



# **Fredericksburg Police Department**

## **Response to Demonstrations May 31, 2020 - June 2, 2020**

### **Introduction:**

On June 10, 2020, the Fredericksburg Police Department (FPD) began a review of all incidents and actions taken during the recent demonstrations. The focus dates in this After Action Review (AAR) were May 31, 2020 through June 2, 2020. This report will provide an in-depth account of the events that occurred during those dates, including both factual information and a transparent account of the police response.

The Fredericksburg Police Department completes an AAR on all large scale incidents that require a large police response in the City, and may include any mutual aid partners. Mutual aid is when additional police resources are requested from surrounding localities. AARs are conducted by the incident commander at the conclusion of planned events as well as spontaneous events and critical incidents. A written report is completed at the end of each event that outlines what happened, evaluates the response that occurred, highlights resources used, identifies lessons learned and makes recommendations for operational change and policy change. Some past reviews that have been conducted include the Marine Corps Historic Half Marathon, Celebrate Virginia concerts, the Fredericksburg Christmas parade, barricade situations and active shooter incidents. The AAR is then forwarded to the patrol division commander for review and any suggestions or recommendations are discussed, researched and implemented where appropriate. All incidents that involve use of force receive an additional internal review by the Office of Professional Standards to ensure compliance with the law, policy and best practice.

Due to the size and sensitivity of the demonstrations that occurred in the City of Fredericksburg, an internal team was assembled to review all data collected. The team was comprised of two Captains, a Lieutenant and two Sergeants who were designated to assist in reviewing incident reports, arrests, body camera footage, citizen videos, correspondence, intelligence and 911 calls. Several interviews were also conducted as part of this review to gain additional information from involved personnel. There were several incident commanders and supervisors with various responsibilities utilized throughout these events. Supervisors that staffed any portion of the response to local demonstrations were required to complete an AAR, respective to their discipline. Recommendations and feedback were also solicited from all members of the department to be included in the internal review. The team met on multiple occasions to discuss the progress of the review and to discuss the findings.

The first step of the process began with data collection to ensure that all data was gathered and saved. The next step was to review all of the collected data and create a timeline of events so that each detail that is noted in this report is accurate and supported by documentation. The team used several forms of documentation to verify each fact and gain a full understanding of the events as they unfolded each day. This preliminary report is the first of an ongoing process that will continue as the police department continues to review in more depth the demonstration events and police response.

## **Summary of Protester Events and Police Department Response:**

On May 25, 2020, George Floyd died while in police custody in Minneapolis, Minnesota. Over the days that followed, the City of Fredericksburg, along with many other cities and towns nationwide, became a site of multiple public demonstrations against police brutality and violence against people of color. On May 30, 2020, there was a large peaceful demonstration of approximately 100 people that marched from the Mayfield Playground to City Hall. Fredericksburg police officers assisted in providing traffic direction and maintaining public safety.

Shortly after midnight on the morning of May 31, 2020, the Fredericksburg Police Department headquarters was firebombed by an unidentified individual. This individual doused the police memorial with a flammable liquid and lit it on fire, causing permanent damage to the memorial. The subject then poured flammable liquid on the front of the police department doors, grassy area and sidewalk, set up an improvised explosive device in front of the doors and poured a flammable liquid trail away from the building. The individual ignited the liquid, causing a large flash of fire, but the IED did not ignite.

Throughout the day on May 31, 2020, there were numerous peaceful and lawful demonstrations with no police involvement. One demonstration started at the Lloyd F. Moss Free Clinic involving approximately 300 persons lawfully marching on the sidewalks and lining the streets along US Route 1 and College Avenue. There was a peaceful demonstration of approximately 100 persons on the sidewalks at Cowan Boulevard and Todd Bahr Drive in front of police headquarters in the early evening. During this time, demonstrators remained on the sidewalk while various persons of the group gave speeches. Despite the largely peaceful protests, the Police Department received numerous resident reports throughout the day of plans for evening violence, including a "riot," a fire being set to the regional jail, and of looting of a downtown jewelry store.

Beginning a little after 5:00 p.m. on May 31, 2020, a group that grew to approximately 300 demonstrators gathered at Market Square and marched downtown before moving toward US Route 1. Demonstrators walked haphazardly throughout the downtown streets and blocked entire lanes while marching. Officers and supervisors were dispatched downtown to monitor the situation and assist with safety measures. Officers repeatedly directed demonstrators to reopen the roadways, both with and without a public address (PA) system. Demonstrators refused to move onto the sidewalks and continued to block vehicular travel throughout downtown. On many occasions they marched against oncoming traffic which required motorists to be diverted by police from the downtown area. Officers continued to attempt traffic control and to provide multiple safe routes for demonstrators but these efforts were ignored and countered with chants and obscenities shouted toward the police. Officers were unable to gain order and began to block various streets in an attempt to maintain public safety for both demonstrators and non-demonstrators.

By 7:43 p.m., the large group of protesters began moving toward US Route 1 by marching on Princess Anne Street. They blocked all lanes of traffic during this time and stopped to kneel in the roadway while blocking traffic. As demonstrators started to leave the downtown district and head toward US Route 1, reports were received that they were banging on vehicles as they walked. The demonstrators continued to receive direction from police to move to the sidewalks, which they refused. Demonstrators arrived at the intersection of US Route 1 and Princess Anne Street. A group of demonstrators approached an individual and began threatening him. Officers intervened and quelled the disturbance. One officer was immediately approached and surrounded by demonstrators

while trying to separate the groups. The group that had left the roadway to confront the individual in the parking lot then joined the large group on the roadway and continued south on US Route 1. Demonstrators in the large group continued to escalate their behavior by throwing traffic cones at police cars, striking road signs and striking patrol vehicles. A resident report was received that demonstrators had threatened to shoot business patrons and break into a business. The demonstrators then began to consume the entire roadway of US Route 1 (north and southbound), blocking US Route 1. This route is the primary route to Mary Washington Hospital; the trauma center for the region. Surrounding jurisdictions were alerted to use an alternate route or hospital due to the activity on US Route 1.

During their march down US Route 1, demonstrators sat in all four lanes of the highway for periods of time before continuing their march in a southbound direction. During this march, police officers continued making significant efforts to control the situation, including repeated announcements using voice commands, with and without a PA system, instructing demonstrators to cease blocking the highway and move onto the sidewalks. After the demonstrators ignored these commands, police officers then blocked off roadways with their vehicles to attempt to divert the demonstrators off of US Route 1 and onto the sidewalks. The demonstrators climbed over and around the police vehicle blockades that were stretched across the entire roadway at US Route 1 and Mary Washington Boulevard.

On more than one occasion, officers attempted to engage with the demonstrators and explained their goals of keeping them safe, and requested if they told police where they wanted to go, then police would keep the path free and clear for their demonstration. Some demonstrators ignored these officers while others responded with insults and profanity. After blocking and kneeling in all four lanes of the roadway at US Route 1 and Cowan Boulevard, demonstrators made a right onto Cowan Boulevard toward the Police Department. A demonstrator told an officer that they were heading to the Police Department. During this time, demonstrators struck road signs and police vehicles with their fists. On several occasions while on US Route 1 and Cowan Boulevard demonstrators prevented police vehicles with emergency equipment activated from being able to move or pass.

Up until this point, all officers were in regular police patrol uniforms with no specialized equipment or protective gear. As the situation continued to escalate, the Police Department's Tactical Field Force (TFF) was activated and a small contingency of members were deployed on Cowan Boulevard to protect life and property given the escalating events. The TFF is a group of sworn police officers who are equipped with specialty uniforms, equipment, training and the skills necessary to handle these types of civil disturbances, public demonstrations and other events involving large disorderly crowds. They wear helmets, soft body armor padded gear, shin guards and have access to shields, PR-24 batons and gas masks.

At 8:29 p.m., after more than three hours of illegal conduct by demonstrators and their continued refusal to heed the lawful, clear and repeated commands of the police officers in their attempts to gain order, the Fredericksburg Police Department declared an "Unlawful Assembly," requiring that the protesters disperse. As one officer turns onto Cowan Boulevard from US Route 1, he is unable to pass through the street after about 50-75 yards from US Route 1 due to all four lanes being blocked by demonstrators. He is immediately surrounded and the demonstrators begin to beat on his vehicle. The authorization for declaring an unlawful assembly is given and the officer begins to announce that "The Fredericksburg Police Department has declared an Unlawful Assembly. In

order to stop a serious and immediate breach of public safety, peace, or order, I command you in the name of the Commonwealth to leave this area immediately. Those who do not leave this area immediately are subject to arrest. This is an Unlawful Assembly. I command you in the name of the Commonwealth to leave this area immediately. Those who do not leave this area immediately are subject to arrest.” The officer continues to move up Cowan Boulevard behind the group slowly as the demonstrators are walking. During this time he is continuously giving the Unlawful Assembly declaration. The officer also announced that red smoke is being deployed and that they need to leave immediately.

### **Incident 1:**

Unlawful Assembly declarations were being made on a repeated and continuous basis by an officer, including with the use of a PA system, in the 2100 and 2200 blocks of Cowan Boulevard beginning at 8:29 p.m. on May 31, 2020. Despite multiple declarations of an Unlawful Assembly announced via a police vehicle PA system, demonstrators continued past a police line established on Cowan Boulevard at the intersection to Hugh Mercer Elementary School advancing toward the Fredericksburg Police Department Headquarters. With proper authority, a TFF grenadier deployed a handheld red smoke canister onto Cowan Boulevard in front of where demonstrators were advancing to gauge crowd reaction. This canister was picked up by a demonstrator and thrown back at police officers on Cowan Boulevard near Todd Bahr Drive. For the safety of all involved, and with proper authority, the grenadier deployed a handheld Ortho-Chlorobenzalmalononitrile (CS) smoke canister toward the advancing crowd in an attempt to begin dispersing the large crowd. CS smoke was utilized as the least injurious level of force for this situation. As this stopped only some of the crowd, additional CS smoke canisters had to be utilized. This stopped most of the crowd and slowly moved them east on Cowan Boulevard away from the Police Department. One officer continued to broadcast declarations of Unlawful Assembly over their vehicle PA system.

Demonstrators retreated and gathered on Cowan Boulevard, where they began striking vehicles in the area, including citizen vehicles and both marked and unmarked police vehicles. Many refused to leave so additional canisters of CS smoke were deployed. One officer is seated in his vehicle when demonstrators surround him and begin banging on his vehicle which prompted them to call on the radio for assistance. These officers were responding to police headquarters but their travel was impeded due to demonstrators in the roadway. A sting ball grenade which ejects rubber projectiles in a radius surrounding the device was deployed to disperse agitators refusing to leave.

### **Incident 2:**

This incident, involving the use of Oleoresin Capsicum (OC) spray on one individual, occurred in the 2100 block of Cowan Boulevard at approximately 8:41 p.m. on May 31, 2020, after CS smoke had been deployed. An officer was ordering a demonstrator, who was in the roadway on Cowan Blvd, to exit the roadway and the area due to the declaration of an Unlawful Assembly. This demonstrator punched the officer in his chest so the officer deployed his OC pepper spray toward the demonstrator’s face. The demonstrator turned and ran into the crowd and was not able to be detained.

Two off-duty officers responding to police headquarters had their personal vehicles damaged. One had a side view mirror broken off the vehicle and the other had the hood of his vehicle damaged by demonstrators beating on the vehicle. The demonstrators responsible for these incidents were unable to be detained due to safety reasons. One marked law enforcement vehicle

from another agency was also damaged on Cowan Boulevard while attempting to provide traffic control for the incident. Demonstrators kicked the rear door of the vehicle causing a large dent which required repairs. One arrest was made on Cowan Boulevard for the Unlawful Assembly after the subject's continued refusal to heed multiple warnings to disperse.

After the demonstrators began to leave the area of the Police Department, approximately 300 demonstrators returned downtown where they continued to block roadways, yell obscenities at police, and ignore the lawful commands of the police. On their way back downtown, demonstrators spray painted obscenities on a fence on Brent Street and spray painted a parked vehicle on Stafford Avenue. During this time, the Police Department received several reports from residents that demonstrators were threatening to loot the city and "burn the city down," a felony crime in Virginia. During this time, radio reports were received that alarms were going off at a downtown jewelry store. This was investigated and determined to be unfounded.

In the area of the Fredericksburg Courthouse, demonstrators kneeled in the roadway, blocking all lanes of travel on Princess Anne Street. Vehicles were doing burnouts in the street while people hung out of car windows screaming and honking their horns throughout the downtown district. Vehicles drove the wrong way on one way streets as demonstrators continued to engage in unlawful behavior such as occupying the roadway and being disorderly. Demonstrators surrounded motor vehicles on Caroline Street preventing the movement of residents not involved in the demonstration activity. They removed metal sidewalk barriers that had been previously set up to provide an outside seating area for downtown businesses during the pandemic. Demonstrators moved barricades from a construction site and walked around downtown with the construction barricades over top of their heads. During this time an unknown person spray painted "BLM" on a police vehicle.

### **Incident 3:**

This incident occurred in the 700 block of Princess Anne Street and the intersection of Charlotte Street at approximately 10:03 p.m. on May 31, 2020. A large crowd of approximately 300 had gathered in the area overtaking the street and intersection. The scene was chaotic with yelling, people carrying orange construction barricades to this location, revving of engines, and people honking their vehicle horns. A trash can was set on fire in the area of Charlotte Street and Princess Anne Street by an unknown individual. The fire was contained in the trash can and eventually extinguished itself. Members of TFF formed a line by the courthouse entrance and intersection. Other police officers were near this line as well. Due to the continued unlawful behavior observed, the Police Department issued a declaration of Unlawful Assembly via a police vehicle PA system at the intersection of Princess Anne Street and Charlotte Street. This declaration was read from a script and stated "I am Officer (Fill in Blank) with the Fredericksburg Police Department. In order to stop a serious and immediate breach of public safety, peace, or order, I command you in the name of the Commonwealth to leave this area immediately. Those who do not leave this area immediately are subject to arrest. This is an unlawful assembly. I command you in the name of the Commonwealth to leave this area immediately. Those who do not leave this area immediately are subject to arrest." During the declaration, demonstrators began to throw rocks at the police officers. For the safety of all involved, and with proper authority, the TFF grenadier deployed a CS smoke canister. CS smoke was utilized as the least injurious level of force for this situation. The grenadier also observed demonstrators attempting to flank the established police line. Several CS smoke canisters were utilized in an attempt to disperse the crowd from the 700 block of Princess Anne Street and the 300

block of Charlotte Street. Sting ball grenades were utilized to assist in dispersal of those who failed to leave the area.

Some demonstrators failed to disperse, including a female who stood directly in front of the grenadier in the police line who was trying to deploy CS smoke. One blast of OC pepper spray was utilized on this individual, who was then taken into custody. She was provided medical care by emergency medical services at the scene. A male demonstrator stood on the opposite side of the street refusing the leave. This demonstrator kicked a CS smoke canister back at police and refused to leave the area after the declaration of an unlawful assembly. A previously-deployed smoke canister was thrown at a TFF member, striking him on the ankle. The officer received minor injury as a result of this act. An officer attempted to utilize a blast of OC spray to his face but given the distance, the wind blew the OC away before contact. The demonstrator continued his refusal to disperse, so the officer got closer and utilized one blast of OC spray on the demonstrator. The demonstrator turned and went into the 300 block of Charlotte Street before he was able to be detained. Demonstrators refused to disperse and continued throwing rocks at the police officers. Demonstrators used cones and traffic barrels to disable and reduce the CS canister deployments. Demonstrators eventually began dispersing from the courthouse location further north on Princess Anne Street.

#### **Incident 4:**

This incident occurred in the 800 block of Princess Anne Street, 200 block of Hanover Street, and 800 – 1100 blocks of Caroline Street. Minutes after dispersing the crowd from Incident 3, the TFF observed demonstrators in the street in the 800 block of Princess Anne Street refusing to leave the area despite the declaration of Unlawful Assembly. The TFF created a line across Princess Anne Street and marched to City Hall in an attempt to disperse demonstrators from the area, and were continuing to repeat the declaration of Unlawful Assembly. While pausing at City Hall for several minutes, large rocks were being thrown at the police; one struck a Virginia State Police (VSP) Trooper in the helmet. One object struck an FPD officer in the leg and punctured the water bottle that was in his pocket. The TFF then moved to the intersection of Hanover Street and used CS smoke to disperse a crowd in the roadway within the 800 block of Princess Anne Street. Due to continued violence and refusal to disperse by the demonstrators, CS smoke and sting ball grenades were deployed to disperse the non-compliant crowd at Hanover Street and Caroline Street. The TFF turned left and formed a line on Caroline Street facing north. After pausing to allow demonstrators to disperse, a large crowd was observed on the roadway in the 800 block of Caroline Street.

A declaration of Unlawful Assembly was repeated via a police vehicle PA system and the declaration was repeated many times. The TFF advanced down Caroline Street and the large crowd refused to leave the area. CS smoke and sting ball grenades were utilized to disperse this crowd and most moved to the 900 block of Caroline Street. The crowd formed barricades across the 900 block of Caroline Street utilizing orange construction barrels found in the area as well as buckets filled with concrete with poles sticking out of them. Trash cans were also knocked over into the streets. The declaration of Unlawful Assembly was given again and the TFF advanced into the 900 block of Caroline Street. CS smoke was utilized to direct the crowd into the 1000 block of Caroline Street. While directing the crowd in the 1000 block of Caroline St., demonstrators continued to throw items at the TFF. A front business awning was damaged and the glass door to a business on Caroline Street was broken out when demonstrators threw the concrete buckets. The scene remained chaotic as demonstrators continued to block roadways as people were running throughout the downtown

district on the streets and through alleys. One motorist accidentally struck a police vehicle while trying to leave the area as the situation was escalating. After reaching the intersection of Caroline Street and Amelia Street, the crowd dispersed.

From the time the TFF deployed from Princess Anne Street and arrived at the intersection of Caroline Street and Amelia Street, approximately 83 minutes had passed. CS smoke canisters and other items (rocks, glass bottles, milk jugs, unknown liquids, beer, water bottles, potato, buckets with concrete and poles) were thrown at the TFF by demonstrators. Several officers were struck with items and sustained minor injuries. The TFF stopped in the roadway often to allow demonstrators time to get to their vehicles and comply with the declaration of Unlawful Assembly.

At one point, police encountered a male carrying a handgun as they were directing people out of the downtown district. The subject was advised multiple times to leave the area as an Unlawful Assembly had been declared. He refused to leave and the gun was confiscated and stored at the Police Department for safekeeping to be later returned to the owner. Multiple calls were received by residents and witnesses during this time downtown to make additional reports of the scene they were observing. Officers received a resident report that a jewelry store was being burglarized. This was investigated and determined to be unfounded. A call was received that City Hall was on fire however this was checked and also determined to be false.

During the incidents downtown, the Fredericksburg TFF was assisted by the VSP Civil Disturbance Unit and the Stafford Sheriff's Office Civil Disturbance Unit so that teams could move in unison down all three major downtown streets. This cooperative tactic was successful in clearing the streets by preventing demonstrators from turning back through alleys and side streets.

At 11:03 p.m., the City of Fredericksburg imposed a curfew through an emergency order beginning at 11:30 p.m. on May 31, 2020 and extending until 6 a.m. on June 1, 2020. Repeated announcements were made by police officers, including through a PA system, throughout the rest of the evening informing residents and visitors that an 11:30 p.m. curfew was in effect. The police did not issue any citations for curfew violations, despite the fact that it took until 1:45 a.m. until the downtown area was clear of demonstrators. Residents continued to report that demonstrators were discussing on social media that they would burn down the Fredericksburg Police Department in the coming nights.

### **June 1, 2020:**

There was a curfew in place this day beginning at 8:00 p.m. that would end on June 2, 2020 at 6:00 a.m. In the early morning hours, numerous vandalism reports were taken from businesses and residents for damage that was caused during the incidents the night prior throughout the City of Fredericksburg.

Several resident reports were received of threats being made against law enforcement. Additional information was being received that demonstrators were continuing to state that they were going to loot and burn in Fredericksburg. Credible intelligence was received that demonstrators involved in the previous night's events were involved in demonstrations that occurred in the City of Charlottesville in August 2017 and those demonstrators were associated with Antifa. A resident reported that demonstrators would be arriving from Richmond, Virginia by bus with the intent to cause damage to the courthouse buildings in the City of Fredericksburg. A local

business reported to the police department that it closed early due to a large number of young people purchasing goggles, lock cutters and black clothing.

Around 3:31p.m., a group of 25 demonstrators gathered at Market Square and began to march around the downtown area. The group quickly grew to 100 demonstrators and they began to march in the roadway through the downtown district, blocking all lanes of travel. Officers provided many of the demonstrators literature to advise them of the curfew order for that night. A resident called to report that demonstrators were blocking traffic and making obscene gestures at drivers on Princess Anne Street in the area of US Route 1.

The demonstrators marched onto the Falmouth Bridge where they were met by the Stafford County Sheriff's Office. The Stafford County Sheriff's Office declared an Unlawful Assembly and subsequently took action. Incidents that occurred on the Falmouth Bridge were handled by the Stafford County Sheriff's Office. During their time on the bridge, demonstrators threw the CS canisters off of the bridge onto the streets below which are in Fredericksburg city limits. During this time, a citizen reported that a pedestrian was struck on the Fredericksburg side of the bridge but further investigation showed that the citizen had been taken to the hospital by a private vehicle prior to police arrival.

Throughout the afternoon and into the evening, the Police Department received numerous resident calls reporting potential violent and criminal behavior in the downtown district. At 6:04 p.m., the demonstrators returned to the City of Fredericksburg on US Route 1 where they marched southbound while taking up the travel lanes. A resident reported seeing two subjects walking with cans of lighter fluid yelling "F- the police!" Vehicles began to join the demonstrators with vehicle occupants hanging out of the vehicles and on top of the vehicles screaming. Demonstrators tampered with construction signs and street signs and threw those signs they were able to remove from the ground.

During the time of the walk southbound on US Route 1, officers made announcements of the curfew both verbally and with the use of a PA system. Information was broadcast on social media outlining the curfew and how it would be enforced. Given that the Police Department was seeking voluntary compliance, demonstrators were given extra time on this second curfew night to clear the streets and were advised that enforcement would not begin until 8:30 p.m. even though the order was in effect at 8:00 p.m. Despite this leniency, demonstrators continued to march in the roadway throughout the city and refused to obey police commands or to abide by the curfew. The first arrest for a curfew violation was not made until 10:18 p.m.

#### **Incident 5:**

An officer utilized physical force during an arrest of a demonstrator violating the curfew order on College Avenue. This use of force was determined to be not in compliance with the department's Response to Resistance Directive and is described in greater detail in the [Response to Resistance](#) section below.

The city was clear of illegal demonstration activity at approximately 11:09 p.m.



## **June 2, 2020:**

There was a curfew in place this day beginning at 8:00 p.m. that would end on June 3, 2020 at 6:00 a.m. Dayshift officers took numerous vandalism reports from businesses and residents for damage that was caused during the incidents the night prior throughout the City of Fredericksburg. The slave auction block was spray painted during the night.

One group organizer filed a special permit application through the special events process to have an approved walk by the city. After meeting with the organizer, demonstrators were advised that they would be given a designated traffic lane for their march and that police would provide traffic control. Both the organizer and Police Department agreed on an acceptable route to be followed. Four police officers and a police supervisor marched with demonstrators along their route. Once the group completed its march, approximately 300 – 400 demonstrators gathered back in Market Square for a speech from the Chief of Police and members of City Council. During the march, an unoccupied police vehicle parked in the 200 block of William Street was damaged. When the officer returned to his car, he was told that the roof of his car had been dented by three unknown individuals. The vehicle sustained significant damage to the roof, which had to be replaced.

A second group of demonstrators formed and began marching after the speeches were complete. This group began walking in the travel lanes throughout the downtown district without a permit, creating traffic disruptions. Demonstrators refused orders to move from the travel lanes and onto the sidewalks. It was around this time that intelligence was received that the second group did not want to walk with the permitted group because they were cooperating with the police. Police continued ordering demonstrators to move from the travel lanes, without effect. At approximately 7:11 p.m., the Police Department began making arrests for pedestrians illegally in the roadway. The first person to be charged resisted arrest and was taken into custody with minimal force; he was later released on a summons for pedestrian in the roadway.

Shortly after arrests were made, agitated demonstrators surrounded officers and mutual aid was requested. The TFF was activated to the downtown area given the escalation of the incidents. As arrests continued to be made for pedestrians illegally remaining in the roadway, approximately 100 demonstrators arrived in the area of William Street and Charles Street. An agitator was identified and arrested. He resisted and was taken into custody with minimal physical force. There were no injuries to the demonstrator. Around this same time, demonstrators became agitated and began to throw full water bottles at officers and members of the media. One media member was struck in the head and fell to his knees due to the impact. At approximately 8:02 p.m., due to the continued assaults, the Police Department declared an Unlawful Assembly, including with the use of a PA system, in the area of the slave auction block (block has since been removed). Demonstrators began to disperse from the area. Several arrests were made for failure to disperse, for pedestrians illegally in the roadway and for curfew violations.

## **Response to Resistance:**

All use of force incidents between May 31, 2020 and June 2, 2020 were categorized into five separate incidents based on time and location, and which are described in detail in the above section entitled "Summary of Protester Events and Police Department Response." Three of the five incidents have multiple uses of force during each incident which are highlighted within the Summary. Four out of the five incidents occurred on May 31, 2020. Below are the findings by the Office of Professional Standards and the Chief of Police after a full investigation and review of each use of force:

### **Incident 1:**

This incident occurred in the 2100 and 2200 blocks of Cowan Boulevard at approximately 8:40 PM on May 31, 2020, adjacent to the Fredericksburg Police Department Headquarters.

Throughout Incident 1, all force utilized was determined to be compliant with department policy, compliant with state law (see 18.2-411 in the applicable laws section below), and necessary given the circumstances.

### **Incident 2:**

This incident occurred in the 2100 block of Cowan Boulevard at approximately 8:41 PM on May 31, 2020, after CS smoke had been deployed

This use of force was determined to be compliant with department policy, compliant with state law (see 18.2-411 in the applicable laws section below), and necessary given the circumstances.

### **Incident 3:**

This incident occurred in the 700 block of Princess Anne Street and the intersection of Charlotte Street at approximately 10:03 PM on May 31, 2020.

Throughout Incident 3, all force utilized was determined to be compliant with department policy, compliant with state law (see 18.2-411 in the applicable laws section below), and necessary given the circumstances.

### **Incident 4:**

This incident occurred in the 800 block of Princess Anne Street, 200 block of Hanover Street, and 800 – 1100 blocks of Caroline Street.

Throughout Incident 4, all force utilized was determined to be compliant with department policy, compliant with state law (see 18.2-411 in the applicable laws section below), and necessary given the circumstances.

### **Incident 5:**

On June 4, 2020, a Department employee reported to supervisors that an officer was observed potentially utilizing excessive force during an arrest of a demonstrator violating the curfew order on College Avenue on June 1, 2020. The Office of Professional Standards was promptly notified and the officer in question was immediately put on administrative leave and revoked of his police powers as an investigation was initiated.

The internal investigation included interviews and review of all body camera footage of the incident. The investigation revealed the officer's use of force (striking the demonstrator with his hand) was not permitted based on the Department's Response to Resistance Policy Directive 302. The arrestee was not injured and refused medical treatment. The Office of Professional Standards presented this case to the Commonwealth's Attorney for review and it was determined that criminal charges were not warranted. The Chief of Police terminated the officer's employment on June 25, 2020.

## **Summary of Arrests**

### **May 31, 2020**

- 1 arrest was made for Unlawful Assembly on Cowan Boulevard.

### **June 1, 2020**

- 24 arrests were made which include 22 curfew violations, 1 pedestrian in the roadway and, 1 obstruction of justice. All subjects were released on a summons promising to appear in court. These arrests were made at various locations at various times but primarily on College Avenue and Sophia Street. The first arrest was at 10:18 p.m. and the last at 11:37 p.m.

### **June 2, 2020**

- 34 arrests were made which include 22 curfew violations, 1 Unlawful Assembly, 7 pedestrian in the roadway, 1 stopping in the highway, 1 loud exhaust, 1 eluding, and 1 concealed weapon carry violation. These arrest were made throughout the downtown district with the first at 7:11 p.m. and the last at 8:59 p.m. No curfew arrests were made prior to the start time of 8:00 p.m.

## **Definitions of Chemical Agents and Sting Ball Grenades Used:**

All chemical agents used by the City of Fredericksburg were used as a less lethal alternative to disperse unlawful crowds without causing long lasting effects or permanent injury. There were no major injuries to officers, demonstrators or residents with the use of these less lethal options. All subjects who were directly affected or requested emergency medical attention received an evaluation and treatment by medical personnel.

- **Ortho-Chlorobenzalmalononitrile (CS):** This is referred to as CS smoke and is currently the most widely used riot control agent used by law enforcement for riots, civil disturbances and tactical operation. It is deployed by hand or by a launcher. CS smoke is an irritant that causes uncontrollable eye blinking and eye closure. Tears and a running nose may occur as well as coughing and sneezing. Reactions to the smoke can occur immediately or may never affect a person as some may be highly tolerant. The recovery time for smoke in the form of a powder which is used by FPD is approximately 10 minutes after removal from the exposure.
- **Sting Ball Grenade:** This is a rubber ball that disperses .31 caliber rubber pellets that are designed to deploy at low heights. There are approximately 105 pellets in each grenade and they are deployed on the ground near the crowd.
- **Oleoresin Capsicum (OC) Spray:** This is deployed in the form of a spray and is typically sprayed on the face. OC spray causes watering of the eyes, running nose and a burning sensation on the skin. It can cause respiratory problems if inhaled. Reactions to OC spray can occur immediately or may never affect a person as some may be highly tolerant. The recovery time for OC spray with direct contamination is 15-30 minutes to get the eyes to open. It may take 60 minutes or more for discomfort to subside and full recovery can take several hours. OC spray has been used by law enforcement since the 1980's.

## **Applicable Laws:**

- **18.2-137. Injuring, etc., any property, monument, etc.**

A. If any person unlawfully destroys, defaces, damages, or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages, or removes without the intent to steal, any monument or memorial for war veterans, not his own, described in § 15.2-1812; any monument erected to mark the site of any engagement fought during the Civil War, or any memorial to designate the boundaries of any city, town, tract of land, or any tree marked for that purpose, he shall be guilty of a Class 3 misdemeanor, provided that the court may, in its discretion, dismiss the charge if the locality or organization that owns or is responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

B. If any person who is not the owner of such property intentionally causes such injury, he is guilty of (i) a Class 1 misdemeanor if the value of or damage to the property, memorial, or monument is less than \$1,000 or (ii) a Class 6 felony if the value of or damage to the property, memorial, or monument is \$1,000 or more. The amount of loss caused by the destruction, defacing, damage, or removal of such property, memorial, or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.

- **18.2-406. What constitutes an Unlawful Assembly; punishment.**

Whenever three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize seriously public safety, peace or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace or order, then such assembly is an unlawful assembly. Every person who participates in any unlawful assembly shall be guilty of a Class 1 misdemeanor. If any such person carried, at the time of his participation in an unlawful assembly, any firearm or other deadly or dangerous weapon, he shall be guilty of a Class 5 felony.

- **18.2-411. Dispersal of unlawful or riotous assemblies; duties of officers.**

When any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff of the county and his deputies, the police officials of the county, city or town, and any assigned militia, or any of them, shall go among the persons assembled or as near to them as safety will permit and command them in the name of the Commonwealth immediately to disperse. If upon such command the persons unlawfully assembled do not disperse immediately, such sheriff, officer or militia may use such force as is reasonably necessary to disperse them and to arrest those who fail or refuse to disperse. To accomplish this end, the sheriff or other law-enforcement officer may request and use the assistance and services of private citizens. Every endeavor shall be used, both by such sheriff or other officers and by the officer commanding any other force, which can be made consistently with the preservation of life, to induce or force those unlawfully assembled to disperse before an attack is made upon those unlawfully assembled by which their lives may be endangered.

- **18.2-415. Disorderly conduct in public places.**

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he:

1. In any street, highway, or public building, or while in or on a public conveyance, or while in a public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed;

2. Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of any political subdivision of this Commonwealth or a division or agency thereof, or of any school, literary society, or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the funeral, memorial service, or meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or

3. Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

B. The conduct prohibited under subsection A shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title.

C. The person in charge of any such building, place, conveyance, meeting, operation, or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

D. The provisions of this section shall not apply to any elementary or secondary school student if the disorderly conduct occurred on the property of any elementary or secondary school, on a school bus as defined in § 46.2-100, or at any activity conducted or sponsored by any elementary or secondary school.

E. The governing bodies of counties, cities, and towns are authorized to adopt ordinances prohibiting and punishing the acts and conduct prohibited by this section, provided that the punishment fixed therefor shall not exceed that prescribed for a Class 1 misdemeanor. A person violating any provision of this section is guilty of a Class 1 misdemeanor.

- **18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3), (b) or (c) of § 18.2-248.1, or § 18.2-46.2 or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

D. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave.

- **46.2-818. Stopping vehicle of another; blocking access to premises; damaging or threatening commercial vehicle or operator thereof; penalties.**

No person shall intentionally and willfully:

1. Stop the vehicle of another for the sole purpose of impeding its progress on the highways, except in the case of an emergency or mechanical breakdown;

2. Block the access to or egress from any premises of any service facility operated for the purposes of (i) selling fuel for motor vehicles, (ii) performing repair services on motor vehicles, or (iii) furnishing food, rest, or any other convenience for the use of persons operating motor vehicles engaged in intrastate and interstate commerce on the highways of the Commonwealth;

3. Damage any vehicle engaged in commerce on the highways of the Commonwealth, or threaten, assault, or otherwise harm the person of any operator of a motor vehicle being used for the transportation of property for hire.

Any person violating any provision of this section is guilty of a Class 1 misdemeanor, and in addition, his driver's license may be suspended by the court for a period of not more than one year. The court shall forward such license to the Department as provided by § 46.2-398.

The provisions of this section shall not apply to any law-enforcement officer, school guard, firefighter, or emergency medical services personnel engaged in the performance of his

duties nor to any vehicle owned or controlled by the Virginia Department of Transportation while engaged in the construction, reconstruction, or maintenance of highways.

- **46.2-923. How and where pedestrians to cross highways.**

When crossing highways, pedestrians shall not carelessly or maliciously interfere with the orderly passage of vehicles. They shall cross, wherever possible, only at intersections or marked crosswalks. Where intersections contain no marked crosswalks, pedestrians shall not be guilty of negligence as a matter of law for crossing at any such intersection or between intersections when crossing by the most direct route.

The governing body of any town or city or the governing body of a county authorized by law to regulate traffic may by ordinance permit pedestrians to cross an intersection diagonally when all traffic entering the intersection has been halted by lights, other traffic control devices, or by a law-enforcement officer.

- **46.2-926. Pedestrians not to use roadway except when necessary; keeping to left.**

Pedestrians shall not use the roadways for travel, except when necessary to do so because of the absence of sidewalks which are reasonably suitable and passable for their use. If they walk on the hard surface, or the main travelled portion of the roadway, they shall keep to the extreme left side or edge thereof, or where the shoulders of the highway are of sufficient width to permit, they may walk on either shoulder thereof.

- **City Code 26-34. Curfew violation pursuant to emergency order.**

It is hereby ordered that the City of Fredericksburg shall be under a curfew beginning at 11:30 p.m. May 31, 2020 to 6:00 a.m. June 1, 2020, unless extended by further emergency order. While the curfew is in place no person shall be present on any street, road, alley, avenue, park, or other public place in the City of Fredericksburg with the following exceptions:

- Persons traveling to and from home, work, or places of worship;
- Hospital personnel;
- Members of the press;
- State and City of Fredericksburg employees and volunteers;
- Military personnel including but not limited to national guard troops;
- Private emergency medical transport workers;
- Persons seeking emergency services; and
- Other emergency workers.

Nothing in this Order shall be construed to prohibit or restrict travel to a hospital in the event of a medical emergency, nor shall such travel be considered in violation of this Order.

Under City Code §26-34, and City Code §1-14, violation of this Order is a Class 1 misdemeanor.

This order was extended the following days and was in effect with the same restrictions for 8:00 p.m. to 6:00 a.m. on June 1, 2020 and June 2, 2020.

This order was heard in the Fredericksburg General District Court on July 31<sup>st</sup> and deemed unconstitutional. The Commonwealth's Attorney Office has committed to appeal this finding to the Circuit Court.

**Damage Sustained to Property May 31, 2020 through June 2, 2020:**

- Police Department front vestibule and police memorial damaged by fire
- Seven Police Department vehicles were damaged
- Police vehicle from mutual aid partner damaged
- Two privately owned vehicles of officers damaged
- Wooden fence spray painted in residential area
- Two downtown businesses had glass doors broken
- Two vehicles were spray painted in residential area
- Downtown business had several stones moved from the garden area
- Two downtown businesses had front windows broken
- Slave Auction Block spray painted on two separate occasions

**Summary:**

As of this release, demonstrations continue in the City of Fredericksburg. After many meetings between group leaders and city officials, demonstrators have been remaining on the sidewalks and marching lawfully.

The Fredericksburg Police Department routinely reviews directives to ensure they are up to date with current law enforcement best practices. Several recommendations for positive change by the Police Department were identified in the internal After Action Review, and the Police Department has already begun working on these recommendations. The Tactical Field Force policy and operating procedures are being reviewed concerning the deployment of CS smoke and sting ball grenades. Other areas that are being reviewed include personnel responsibilities during large scale incidents; advanced planning and preparations for incidents of this nature; engagement with the community, demonstrators and organizers during these events; training and coordination with our mutual aid partners.

The City of Fredericksburg has recently retained Police Executive Research Forum (PERF) to perform a third-party review of the Police Department's response related to the events beginning on and after May 31, 2020, which is expected to include an evaluation of the Police Department's policies, procedures, practices, tactics and training on mass demonstrations and less-lethal force. The Police Department will cooperate fully with PERF to provide access to all collected data and any additional resources it may need in the coming months, and welcomes the opportunity to focus on areas where PERF may see opportunities for policy and procedural improvements in the Fredericksburg Police Department.