects of an incident including policy, equipment, training, supervision, and members' actions, including those actions leading up to the use of force.

2091 Chain of Command (COC)

Force Types I, II, and III will be reviewed by the COC through at least two levels above the rank of the member using force. Force types II-K9 and III-K9 will be reviewed by the COC through the level of Division Commander. The COC will prepare a written report, evaluating:

- Use of Force (reasonableness, necessity, proportionality, and circumstances leading up to the use of force);
- Tactics and decision making (including de-escalation);
- Supervision;
- Equipment;
- Policy compliance;
- Training; and
- Reporting and investigation.

2092 **Force Review Board (FRB)**

The chain of command investigation and findings of Force Types II-K9, III, and III-K9 will be reviewed by the FRB. The FRB will review a sample of Type II investigations. The Board will prepare a written report to the Chief of Police or designee, evaluating the following:

- Proper categorization of force type;
- Thoroughness of investigation;
- Completeness of command review;
- Proper identification and handling of deficiencies; and
- Command findings.

The FRB will not make recommendations concerning discipline. In the event that the Board identifies violations of policy not previously addressed by the COC, the Board will refer the matter to the COC or OPS as appropriate for further action.

In the event that the Board identifies meritorious behavior deserving of recognition or individual training opportunities, the Board will refer the matter to the member's COC for action.

For specific details on the FRB and use of force reporting, refer to the Force Review Board Operations Pamphlet.

2093 ***Critical Incident Review Board (CIRB)***

Force Type IV incidents will be reviewed by the CIRB. The Board will prepare a written report to the Chief of Police or designee, evaluating the following:

- Adequacy of policy;
- Potential violation of policy, General Orders or law;
- Use of Force (reasonableness, necessity, proportionality, and circumstances leading up to the event/use of force);
- Tactics and decision-making;
- Member actions and conduct;
- Communication;
- Supervision;
- Training issues and needs;
- Equipment deficiencies or needs, and
- Other issues that played a role in the incident.

For details on the CIRB, refer to the Critical Incident Review Board Operations Pamphlet.