

FERGUSON CROWD CONTROL AFTER ACTION REPORT: SUMMARY OF FINDINGS AND LESSONS LEARNED

On August, 9, 2014 in Ferguson, Missouri, Officer Darren Wilson shot and killed 18 year old Michael Brown following a law enforcement encounter. There were significant reactions to the shooting from the community, including but not limited to public demonstrations, rioting, looting, arson, shots fired, and property damages. More than 50 police departments (PD) provided assistance to Ferguson PD for crowd control. The United States Department of Justice (USDOJ) and the St. Louis PD agreed to investigate the actions of the 4 police departments that were most involved after the shooting. USDOJ, through the COPS office, evaluated their actions for 17 days. They issued this report that included 48 findings and 113 lessons learned that are applicable to all police departments in United States. This article provides an important overview of the findings and the recommendations. Critical findings and recommendations from USDOJ:

1. Police-community relationships
 - a. Lack of community relationships with the residents of Ferguson and with much of the African-American community.
 - **Recommendation:** Police should communicate with more than a select few by establishing ongoing dialogue with all segments of the community. (Page 116)
 - **Recommendation:** Police need to develop, implement, and maintain youth and adult programs to establish communication and build relationships with all the communities they serve. (Page 116)
 - b. No efforts in place to manage community reactions.
 - **Recommendation:** Police should develop and maintain a well-established network with their community leaders and initially contact them with information on incidents that impact their community. (Page 116)
 - c. Absence of trust between the community and the Ferguson PD.
 - **Recommendation:** Police must invest time to establish trusted relationships with all segments of the communities they serve. (Page 89)
 - **Recommendation:** Police should engage in dedicated and proactive efforts to understand the communities they serve and to foster strong trust between the officers and the communities. (Page 116)
 - d. Long standing tension between the Ferguson PD and the African-American community.

- **Recommendation:** Police should enhance legitimacy and procedural justice in every interaction officers have with the public. This would foster and maintain better police-community relationships. (Page 116)
- **Recommendation:** Officers should receive training on topics related to procedural justice, implicit bias, cultural diversity, and related topics to promote community policing and help build trust and legitimacy in diverse communities. (Page 116)
- **Recommendation:** Police need to be proactive during peaceful protests to engage community members to identify issues of concern and establish rapport. (Page 116)

2. Command and control

a. The incident command structures were uncoordinated and incomplete in the early days.

- **Recommendation:** Incident commander should remain focused on strategic decisions and constant communication with supervisors and officers. He or she should understand the importance of intelligence officers and pay attention to their recommendations. Other duties like community engagement should be delegated to other members of the command team. (Pages 39 and 85)

b. The National Incident Management System (NIMS) was never fully implemented.

- **Recommendation:** NIMS model should be used for critical incidents, particularly when there is a multiagency response. (Page 39)
- **Recommendation:** Agencies should adopt the NIMS operating model, meet certification standards, and regularly train and exercise with participating agencies. (Page 39)

c. Incident command did not follow NIMS public information protocols, including establishing a joint information center.

- **Recommendation:** Agencies should proactively leverage the resources and expertise of fusion centers when responding jointly to a critical incident. (Page 85)
- **Recommendation:** On multiagency response incidents, a strong incident command structure must be established that follows the NIMS model. (Page 85)
- **Recommendation:** An intelligence officer should be identified and assigned to the command post to enhance the two-way information flow and that tactical intelligence is being considered. (Page 85)

d. Initially, public information was limited and they not commit to proactive communications with the public.

- **Recommendation:** Police should establish a practice to release all information lawfully permitted as soon as possible and on a continuing basis, unless there is a compelling or safety issue. (Page 95)
- **Recommendation:** Police should establish a media credentialing process and a staging area for frequent briefings. (Page 95)

- **Recommendation:** Police should have a designated and trained public information officer (PIO) who engages with the public on a routine basis. Agencies jointly involved must defer to the PIO for the release of information. When overwhelmed with media inquiries, a temporary detail of experienced PIOs from the other agencies could be a solution to moderate the burden. (Page 95)
- e. The fact that many PDs were involved resulted in confusion, inconsistency in policy applications, complicated communications, and diluted organizational control.
- **Recommendation:** Model policies and procedures provide a basic foundation to build upon and to enhance it with jurisdiction-specific guidelines tailored to local police and community values and culture. Policies should be reviewed on a systematic basis to ensure they address all applications of policing techniques. (Page 71)
 - **Recommendation:** When entering into mutual aid agreements, participating agencies should form a unified compliance committee to agree upon policy content, training curriculum, and joint tactics. The agreements should mandate participation and any agency that fails to do so should be released from the agreement. (Page 72)
 - **Recommendation:** Clear distinctions regarding which agency's policies will prevail when an agency is operating outside of its jurisdiction should be established. (Page 72)
 - **Recommendation:** All responding officers under a multiagency incident command structure must be informed of the policies and procedures to be followed during the execution of orders and tactics. A method of resolving questions or conflicts about policies must be readily available to assigned officers and communicated to them before deployment. (Page 72)
 - **Recommendation:** During extraordinary events, law enforcement agencies must remain flexible to modifying policies or orders to address contingencies encountered. If modifications occur, ensure that officers deployed receive the changes. (Page 72)
- f. Lack of effective protocols to handle an event like this.
- **Recommendation:** Officers from different agencies designated to respond should train together and share common policing philosophies and professional standards. (Page 39)
- g. Inconsistent training among officers in the responding agencies.
- **Recommendation:** Whenever there is a mutual aid agreement between law enforcement agencies, regional response training must be provided regularly to officers designated to respond on critical incidents or event exercises. Policing philosophies and professional standards must be shared and key community leaders should be involved. (Pages 39 and 92)
 - **Recommendation:** NIMS awareness training should be provided to elected officials and staff to underscore the importance of command and control. (Page 39)
 - **Recommendation:** Agencies should train all officers on the nature and protection of the First Amendment. (Page 68)

- h. The tendency of officer self-deployment, reduced officer accountability.
- **Recommendation:** Agencies should have strong policies on self-deployment and establish clear and consistent guidelines and procedures in the agreements with other agencies. (Page 39)
- i. Lack of consistency in policy, led to unclear arrest decisions, ambiguous authority, and a confusing citizen complaint process.
- **Recommendation:** Unified command should clearly decide and convey factors that officers should consider when exercising their authority and discretion to arrest. (Page 40)
- j. Deployment of less-lethal weapons was not centralized or tracked.
- **Recommendation:** Guidelines must be in place regarding the types of less-lethal force that will be authorized, as well as the criteria and circumstances for its use. This information should be shared with the participating agencies, its officers, and the community. (Page 52)
 - **Recommendation:** Use of less-lethal weapons should be documented, and a system to accurately record and document them should be established when there is a multi-agency response. The system should include date, time, and circumstance for each deployment. (Page 52)
3. Use of force
- a. Use of canines for crowd control and to protect a homicide scene was inappropriate and inconsistent with widely accepted policing practices.
- **Recommendation:** Police policy and procedures guiding the use of canines should prohibit their use for crowd control. (Page 51)
 - **Recommendation:** There are some narrowly defined circumstances in which the use of canines in crowd control is justified. These include the protection of individuals, evidence, or property when **no other reasonable means are available.** (Page 45)
- b. Use of less-lethal weapons was sometimes inappropriate, including not providing proper warnings, no consideration for safe egress of the persons at the scene, no consideration of environmental conditions, and no documentation to track or justify its use.
- **Recommendation:** The use of force via less-lethal weapons should be a last resort (for crowd control) to maintain order in situations when the threat to the safety of persons and protection of property are in imminent jeopardy. It should be used only in a manner consistent with law and agency policy, after alternatives have been reasonably exhausted, multiple warnings have been given to demonstrators, and clear avenues to escape exists. (Page 48)
 - **Recommendation:** Less-lethal weapons should be properly marked or colored to avoid confusing the public and to ensure officers never use the wrong weapon by accident. (Pages 59-60)

- **Recommendation:** Develop an accepted audio recording of a warning that less-lethal weapons are about to be deployed in advance of a critical incident. This warning can be replayed via the public address system to ensure correct and consistent information is provided. (Page 51)
- **Recommendation:** When using tear gas, environmental conditions such as wind direction, and proximity to innocent by-standers should be assessed to minimize collateral impact. Also, it should be good practice to video record every deployment with a date and time stamp to enhance accountability. (Page 51)

4. Militarization

- a. Use of military uniforms, weapons, tanks, and sniper deployment was inappropriate and exacerbated the tension between the community and the police officers.
- **Recommendation:** The scale and manner of tactical response should be incremental, not an “all or nothing” proposition. Such responses can begin in a relatively limited manner and can be escalated and de-escalated if and when the circumstances warrant. Constant monitoring of crowd behavior is essential for response and planning. (Page 58)
 - **Recommendation:** Historical context of the community should be considered. Focus not only on what is authorized but also on what is right. (Page 59)
 - **Recommendation:** Consider options for having tactical teams and equipment such as armored vehicles in place but out of public view until and if their deployment is necessary. Armored vehicles should not be visible except in narrowly defined circumstances such as active shooter situations or when shots are fired. (Pages 59-60)
 - **Recommendation:** Overwatch (sniper deployment) is inappropriate tactic for protest events. (Page 60)
 - **Recommendation:** When changing tactics or when use of defensive or protective equipment is going to be used, maintain constant communication with the community via social media and public information officers. (Page 60)

5. Need for preparation

- a. The Ferguson and St. Louis PDs did not anticipate that the demonstrations would be long term, so they only reacted with tactical responses.
- **Recommendation:** Agencies should develop comprehensive operational plans that transition from a short-term response to a more organized mutual aid response once it is evident that the incident or event may be protracted. (Pages 59-60)
 - **Recommendation:** The nature, evolution, and responses to protests should be monitored and changed constantly to reflect the changing environment in the protests. (Page 59)
- b. The Ferguson and St. Louis PDs did not identify and met with influencers in the early days to plan and prepare for the demonstrations.

- **Recommendation:** Police must reach out to protest leaders to understand their issues and establish an understanding of police responsibilities for managing the safety of protesters and of the community. Communication between police and protest leaders should remain open and consistent during and after the protest. (Page 89)
- c. Training on civil disobedience, de-escalation, and mutual aid was limited and varied, causing a negative impact in the response to events in Ferguson. Training was dedicated to provide operational and tactical skills, instead of balancing the same with de-escalation and problem-solving training.
- **Recommendation:** Operational and tactical training should be balanced with training that provides officers with tools to evaluate and de-escalate law enforcement encounters prior to resorting to use of force. (Page 68)
6. Technology
- a. The impact that social media had on the demonstrations was underestimated by the police departments involved, and they failed to have a social media strategy.
- **Recommendation:** Police should have policies in place for the use of social media and some capacity to use social media in emergency situations. Police should be proactive in building their social media capacities before an incident occurs. (Pages 103-104)
 - **Recommendation:** Training must be provided to all personnel, including their technology savvy personnel on the use and impact of social media in accordance to their policies. (Page 104)
- b. Radio interoperability challenges impeded communication between responding agencies.
- **Recommendation:** Communication equipment should provide for seamless interoperability among responding agencies by preparing and testing them in advance of an incident. (Page 89)
- c. Law enforcement and local agencies were not prepared for the tremendous use of technology for various purposes.
- **Recommendation:** Police should be aware of the broad range of available technology to facilitate and coordinate mass gatherings. (Page 107)
 - **Recommendation:** Agencies and local governments should ensure their IT staff is aware of and prepare for potential cyberwarfare attacks. (Page 107)
 - **Recommendation:** Agencies should take preventive strategies, including policy and training to ensure the protection of all personnel records. (Page 107)
 - **Recommendation:** Police should consider subscribing to an identity and credit monitoring service to minimize identity theft. (Page 107)

7. Protection of Constitutional Rights

- a. Unified command created a vague and arbitrary derivative rule of the Missouri failure to disperse statute, giving a “keep moving” order, or “five second” rule that violated the citizens’ right to assembly and free speech.
- **Recommendation:** Legal counsel should be consulted and involved when establishing policies, procedures, and tactics that could impact constitutional protections. (Page 64)
- b. No clearly marked First Amendment free speech zone was established in the early days. This, along with the “keep moving” order, discouraged protesters to exercise their First Amendment rights.
- **Recommendation:** A First Amendment free speech zone should be created with legal advice and counsel. It should be clearly marked, accessible to the media and clearly communicated to officers, media, community, and public information officers. (Page 64)

8. Accountability and transparency

- a. There were numerous reports of responding officers not wearing name tags or badges during the demonstrations. (**Context:** One of the issues officers reported regarding the display of their name tags was the hacking and publication of police personnel records, and the fact that some individuals posted officers names and addresses on the Internet. Other officers reported that some individuals in the crowds threaten to kill or hurt them or their families).
- **Recommendation:** Citizens must have a way to identify an officer, but does not necessarily have to be the officer’s name. An appropriate balance may be possible by using numbers instead of names on badges during responses to critical incidents or group protests. They should be placed prominently on sides of helmets and outermost garments including protective gear. (Pages 79-80)
- b. The citizen complaint process, since it was different for each police department that provided assistance, likely deterred citizens to file complaints about police behavior.
- **Recommendation:** Multiple methods to submit complaints/ commendations should be established. They should be accessible, efficient, effective, and not intimidating. (Page 79)
 - **Recommendation:** During a multiagency response, agencies should consider creating a formal, centralized complaint intake process. An off-site or alternate facility should be considered to address grievances if the established facility is not easily accessible. (Page 79)
 - **Recommendation:** During multiagency response events, reasonable efforts should be made to assist citizens that wish to make a complaint but appear at the wrong place of employment of the officer whose behavior they want to report. (Page 79)
 - **Recommendation:** Officer Complaint and commendation processes should be accessible to the community and shared with the media. (Page 79)

9. Officer resilience

a. Officers involved in crowd control faced unprecedented levels of abuse from the front line, through threats to their families, sharing their personal information online causing identity thefts, and cyber attacks that included breaches of some home wireless systems.

- **Recommendation:** Law enforcement agencies and the communities they serve should discuss the need to protect officers and their families and determine how officers will identify themselves during daily service and volatile mass gatherings. (Page 80)
- **Recommendation:** Police need to establish protocols for responding to officers who receive extreme, immediate and credible threats to themselves and their families. (Page 112)

b. Officers were required to work long shifts with minimal breaks and with limited days off in intense and stressful conditions. This took a toll both physically and emotionally on them.

- **Recommendation:** In times of prolonged and stressful duty, police should monitor closely the officers' emotional and physical well-being and develop a resilience support program that includes a health professional and a trained police counselor or psychologist in prolonged stressful situations. (Page 112)
- **Recommendation:** Police should ensure their officers receive adequate time to rest and recover. Pre-incident briefings for officers should include health and safety, including a reminding to rest, nourish, and to bring any medication for long shifts. (Page 112)
- **Recommendation:** During mass gathering events, police should designate an isolated area where personnel can communicate to their families, rehydrate and eat. (Page 112)

10. The role and impact of protesters intent on exploiting the demonstrations.

a. The demonstrations evolved from peaceful at daytime to nighttime violence, looting, and arson. There were individuals that joined the protests to take advantage of the circumstances.

- **Recommendation:** Police should develop a mechanism to gather raw information, and manage tips and leads, such as videos, from the scenes of mass gatherings, so intelligence can be forwarded for analysis. Protocols for gathering and managing intelligence should be created and communicated. (Page 85)

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