



# **FREDERICKSBURG POLICE DEPARTMENT**

## **RESPONSE TO DEMONSTRATIONS AND USE-OF FORCE POLICY REVIEW**

February 2021



## Executive Summary

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## Executive Summary

The city of Fredericksburg, Virginia (VA) contracted with the Police Executive Research Forum (PERF) to perform a review of the Fredericksburg Police Department's (FPD) response to a series of civil disturbances during a three-day period, from May 31 to June 2, 2020.

### Goal of This Report

This report presents lessons and findings that can help Fredericksburg prepare for similar events that may occur in the future.

### Scope of Work / Methodology

The city of Fredericksburg asked PERF to analyze the FPD's handling of demonstrations and civil disturbances that occurred on May 31-June 2, and to provide recommendations for improving the department's response to these types of incidents. The city also asked PERF to obtain the insights and opinions of a wide range of Fredericksburg community members, leaders, and members of the Police Department.

In August and October of 2020, PERF conducted two site visits to Fredericksburg. A team of PERF researchers interviewed FPD personnel (including department leaders, officers, and non-police administrative personnel) and analyzed FPD's policies on responding to demonstrations, use of force, and related accountability mechanisms. PERF also reviewed body-worn camera footage provided by FPD, which showed events from the perspectives of officers at the scene of demonstrations.

PERF also conducted interviews with a cross-section of city personnel, community members, local business owners, and University of Mary Washington (UMW) staff and students to gain insights into the community's views of the FPD and its actions during the period in review. In addition, PERF conducted numerous follow-up virtual interviews, and reviewed emails that Fredericksburg residents sent to an account that PERF created to provide another venue for community feedback.

PERF's virtual and in-person interviews included:

- Fredericksburg residents, religious leaders, and business owners;
- The Fredericksburg mayor, city attorneys, council members, and administrative staff members;
- Police Department leaders, officers, and administrative staff;
- Members of the FPD's Citizen Advisory Panel (CAP)
- University of Mary Washington administrative leaders and students;
- NAACP local chapter members;
- Black Lives Matter (BLM) local chapter leaders;
- Fredericksburg Freedom Coalition members.

### Background: National and Local Context for Civil Disturbances in Fredericksburg

Fredericksburg's experience was far from unique. Hundreds of American cities were not prepared for major demonstrations following the death of George Floyd in police custody in Minneapolis on May 25, 2020. In fact, Fredericksburg's experiences were brief and relatively peaceful compared to those of

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many other cities. In some locations, protests continued for months, and many cities faced rioting and significant violence.

The events of May 31-June 2 also should be seen in the larger context of the COVID-19 pandemic. In the months before the death of George Floyd, all across the nation, the COVID-19 pandemic was disrupting daily life in almost every way, causing illness, deaths and hardships, particularly among vulnerable and underserved communities. PERF has documented how COVID-19 has disrupted the work of policing nationwide.<sup>1</sup>

One key factor is that police agencies nationwide have been forced to curtail their activities in the community, in order to reduce the types of in-person contacts that spread the COVID virus. Thus, the George Floyd protests occurred at a time when the nation was under severe stress, and when police had been forced to disengage from their communities in many ways, reducing the day-to-day personal contacts that normally help to ease tensions and facilitate understanding and communication.

In Fredericksburg, another major source of stress was a firebombing attempt at FPD headquarters during the early morning of Sunday, May 31, which put the Police Department on edge. The firebomb was placed at the police HQ building's entrance, near where several FPD communication operators were stationed. Although the device did not detonate as intended, it did cause a fire outside the entrance.<sup>2</sup> The fire was reminiscent of numerous fires set by protesters several days earlier in Minneapolis, in particular the nationally televised burning of a police station in that city.<sup>3</sup>

### Key Findings

PERF's research found a significant problem that was evident in FPD's actions during May 31-June 2: the disorganized use of chemical and less-lethal munitions for the purpose of dispersing a crowd.

- **Major issues with the use of CS less-lethal tools:** First, at times it appeared that FPD used tools such as CS gas and a sting-ball grenade without considering the broader ramifications of using these less-lethal munitions. Such tools should be considered only when there is a significant concern about an immediate threat to persons or property.
- **Warning the public about the imminent use of CS gas:** FPD also failed to adhere to best practices for ensuring that CS and other tools, when used, are effective, such as announcing the impending use of the tools as a warning; providing enough time for demonstrators to leave the scene; making announcements that all demonstrators can hear, stating a deadline to leave and providing information about repercussions for failing to leave; providing specific instructions to

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<sup>1</sup> Since March 2020, PERF has written more than 110 "PERF Daily COVID-19 Reports," in which police chiefs and others tell PERF how they are managing the changes caused by the pandemic.  
<https://www.policeforum.org/covid-19-response>

<sup>2</sup> See video: "Man sets fire outside Fredericksburg police headquarters, cops say." *Fox 5*, May 31, 2020.  
<https://www.fox5dc.com/news/man-sets-fire-outside-fredericksburg-police-headquarters-cops-say>

<sup>3</sup> Minneapolis police station torched amid George Floyd protest." *Politico*, May 29, 2020.  
<https://www.politico.com/news/2020/05/29/minneapolis-police-protest-george-floyd-288361>

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demonstrators about which streets they should use to leave, so it will be clear whether the demonstrators are attempting to comply or not; using white and red smoke to serve as warnings and to determine wind direction, to avoid CS gas being blown back toward officers; and providing officers with PPE so they will not be impacted by the gas.

### **At the same time, PERF saw many positive signs in Fredericksburg:**

- The FPD quickly learned from the events of May 31, and on June 1-2 did a better job of staffing, planning, and managing spontaneous demonstrations.
- The department started a review process of their actions to identify weaknesses, develop solutions, and assign responsibility for reform measures.
- FPD began improving its use-of-force policy before it received PERF's recommendations.
- PERF's review of body-worn camera footage showed many officers showing compassion and empathy with protesters, and defusing potentially hostile moments.
- FPD employees clearly wanted to know what they can do better to respond to these incidents.
- Historically, FPD has generally had a good relationship with the Fredericksburg community, and department leaders are interested in restoring trust.

### **Basis of PERF Recommendations**

PERF's recommendations are based on best practices in the policing profession nationwide, which PERF has developed since its founding in 1976.

For the most part, PERF recommendations are not based on legal requirements, court mandates, or federal laws or regulations. Policing generally is not a field that is subject to extensive, detailed regulation by federal authorities. Rather, major aspects of policing are largely left to individual police agencies to manage. This includes issues like recruiting and training of officers, development of crime reduction strategies, improving police-community relationships, strategies for managing demonstrations, use of investigative tools, development of policing technologies such as body-worn cameras, and the intersection of policing with social issues such as immigration, homelessness, mental illness, and drug addiction.

For more than 40 years, PERF has worked with police chiefs and other leaders of the profession to develop best practices in many of these areas.<sup>4</sup>

Even on the critical issue of police use of force, federal, state, and local court rulings provide only the broad outlines of national standards. Much of PERF's work over the last 20 years has been about creating policies and rules that go beyond these minimum requirements and emphasize de-escalation and strategies for minimizing use of force.<sup>5</sup>

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<sup>4</sup> Most of PERF's work is publicly available at <https://www.policeforum.org/>. PERF's publications detailing model policies and practices on various issues in policing are online at <https://www.policeforum.org/free-online-documents>.

<sup>5</sup> See [Guiding Principles on Use of Force](#) (2016); [ICAT: Integrating Communications, Assessment, and Tactics](#) (2016); [Re-Engineering Training on Police Use of Force](#) (2015); and [An Integrated Approach to De-Escalation and Minimizing Use of Force](#) (2012).

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Similarly, PERF has conducted multiple studies and developed best practices on the police role in managing demonstrations, protest rallies, and other First Amendment-protected activities.<sup>6</sup>

**PERF's research process:** PERF does not develop its recommendations and best practices in a vacuum. PERF's typical methodology for writing national guidance on a given issue is to conduct preliminary research, identify experts within the policing profession and other professions that are pertinent to the issue at hand, and hold a national conference in which hundreds of police leaders and other experts discuss the critical issues and reach a general consensus. (The COVID-19 pandemic has required a shift toward virtual meetings rather than in-person conferences.)

On a complex issue such as police use of force, PERF has held many national and international conferences involving thousands of participants.<sup>7</sup>

### Key Recommendations

Following are some of PERF's key recommendations. These recommendations are also contained in the order they appear within the body of the report in Appendix 1.

- **Strengthen police department policy that outlines specific guidelines for use of CS gas:** The FPD's Tactical Field Force (TFF) Manual should incorporate a broader discussion of the ramifications of chemical agents and how these agents can escalate an incident rather than resolving it. The manual should provide guidance on when and how to determine if the deployment of CS gas is appropriate. Specifically, CS gas should not be considered unless there is clearly a legitimate concern about violence and/or property destruction, and other less-lethal options directed at specific individuals involved in criminal acts are not feasible.
- **Provide executive-level training to city leaders on planning for civil unrest:** Fredericksburg's city leaders and FPD leaders should attend executive-level training regarding the police response to mass demonstrations and civil unrest. The Federal Emergency Management Agency's (FEMA) Center for Domestic Preparedness has the expertise and resources to provide this training. PERF

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<sup>6</sup> See [The Police Response to Mass Demonstrations: Promising Practices and Lessons Learned](#) (2018) and [Managing Major Events: Best Practices from the Field](#) (2011).

<sup>7</sup> See the following:

- [Refining the Role of Less-Lethal Technologies: Critical Thinking, Communications, and Tactics Are Essential in Defusing Critical Incidents \(2020\)](#)
- [Suicide by Cop: Protocol and Training Guide \(2019\)](#)
- [ICAT: Integrating Communications, Assessment, and Tactics \(2016\)](#)
- [Guiding Principles on Use of Force \(2016\)](#)
- [Re-Engineering Training on Police Use of Force \(2015\)](#)
- [Civil Rights Investigations of Local Police: Lessons Learned \(2013\)](#)
- [An Integrated Approach to De-Escalation and Minimizing Use of Force \(2012\)](#)
- [2011 Electronic Control Weapon Guidelines \(2011\)](#)
- [Strategies for Resolving Conflict and Minimizing Use of Force \(2007\)](#)
- [Chief Concerns: Exploring the Challenges of Police Use of Force \(2005\)](#)

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has discussed the needs of the city of Fredericksburg with representatives from FEMA and has assisted with arranging this type of leadership training opportunity.

To some extent, the policing profession may need to create new training that goes beyond what FEMA and other organizations currently offer. The demonstrations and in some cases rioting that occurred for months following the death of George Floyd are not like anything the United States has seen before, and current training does not entirely meet the needs of today's police agencies.

- **Update policies and training for officers in defusing volatile crowds:** The FPD should adopt policy and training to ensure that individual officers do not attempt to engage groups of demonstrators. This is unsafe for the officer and can escalate a situation, requiring an escalated response, including use of force to protect the officer.
- **Develop communications plan for major demonstrations to better inform the public:** FPD leaders must keep their Public Information Officers (PIO) in the information loop, especially for unplanned, spontaneous events. PIOs are tasked with informing the public on behalf of the police department, and require timely and accurate information to share. The PIO and the FPD risk losing public trust when incorrect or contradictory information is released.
- **Clarify policy to ensure that demonstrators have time to comply with dispersal orders:** FPD's Incident Command must ensure that demonstrators have time to hear dispersal orders and comply with them, so they can begin leaving the area before officers enforce the order, unless an immediate threat to persons or property is present. Dispersal orders must be loud, clear, and provided from different parts of the crowd. To avoid confusion, dispersal orders must provide instructions about the direction and path the crowd should take.
- **Provide Personal Protective Equipment:** The FPD must ensure that all members of the Police Department are outfitted with protective equipment before they are involved in a response to civil unrest. In addition, the Tactical Field Force team must ensure that all equipment, including less-lethal munitions, are in working order and accessible when needed.
- **Consider ramifications and objective of using CS gas:** The FPD must consider the broader strategy and ramifications of deploying CS gas. Commanders must think beyond the level of tactics, and base their decisions on a higher-level analysis of what their objective is, and whether tools such as CS gas will achieve their objective without creating new, more difficult problems to handle.
- **Review mutual aid agreements so assistance from other departments is consistent with FPD policies:** The FPD should ensure that officers, deputies, and troopers responding to assist the FPD in mutual aid situations check in with FPD personnel for incident awareness, direction, and protocols (such as which agency's use-of-force policy will govern all responders). In addition, it is important that adequate and sufficient communication processes be put in place.

## Introduction

### Scope of Work

PERF was contracted by the city of Fredericksburg, VA, to perform a review of the Fredericksburg Police Departments' response to a series of civil disturbances during the period of May 31 to June 2, 2020. PERF interviewed FPD leaders and officers and analyzed department policies on responding to mass demonstrations, use of force, and related accountability mechanisms. PERF also reviewed body-worn camera footage recorded by FPD officers who were present during the demonstrations.

The city of Fredericksburg also requested that PERF conduct interviews with a cross-section of city government personnel, community members, local business owners, and University of Mary Washington (UMW) staff and students to gain insights on the community's perspective regarding the FPD and its actions during the period in review. The city provided its community with information about this project with PERF via the city's website and social media platforms, and by engaging local media to share information with the public.

### Methodology

The PERF team conducted two site visits to Fredericksburg in August and October of 2020 to interview FPD personnel (including department leaders, officers, and non-police administrative personnel) and Fredericksburg community members and civic leaders. In addition, PERF also conducted numerous follow-up virtual interviews and received additional community feedback from Fredericksburg residents through emails to an account that PERF created to receive community members' comments.

PERF's virtual and in-person interviews included:

- Fredericksburg residents, religious leaders, and business owners;
- City of Fredericksburg mayor, attorneys, City Council members, and administrative staff members;
- Police Department leaders, officers and administrative staff members;
- Members of the FPD's Citizen Advisory Panel (CAP);
- UMW administrative leadership and students;
- NAACP local chapter members;
- Black Lives Matter (BLM) local chapter leaders; and
- Fredericksburg Freedom Coalition members.

Following this period of collecting and analyzing data from interviews and related materials, PERF identified positive aspects of the FPD's response and related policies as well as opportunities for improvement.

## The City of Fredericksburg

Fredericksburg, VA is a historic port city, founded in 1728, that runs along the Rappahannock River. The city is approximately 10 square miles and is bordered by Stafford and Spotsylvania Counties. The U.S. Census Bureau estimates the 2019 population of Fredericksburg at 29,000<sup>8</sup>. Fredericksburg is situated just off Interstate 95, 53 miles south of Washington, D.C. and 58 miles north of Richmond, VA.

## The Fredericksburg City Police Department

The Fredericksburg Police Department (FPD) is a full-service, nationally accredited police agency with 64 sworn and 26 non-sworn personnel. The FPD has three divisions: the Patrol Division; the Detective Division; and Support Services.

In 2015, the FPD created a Citizen Advisory Panel (CAP) to serve as a link between the department and the community. CAP has a diverse group of community member who meet regularly with the police chief to discuss agency matters, from policy and programs to response to critical incidents. CAP's regular engagement with the FPD is a good policing practice, as it provides the Fredericksburg community with a forum and mechanism to understand and impact policing at the local level.

## National and Local Events Impacting Fredericksburg

Many of the FPD members and community members interviewed by PERF shared a view that the Police Department's response to demonstrations from early Sunday, May 31 through Tuesday, June 2 were influenced by national events the prior week, following the death of George Floyd in police custody in Minneapolis on May 25, which quickly prompted demonstrations and rioting in Minneapolis and other cities across the country.

A key event in Fredericksburg also had a critical role in influencing the police response to demonstrations: In the early morning hours of Sunday, May 31, there was an attempt to firebomb FPD's headquarters building.<sup>9</sup> Although the device did not detonate as intended, it did result in a fairly large fire directly outside the front door of the building, damaging a police memorial as well as the entrance to the building. Furthermore, the building, which houses all police operations, was occupied at the time by FPD dispatchers. The fire was reminiscent of numerous fires set by protesters several days earlier in Minneapolis, in particular the nationally televised burning of a police station in that city.

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<sup>8</sup> <https://www.census.gov/quickfacts/fredericksburgcityvirginiacounty>

<sup>9</sup> "Man sets fire outside Fredericksburg police headquarters, cops say." Fox5 DC, May 31, 2020. <https://www.fox5dc.com/news/man-sets-fire-outside-fredericksburg-police-headquarters-cops-say>

## Section I: Summary of FPD's Response to Demonstrations

This section highlights FPD's response to demonstrations that took place in the city from May 31-June 1, 2020.

### Demonstrations in Fredericksburg

The following sections provide a summary of PERF's findings from a review of police reports and body-worn camera footage, in-person and virtual interviews, and news media coverage.

Although not in the timeframe of PERF's scope of work, PERF learned that planned and organized protests occurred in the City of Fredericksburg on May 30. Interviews with FPD personnel indicated that these protests were peaceful and orderly, and the FPD provided assistance with traffic control and other safety measures.

#### Sunday, May 31

The FPD provided a police presence and traffic control for several planned demonstrations, which varied in tone and size, though interviews with participants and FPD personnel indicate that they were generally peaceful and orderly. Later in the day, a demonstration culminated at the FPD headquarters on Cowan Blvd., a road that generally runs east-west and is divided by a median, with two lanes on each side. Hugh Mercer Elementary School, apartment buildings, and the FPD headquarters are less than half a mile from the intersection of Cowan Blvd. and U.S. Route 1, a major north-south highway that runs through Fredericksburg.



**Demonstration begins peacefully in late afternoon:** In the afternoon hours of May 31, a group of demonstrators who had been marching throughout downtown Fredericksburg, about two miles to the east of FPD headquarters, began marching toward Route 1. FPD officers were providing traffic control at

## Section I: Summary of FPD's Response to Demonstrations

intersections and following the group. Within the city, Route 1 is divided by a median, with two lanes on each side. Route 1 and its offshoots lead to commercial establishments, residences, and infrastructure such as Mary Washington Hospital.

During this time, unlawful acts by demonstrators were limited to public order offenses of obstructing vehicular traffic. Interviews and PERF's review of body-worn camera footage showed no property damage or physical violence against others. Officers gave verbal directions to demonstrators and used their vehicles as barriers. The demonstration appeared to be spontaneous in nature, without any leaders.

**Demonstrators begin marching on Route 1:** At approximately 7:45 p.m., the group began to march onto Route 1. There were reports that a small number of demonstrators pounded their hands on police vehicles as they walked past them. At approximately 8:00 p.m., a bystander who appeared intoxicated initiated a heated confrontation with at least a dozen demonstrators. Officers quickly intervened and successfully separated the parties. FPD interviews and documents estimated this crowd to consist of approximately 250-300 people.

**At 8:15, police warn demonstrators of risks of walking in traffic:** At approximately 8:15 p.m., demonstrators reached an L-shaped barricade of nearly a dozen police vehicles positioned across Mary Washington Boulevard and Route 1. An officer yelled "We're trying to keep the road safe for you; we'd like you to turn around so we can keep it blocked." A demonstrator replied that the demonstrators were going to continue walking southbound on US Route 1. The officer replied "You do that; that's fine. It's at your own risk," as demonstrators walked between the police vehicles. At approximately 8:20 p.m., one or more calls for service were dispatched at an establishment on Route 1. Some of the parties involved were demonstrators who had begun making their way to their vehicles. This incident briefly diverted several officers from directing traffic and providing crowd control. During this period, demonstrators obstructed traffic, generally refused to follow the FPD officers' directions, and sat or knelt in the vicinity of the Fredericksburg Shopping Center, and again at Cowan Blvd. and Route 1.

**At 8:30, police become concerned about demonstrators approaching FPD building:** At 8:30 p.m., events escalated when demonstrators turned onto Cowan Blvd. Perhaps because of the attempted firebombing at FPD headquarters earlier that day, police radio transmissions showed that officers were concerned about demonstrators approaching FPD headquarters. One officer stated: "We cannot let them take over Todd Bahr Drive," referring to the short offshoot of Cowan Blvd. on which the FPD headquarters is located.

**At 8:30-8:35, police declare an "unlawful assembly":** In an effort to disperse the crowd of demonstrators (estimated at 250-300 people) and discourage them from congregating in large numbers so close to the FPD headquarters, FPD officers following the crowd declared an order of "unlawful assembly." With assistance from mutual aid partners, FPD officers also blocked the eastbound lane of traffic with their vehicles. At approximately 8:35 p.m., an FPD officer used his car's public address system to repeatedly announce that the gathering was now declared an unlawful assembly, and that by 9:00 p.m. demonstrators should "get off the street or you will be arrested."

**At 8:37, officers use CS gas:** However, at approximately 8:37 p.m., *just minutes after demonstrators were warned to disperse*, an officer requested and was immediately granted permission from a

## Section I: Summary of FPD's Response to Demonstrations

supervisor to deploy CS gas<sup>10</sup> into the crowd, near where officers were located at FPD headquarters, at the intersection of Cowan Blvd. and Todd Bahr Drive.

**Officers deploy red smoke canister and then CS and a sting-ball grenade:** An officer first threw a red smoke canister. The deployment of red smoke is intended to warn police and the crowd of impending gas deployment, as well as to gauge the direction and speed of the wind. Almost immediately after the red smoke was deployed, a demonstrator threw the canister back toward the line of officers in formation across the road. The officer then threw a CS gas canister toward the crowd. While most of the crowd retreated east on Cowan Blvd., some demonstrators remained behind in smaller groups. Officers then deployed additional less-lethal munitions (e.g., a sting-ball grenade and CS gas) toward these groups approximately 10 minutes after first deploying gas.

A sting-ball grenade is a brand of less-lethal grenades which, upon detonation, emit a "loud blast, bright flash, and dispersion of stinging... pellets." The grenade contains approximately 105 rubber pellets which are 0.31 inches in diameter, and weigh about 0.35 grams<sup>11</sup>.

**Both motorists and demonstrators were in area:** At least a dozen law enforcement vehicles were in and around this intersection. The demonstrators were gathered on Cowan Blvd near Hugh Mercer Elementary School. Numerous law enforcement vehicles, positioned to block the eastbound lanes, were facing west. Numerous civilian vehicles were in the Westbound lanes of Cowan Blvd. These vehicles were occupied by motorists trying to get through the area, and were mixed in with protestors and officers in and around the street and sidewalks.

**A demonstrator and officer in confrontation:** While these events unfolded, an officer approached a demonstrator and repeatedly ordered him to "move along" and "get on the sidewalk, or I will OC [pepper spray] you."<sup>12</sup> The demonstrator did not comply and appeared to shove the officer, who then pepper-sprayed the demonstrator<sup>13</sup>. The demonstrator fled into the crowd and was not apprehended.

Shortly thereafter, a demonstrator kneeling in the road was arrested.

### **Intermission: Vandalism, Impeding Traffic, Fighting, Disorderly Conduct**

As most of the demonstrators began to retreat, officers and supervisors maintained a strong presence around Route 1 and Cowan Blvd., where they regrouped and planned while mutual aid personnel and

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<sup>10</sup> Ortho-chlorobenzalmalononitrile (CS), a chemical agent used by police, is one of several commonly used forms of riot control agents, commonly referred to as "tear gas." According to the Centers for Disease Control and Prevention (CDC), short-term exposure to riot control agents, including CS gas, can cause burning sensations in the eyes, nose, and mouth, as well as coughing, shortness of breath, nausea, and vomiting. Long-term exposure can result in more severe symptoms. <https://emergency.cdc.gov/agent/riotcontrol/factsheet.asp>

<sup>11</sup> <https://hurricane-butterfly.net/product/cts-sting-ball-grenade-multi-effect-non-irritant-approx-105-rubber-balls-model-9590/>

<sup>12</sup> Pepper spray (Oleoresin Capsicum, or OC) is a widely used less-lethal tool designed to temporarily blind and disorient subjects. Temporary exposure causes many of the same effects as CS gas. <https://nij.ojp.gov/topics/articles/pepper-spray-research-insights-effects-and-effectiveness-have-curbed-its-appeal>

<sup>13</sup> The exact nature of the assault is difficult to determine from the BWC footage, though it appears to be a shove.

## Section I: Summary of FPD's Response to Demonstrations

equipment arrived. Some officers also needed to recover from the effects of CS gas on themselves, because many of them did not have sufficient protective gear, such as gas masks.

According to documents provided to PERF by the FPD, residents of Fredericksburg were calling 9-1-1, reporting illegal acts including vandalism, impeding traffic, fighting, reckless driving, disorderly conduct, and the formation of barricades using materials at-hand. They also reported overhearing statements and threats of looting, rioting, and arson. Documents provided to PERF by FPD, such as the department's internal after-action report, state that several acts of vandalism, such as spray painting, occurred during this period.

### Downtown

**At 9:50, situation escalates at the Courthouse:** At approximately 9:50 p.m., demonstrators, estimated by FPD to be approximately 300 people, arrived at the Fredericksburg Courthouse Building, which was surrounded by sheriffs' deputies from the surrounding counties as a part of the FPD's regional mutual aid agreement. At this time, additional equipment began to arrive, as did the FPD Tactical Field Force (TFF) team and its mutual aid partners from the Virginia State Police and the surrounding counties' sheriffs' offices, all equipped with riot control equipment. While tensions were high, PERF's review of officers' body-worn camera footage did not show members of the crowd actively engaged in acts of destruction or other types of violence. As the TFF team formed a line, some members of the crowd became more boisterous in response, and formed a human chain across from the officers.

**At 10:03, police declare an unlawful assembly:** At approximately 10:03 p.m., an FPD sergeant announced the following using a vehicle public address system:

"I am Sergeant \_\_\_\_\_ with the Fredericksburg Police Department. In order to stop a serious and immediate breach of public safety, peace, or order, I am declaring this assembly an unlawful assembly. I command you in the name of the Commonwealth to leave this area immediately. Those who do not leave immediately are subject to arrest."

**Within seconds, munitions deployed:** *Approximately nine seconds after the sergeant said the word "arrest," officers began deploying what would be the first burst of CS gas downtown.* There were three deployments of pepper spray targeted against two specific individuals. In one instance, pepper spray was deployed against a woman who, after the initial the deployment of CS gas, approached within several feet of the line of officers in an apparent attempt to prevent them from launching additional canisters of CS gas. According to reports provided by FPD, the woman was then removed from the scene and treated by a TFF paramedic and an FPD officer. While this use of force was found within policy by FPD, please refer to page 27 of this report for a discussion of preferable tactics that could be employed, such as having designated officers move past the TFF line to physically remove the woman from the scene.

**Confrontations continue for 90 minutes:** Between approximately 10:00 p.m. and 11:30 p.m., the TFF team repeated a pattern of marching, stopping, giving PA announcements, and deploying munitions toward demonstrators who failed to disperse or committed offenses. Since the TFF teams consisted of law enforcement officers from several different agencies, PERF cannot identify or count the exact munitions used (nor is it within the scope of this report to do so).

## Section I: Summary of FPD's Response to Demonstrations

**Police respond with CS gas:** Based on PERF's review of body-worn camera footage, an unknown number of demonstrators were observed throwing hard objects such as rocks and CS gas canisters at officers. Reports provided to PERF indicated that FPD observed several instances of demonstrators destroying or attempting to destroy property. BWC video also showed that many demonstrators failed to disperse when ordered and were obstructing vehicle traffic. As stated above, TFF team members responded by deploying CS gas into the crowd. By 1:45 a.m. Monday, June 1, police had cleared the downtown area of demonstrators.

One arrest was made for unlawful assembly on May 31.

### Monday, June 1

**Relatively calm day, with a curfew imposed:** Despite periodic disturbances, there were no significant law enforcement actions (i.e., arrests, uses of force) taken by the FPD on Monday. At approximately 9:40 p.m., the TFF team formed a line downtown at the corner of Charlotte St. and Princess Anne St. The TFF team stopped a line of cars so that other officers could proceed down the line to inform vehicle occupants of the curfew (running from June 1 at 8:00 p.m. until June 2 at 6:00 a.m.), that they needed to leave, and that they would be arrested if they were seen outside while the curfew was in effect.

**Officers issue summonses for curfew violations:** Officers began to issue summonses for curfew violations at approximately 10:15 p.m. These incidents are referred to in public documents as "arrests," but violators were only briefly detained (often in handcuffs), issued a summons, and released. In one incident, an officer (whose employment with FPD was later terminated) grabbed an arrestee, forced him down to the ground, and struck him with a closed fist several times in the side.

**Actions of other agencies:** Although the Stafford County's Sheriff's Office used force to disperse demonstrators who had gathered on Falmouth Bridge at 6:50pm, the actions of other law enforcement agencies are outside the scope of this report. In this instance, FPD officers were escorting the crowd through town. Several members of the crowd moved onto the Falmouth Bridge and attempted to cross the river into Stafford County. Sheriff's deputies formed a line at the Stafford County side of the bridge and dispersed the crowd by using CS gas.

### Tuesday, June 2

#### **Sanctioned March and Market Square Event: Generally Peaceful**

At approximately 3:30 p.m., the FPD addressed a group of demonstrators prior to their planned and permitted march on the streets. Shortly thereafter, several officers marched with demonstrators, while other officers blocked intersections and directed vehicle traffic to facilitate the demonstration. The officers' presence seemed to be received positively by most, if not all of the demonstrators.

At approximately 6:00 p.m., demonstrators and other community members gathered in Market Square in anticipation of speeches made by various city officials and community leaders. With the exception of a few heated verbal exchanges, the event in Market Square involved no hostile or aggressive behaviors. Despite the underlying tension, officers and citizens mingled, chatted, distributed water bottles, and had frank but civil discussions about race, policing, and related topics.

### Second March, Prior to Curfew: Conflicts and Summonses

Shortly before 7:00 p.m., a sizable group of demonstrators began marching on sidewalks and streets. Police officers, using the vehicle public address systems as well as unamplified voices, ordered demonstrators in the streets to move to the sidewalk.

One demonstrator who did not immediately comply with these orders was tackled by an officer, handcuffed, cited for “[being a] pedestrian in the roadway,” and released. This police action agitated the demonstrators.

Numerous demonstrators expressed frustration and confusion regarding the order to move onto the sidewalk. The demonstrators asserted that they had been given permission to march in the left lane. Some officers told demonstrators that such allowances were only the case prior to the 6:00 p.m. gathering in Market Square. Other officers told demonstrators that they “lost their left lane marching privileges” when they spilled over into the right lane.

Meanwhile, a small group of officers and deputies quietly sought clarity from each other and command staff regarding the status of the left lane.

**Assuring demonstrators that “arrests” were merely summonses:** As demonstrators continued marching down the street and sidewalk, officers arrested more pedestrians for blocking the roadway. These incidents are referred to in public documents as “arrests,” though violators were again briefly detained (often in handcuffs), issued a summons, and released. These police actions further agitated demonstrators, who by that time had stopped marching. Officers formed a line between demonstrators and officers who were issuing summonses to arrestees. A few scuffles between officers and demonstrators ensued, resulting in more arrests for pedestrians in the roadway. The scuffles did not rise beyond brief bouts of pulling, grabbing, and shouting.

PERF observed through body-worn camera footage that many demonstrators were unaware that the arrestees were being cited and released. Instead, many were under the impression that those who had been removed and handcuffed would be transported to jail.

PERF also observed that many of the officers issuing the summonses successfully calmed the agitated arrestees in their custody by explaining to the arrestees that they would be released shortly, as the summons was akin to a traffic ticket. One officer permitted an arrestee's acquaintances to cross the street and observe/record the officers as they worked, which also helped to de-escalate tensions. PERF also observed some officers attempting, with varying levels of success, to de-escalate the situation by calmly explaining that demonstrators would not be bothered or arrested if they remained on the sidewalk, and that the arrestees would be released shortly with nothing more than a summons.

Eventually, the TFF team arrived and formed a line perpendicular to officers and the crowd, which moved on. As 8:00 p.m. approached, an officer used his vehicle's public address system to remind those in the downtown area that a planned curfew would go into effect at that time.

### Curfew Enforcement

In contrast with the previous night, officers began issuing summonses for curfew violations almost immediately after the curfew went into effect. Though many demonstrators dispersed, a group of

## Section I: Summary of FPD's Response to Demonstrations

several dozen remained at the corner of William Street and Charles Street. Officers used their vehicles' public address systems to announce that these demonstrators were engaged in an unlawful assembly.

As officers moved toward the group, a demonstrator moved toward the officers. An officer wrapped his arms around the demonstrator and took him to the ground. Though the demonstrator resisted attempts to be handcuffed, he was eventually taken into custody, cited, and released without further incident. As this occurred, several demonstrators began throwing filled plastic water bottles into the group of officers. One of these bottles struck a member of the media who was documenting the events. In anticipation of the deployment of CS gas, the group of officers donned gas masks and repositioned away from the crowd. The TFF team advanced and dispersed the crowd without using physical force or chemical munitions; the team remained in the area until approximately 8:45 p.m.

Meanwhile, officers circulated throughout the city, citing and releasing numerous individuals for violating the curfew. Some demonstrators were merely verbally notified that a curfew was in effect. Others were detained, identified, and released without being cited. Some of those cited expressed anger that they had been cited when they were "on the way to their car [to leave]." One individual, who had previously been identified as an agitator, was arrested and taken into custody for curfew violation after being cited and released for the same thing approximately 10 minutes earlier.

### Arrest Statistics

As part of this review, PERF examined demonstration-related arrests using data provided by the FPD. During the demonstrations, 72 people were arrested by FPD, and a total of 81 charges were filed. Most of these "arrests" were actually summonses, given primarily for curfew violations. These were summonses for the individual to appear in court, at which point they were released on their own recognizance once the summons was issued.

Of those arrested:

- The vast majority (85%) of those arrested were local to the area, being either residents of Fredericksburg or of the city's two neighboring counties.
  - Over half (57%) came from the adjoining counties of Stafford and Spotsylvania. Another 28% were from the city of Fredericksburg. The rest were either residents from further out in Virginia (11%) or out of state (3%).<sup>14</sup>
- Arrests were almost evenly split between white people (47.3%) and Black people (52.7%).
  - An equal number of white men and white women were arrested (n = 17 for each).
  - More Black men (n = 33) were arrested than Black women (n = 5).
- Over half of the people arrested (58%) were between the ages of 18 and 42.

Recommendations regarding arrests and the use of force in arrest situations are included in Section II of this report.

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<sup>14</sup> Totals do not equal 100% due to rounding.

Section I: Summary of FPD’s Response to Demonstrations

**Timeline of Events**

PERF has created the timeline of events reviewed below:

<b>Timeline of Events</b>	
Sunday, May 31, 2020	<ul style="list-style-type: none"> <li>● <b>12:34 am:</b> Firebomb attempt at FPD HQ</li> <li>● <b>12:00 pm - 2:00 pm:</b> Planned and peaceful demonstrations</li> <li>● <b>5:16 pm:</b> Unplanned protests begin downtown</li> <li>● <b>7:43 pm:</b> Demonstrators move to U.S. Route 1 from downtown</li> <li>● <b>8:34 pm:</b> “Unlawful assembly” declared</li> <li>● <b>8:37 pm:</b> Tactical Field Force (TFF) deploys red smoke and CS gas</li> <li>● <b>8:41 pm:</b> OC chemical spray deployed</li> <li>● <b>8:49 pm:</b> Sting-Ball grenade deployed</li> <li>● <b>9:45 pm - 10:00 pm:</b> Demonstrators head to Fredericksburg courthouse</li> <li>● <b>10:01 pm:</b> TFF deployed to courthouse</li> <li>● <b>10:03 pm:</b> “Unlawful assembly” declared</li> <li>● <b>10:04 pm:</b> CS gas deployed and OC used</li> <li>● <b>10:30 - 11:19 pm:</b> CS Gas deployed</li> <li>● <b>11:03 pm:</b> Curfew announced (May 31 - 11:30 pm to June 1 – 6 am)</li> </ul>
Monday, June 1, 2020	<ul style="list-style-type: none"> <li>● <b>1:45 am:</b> Downtown cleared of demonstrators</li> <li>● <b>1:37 pm:</b> City Manager directs closure of all city offices, courts, and court service at 2 pm due to potential civil disturbance</li> <li>● <b>3:04 pm:</b> Demonstrators head to Market Square</li> <li>● <b>3:31 pm:</b> Group of 25 demonstrators march</li> <li>● <b>4:45 pm:</b> Group grows from 25 to 100</li> <li>● <b>6:04 pm:</b> Group begins marching to Route 1</li> <li>● <b>6:50 pm:</b> Stafford County Sheriff’s Office (SO) declares “Unlawful Assembly” on Falmouth Bridge; Stafford County SO Deploys CS gas while the FPD monitors and blocks streets for safety purposes</li> <li>● <b>7:26 pm:</b> Social media posts and crime alerts issued to advise of impending curfew</li> <li>● <b>10:10 pm:</b> Arrest teams created and arrest plan developed</li> <li>● <b>10:18 pm - 11:37 pm:</b> Curfew violation arrests</li> </ul>
Tuesday, June 2, 2020	<ul style="list-style-type: none"> <li>● <b>1:04 pm:</b> Citizen Report - Auction Block Vandalized</li> <li>● <b>5:58 pm:</b> Demonstrators in Market Square for speech from the FPD Police Chief, the City Mayor, members of City Council, members of the Citizen Advisory Panel, and Fredericksburg community members (<i>approximately 300-400 in attendance</i>)</li> <li>● <b>6:54 pm:</b> Disruptive group of demonstrators forms</li> <li>● <b>7:00 pm:</b> Arrest teams formed to enforce law violations</li> <li>● <b>7:11 pm and beyond:</b> Summons issued (pedestrian in roadway)</li> </ul>

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|--|--|
|  | <ul style="list-style-type: none"><li>● <b>7:21 pm:</b> Officers surrounded by agitated demonstrators</li><li>● <b>7:22 pm:</b> Mutual aid requested; TFF Activated</li><li>● <b>8:00 pm - 10:00 pm:</b> Officers again observe Auction Block vandalized</li></ul> |
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## Section II: PERF Assessment of the FPD Response

This section will discuss the various components of the Fredericksburg Police Department's (FPD) response to demonstrations, the PERF team's review of that response, and where appropriate, how that response can be improved. Section IV of the report will provide specific recommendations on how to include these improvements in policy.

### Regional Mutual Aid Agreements

In 2013, the FPD entered into a mutual aid agreement with the Fredericksburg City Sheriff's Office, the Stafford County Sheriff's Office, the Spotsylvania County Sheriff's Office, and the King George County Sheriff's Office. The agreement is known as the "Rappahannock Area Law Enforcement Mutual Aid Agreement" (RALEMAA). The purpose of the agreement was to provide assistance and support to participating agencies in both daily and emergency situations. The agreement was updated on various occasions as new city and sheriffs' office officials were appointed or elected to leadership roles.

The Commonwealth of Virginia has a mutual aid agreement with all cities and counties in the state. This statewide mutual aid program was developed to assist city and county law enforcement agencies in need of assistance from one another in the event of a major disaster, although the agreement indicates it can apply to smaller scale emergencies if needed. RALEMAA was not intended to supplement this statewide mutual aid program but rather to serve as a stand-alone regional emergency event mutual aid agreement.

The RALEMAA agreement was in place during May 2020, and assistance from each of the agencies in the agreement was requested during the demonstrations. The Spotsylvania Sheriff's Office responded and provided assistance on May 31 as well as over the next several days. Although not specifically in the agreement, the Virginia State Police has statewide authority and did respond on May 31, 2020 and June 1, 2020, providing troopers to assist FPD in their response to demonstrations. The UMW Campus Police responded for a request for assistance during the evening of May 31 to provide facility protection at the FPD police facility.

**Recommendation: Share policies with mutual aid partners.** Once FPD implements the policy recommendations contained in this report, they should be shared with FPD's mutual aid partners. PERF has other recommendations addressed later in this section regarding shared response capabilities, training, and equipment.

### Implementation of the Incident Command System

The Fredericksburg Police Department utilized the Incident Command System<sup>15</sup> (ICS) during its response to planned and spontaneous demonstrations that occurred between May 31 and June 2, 2020. ICS is a standardized approach to manage and control an emergency response involving numerous personnel or multiple agencies. FPD personnel have been trained in the many Federal Emergency Management Agency (FEMA)-recommended ICS courses for law enforcement, according to interviews with police

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<sup>15</sup> <https://training.fema.gov/emiweb/is/icsresource/>

## Section II: PERF Assessment of the FPD Response

personnel. FPD policy pertaining to Incident Command is contained in Department Directive 320. PERF recommendations to improve the policy itself are in Section IV of this report.

On the evening of Sunday, May 31, Incident Command was established on Cowan Blvd. at the intersection that leads to the FPD police facility. The police facility is less than a quarter mile drive from this intersection. It was clear from body-worn camera footage that this scene was hectic and emotionally charged, especially as the crowd of demonstrators made their way west on Cowan Blvd and approached the police facility entrance. In the following days and nights, the FPD leadership used office space within their police facility for Incident Command.

Although Incident Command should be established close enough to an event to allow effective communication and coordination of operations, it should not be located in an area that will be directly impacted by the event. The location of FPD's Incident Command on the evening of Sunday, May 31 became a critical area in the demonstration and was impacted by noise, scene confusion, and eventually by the deployment of chemical agents. This can adversely impact sound decision-making and strategy.

During PERF's interviews with FPD leaders, they recognized the challenges this location created on May 31, and ensured that in the following days, Incident Command was then located in the department's detective office, an area conducive to event awareness, planning, and decision-making.

**A unified command allows resources to be better identified, managed, and deployed. However, PERF was unaware of any fire department or emergency medical responders that were staged or briefed on demonstration events that were occurring in Fredericksburg. Having fire and emergency medical responders on hand provides a better response if, for example, they would be needed to assist individuals impacted by the release of chemical agents or less-lethal munitions.**

**Recommendation: Include Fire and EMS in Incident Command.** Incident Command must be able to simultaneously focus on operational tactics as well as overall strategy and desired outcomes/resolutions for planned and spontaneous events. PERF interviews and observations indicate Incident Command was typically limited to police personnel. A large-scale event involving mass demonstrations and the potential for injury to community members or law enforcement personnel can benefit from command-level representatives of the fire department and emergency medical response as well as other law enforcement agencies.

During the afternoon of June 1, a large group of approximately 100 demonstrators marched from downtown Fredericksburg toward Route 1 and to the Cambridge Street bridge, a bridge shared by the city of Fredericksburg and Stafford County.

**PERF's review found little coordination between law enforcement agencies, which was problematic because there were differing philosophies regarding law enforcement's response to the demonstrators as they moved onto the bridge.**

The FPD provided traffic assistance to the demonstrators as they walked in the roadway. In contrast, the Stafford County Sheriff's Office responded on their county's section of the bridge (the north side) by blocking access for demonstrators to cross the bridge. PERF's review found a lack of communication and coordination between the Fredericksburg and Stafford County law enforcement agencies. The situation on the bridge is an example where unified command would have alleviated the difficulties that occurred.

**Recommendation: Locate the Incident Command Center strategically.** The FPD should ensure that Incident Command is physically located far enough away from events to allow for security, but close enough to provide for event awareness, planning, decision-making, communication and access. FPD leaders must be in a location that allows them to keep perspective and understand the big picture of what is taking place, without being influenced by the high stress and emotions that can accompany being on the front line of events.

**Recommendation: The FPD should ensure that other command-level leaders are requested, and when feasible, can assist in unified command.** This will ensure that mutual aid resources (including other law enforcement agencies, fire department, and medical personnel) are efficiently staged and deployed as needed. Large-scale events, whether planned or spontaneous, can require a multi-agency response. Establishing a unified command and having the necessary resources on hand is critical to an effective response strategy. It is also an opportunity to discuss and work through varying agency philosophies regarding strategies and tactics.

**Recommendation: Focus on objectives, not merely tactics.** The FPD Incident Command must focus not just on operational tactics, but more importantly on how to achieve a successful resolution with sound strategy and resources. Commanders should focus on questions such as “What is our objective in this situation?” before asking “What less-lethal options or other tools do we have?” PERF’s review of these incidents indicated the FPD did improve these responses in the days and weeks following the initial incidents on May 31.

## Incident Management Team

An Incident Management Team (IMT) is a term used to describe a group or team of individuals tasked with providing assistance during an emergency response. The FPD utilizes an IMT to help manage large-scale events or events that may have multiple operational periods, such as the demonstrations that occurred several nights in a row in Fredericksburg. The FPD effectively describes the IMT in policy in Department Directive 319.00. The IMT assists with event planning, which involves preparing Incident Action Plans (IAP) or operational plans that will provide event response to involved personnel. The IAP or similar operational plans are important and should be provided to all responding personnel. This plan provides known elements of event response, including who is in charge, assignments, and event strategy and direction. Interviews with FPD personnel indicates the department’s IMT meets quarterly to discuss event planning and protocols.

PERF learned through interviews, reports and BWC video that no formal IAP or operational plan was provided to personnel during any of the planned or spontaneous demonstrations. PERF was informed that the FPD conducted briefings for its personnel on June 1, June 2, and June 3. But interviews indicated that supervisors provided limited direction to officers. During these briefings, officers should have been given an IAP detailing responsibilities, arrest procedures, and other relevant matters, such as road closures and a list of whom to call should questions arise. Interviews indicated that the briefings were somewhat informal, with no clear understanding of which personnel were available for questions and guidance.

## Section II: PERF Assessment of the FPD Response

This is understandable for an unexpected, spontaneous event. The FPD used the traditional “roll call” personnel meeting - which is traditionally used when officers begin their tour of duty - to advise and direct the officers for the events. It was clear from reviewing body-worn camera footage that some officers were not clear on Incident Command’s direction, such as whether or not demonstrators were allowed to use certain lanes of a roadway to hold their demonstrations, or if they should instead be directed to move toward and remain on the sidewalk.

**Recommendation: Use Incident Action Plans to ensure that officers understand their mission and duties.** FPD should create IAPs in situations that will require officers to have clear and concise direction. This will help to ensure a unified, consistent response to mass demonstrations and similar events.

PERF interviews and review of body-worn camera footage also indicated some degree of confusion regarding which FPD personnel were working on a given day, responded to the call-out on May 31, and which officers/deputies/troopers had responded to assist the FPD.

**Recommendation: Ensure that Incident Commanders know the details of whom they are commanding.** In order to successfully manage resources, it is important that Incident Commanders be aware of which officers and other employees are available, where they have been deployed, what information have they been provided, and how they will receive communication. The Incident Management Team should assist with this process by ensuring that all responding resources check in, preferably in person at a designated site, before being deployed to the field.

**Recommendation: Continue to hold regular Incident Management Team meetings, and develop standard forms to guide the process.** The FPD’s Incident Management Team should continue to meet quarterly and discuss critical incident planning and training. In addition, the IMT should create standard Incident Command System forms, such as an Incident Action Plan form, that are applicable to the FPD. This will save time and serve as a reminder of what plans and documentation are needed during a critical incident.

**Recommendation: Use Incident Management to anticipate and plan for upcoming events.** FPD leaders should continue to develop and utilize a strategic Incident Management Team to assist in the preparation and response to demonstrations. Such a team should be tasked with anticipating and planning out FPD needs for upcoming events, as well as identifying FPD leadership strategies and expectations. The team should be responsible for creating and disseminating an Incident Action Plan (IAP) – as identified in current policy - that provides officers with directions and details on upcoming events, and their related responsibilities.

**Recommendation: Require responding officers from FPD and all other agencies to check in with FPD.** The FPD should ensure that officers, deputies, and troopers responding to assist the FPD in mutual aid situations check in with FPD personnel for incident awareness, direction, and protocols. In addition, it is important that adequate and sufficient communication processes are put in place.

## Tactical Field Force

The FPD created a Tactical Field Force (TFF) - a team of officers trained to respond as a group to civil disturbances - following the August 2017 civil disturbance that occurred in Charlottesville, VA. Alternative names for a TFF used by other agencies are Mobile Field Force (MFF) and Civil Disturbance Unit.

This unit is not designed to be the first response to mass gatherings, demonstrations, or isolated disturbances. Rather, it is designed to be a response capability when other crowd management practices are inadequate or fail. The TFF may be necessary if demonstrations and unrest result in or are expected to result in property damage or violence.

In the fall of 2018, selected members of the FPD met with the Virginia State Police (VSP) to receive training from VSP and review related VSP policy for TFF operations. FPD personnel involved in the training consisted mostly of officers and sergeants. According to PERF interviews with FPD personnel, they largely implemented the TFF policies that were provided by VSP. **Improvements to the policy are provided in Section IV of this report.**

Interviews with FPD personnel indicate that the agency intends to discuss and review the coordination of a TFF capability with other local law enforcement agencies, including the Fredericksburg City Sheriff's Office and the Stafford and Spotsylvania County Sheriffs' Offices. According to FPD leaders, this process has been initiated. At the time of PERF's review, it was not clear how the FPD planned to move forward with the TFF team and capability and whether it should become a broader regional law enforcement capability, for example made up of all members of the RALEMAA. This will be discussed later in this section.

On a quarterly basis, the FPD conducts training sessions with the TFF team. The FPD has conducted joint TFF training with other law enforcement agencies including the Virginia State Police (VSP), University of Mary Washington (UMW) Campus Police Department, and the two surrounding county sheriffs' offices of Stafford and Spotsylvania. These training opportunities continue to be done primarily at the officer and first-line supervisor level. Although the FPD TFF members meet quarterly to train and practice their response to demonstrations, PERF interviews indicate that command-level participation from any of the regional law enforcement agencies had not been involved in these training exercises. PERF interviews further indicate that the various law enforcement leaders representing the RALEMAA had also not come together to discuss strategies, tactics, or personnel prior to the spontaneous demonstrations that took place on the evening of May 31, 2020.

PERF's assessment of the FPD TFF team's training procedures focused on policy and training pertaining to less-lethal munitions. In addition, PERF reviewed FPD's response to demonstrations and the decision to use force versus other tactics. PERF discussed these matters in interviews with FPD personnel.

Law enforcement's first response to a demonstration is typically crowd management at the lowest level of response. This would usually include uniformed officers who manage and control the event. If these efforts are insufficient, or if destruction/violence is occurring or expected to occur, crowd intervention performed by units such as TFF is necessary.

Crowd intervention requires an intermediate police response to pre-planned or unplanned/spontaneous activities in order to isolate unlawful behavior impacting public safety, while allowing for the lawful

activity to continue. If all previous crowd control tactics have proven ineffective, police may be required to make arrests and enforce crowd dispersal if the event becomes unlawful or violent.

### PERF's Findings on the Deployment of the TFF

**PERF has identified several key findings in FPD's response on May 31.**

- **FPD personnel were insufficient in number.** The FPD had provided resources and oversight to two days of planned demonstrations with additional patrol and supervisory personnel. But in the late afternoon, as a crowd of mostly young adults spontaneously gathered in the downtown area and began to march toward Route 1 as described in the Section I of this report, the FPD did not have sufficient personnel available for the size of the crowd. It appeared from body-worn camera footage that there may have been only approximately 20 to 30 officers present, and this included officers from many different ranks, some from other agencies, scattered at different locations. The crowd of demonstrators ignored police direction and assistance, walked past police vehicles arranged as barriers for traffic crowd control, and disregarded FPD's attempts to establish lines of communication with people who appeared to be demonstration leaders.

If more officers had been present, FPD could have organized officers more effectively as barriers to certain locations, and could have had a truly mobile field force capability. Because of limited resources, the response was disorganized and was largely reacting to events, rather than implementing a strategy.

- **FPD requested additional personnel, but the response was delayed.** FPD identified this issue and requested off-duty personnel to respond as well as mutual aid from Virginia State Police and some member organizations of RALEMAA. Although off-duty FPD personnel and mutual aid partners began to arrive in the city, the crowd of demonstrators and subsequent traffic congestion allowed little time for FPD Incident Commanders to organize an effective crowd management response. PERF's review found that some responding officers were delayed in traffic, with demonstrators blocking some vehicles, creating an unsafe situation for the officers and the public.
- **Incident Commanders were concerned about the crowd approaching the FPD building where the attempted firebombing had occurred.** When the crowd of demonstrators was moving west on Cowan Blvd. toward the FPD police facility, FPD Incident Command was very concerned, based on the high emotions and disregard of law enforcement personnel up to that point. In addition, Incident Commanders could not discount the attempted firebombing that occurred earlier that morning at FPD's headquarters, along with ongoing national events, with emotionally charged crowds in some cities causing extensive destruction to property. FPD found it difficult to confirm or monitor information that some in the crowd were discussing destruction to the FPD facility. Furthermore, FPD dispatchers and other arriving personnel were working in or preparing to respond to the demonstrations from the facility. As a result, Incident Commanders made a decision that the crowd could not be allowed access to the FPD facility.

## Section II: PERF Assessment of the FPD Response

- **Officers lacked direction about how they should respond.** Several officers were observed on body-worn camera footage gathered near the intersection of Cowan Blvd. and the entrance to Hugh Mercer Elementary School, but PERF interviews and review of body-worn camera footage provided no clear understanding of how officers were expected to direct the demonstrators.
- **Police announced that demonstrators were engaged in an unlawful assembly and ordered them to disperse.** Incident Command was staged at the entrance to the FPD police facility on Cowan Blvd. Based on the events described above, FPD leaders believed the best response at that time was to declare the demonstration unlawful per Virginia State Law 18.2-406. Incident Command directed FPD personnel who were near the crowd in police vehicles to make the announcement of an unlawful assembly. The announcement was made by officers over a vehicle PA system. The crowd was advised they must disperse.
- **Police used CS gas without providing enough time for demonstrators to disperse.** With some demonstrators still approaching the entrance to the FPD building, Incident Command approved the use of warning smoke and CS gas to disperse the crowd. However, this occurred only a few minutes after the unlawful assembly announcement was made.
- **FPD lacked necessary equipment.** White warning smoke, which per policy is the first type of smoke to be deployed, was not available for use. White smoke is typically deployed first as a warning to the crowd and to determine wind direction and smoke impact. With no available white smoke, members of the TFF deployed inert red smoke as the initial warning. The red smoke canister was picked up by a demonstrator and thrown back at police positioned on Cowan Blvd. near the entrance to the police facility. TFF then immediately deployed CS gas in the direction of the crowd.
- **CS gas did disperse the crowd.** The CS gas moved demonstrators away from the entrance to the FPD police facility. Demonstrators dispersed in different directions, through nearby neighborhoods and roadways.
- **CS gas affected officers who lacked protective masks.** Many FPD and other law enforcement members who had responded to assist did not have protective chemical masks. Many of these officers, located approximately one block from the entrance to the FPD facility where CS gas was originally deployed, were impacted by the dispersal of gas.
- **Some officers confronted demonstrators one-on-one, which is not recommended.** As demonstrators slowly cleared the area, PERF's review of body-worn camera footage showed some officers confronting demonstrators one-on-one, not responding as an organized team.
- **FPD also used a sting-ball grenade.** Body-worn camera footage, police reports, and PERF interviews indicate that officers used a sting-ball grenade in addition to CS gas on Cowan Blvd. to disperse some demonstrators in the crowd.

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- **Many demonstrators regrouped at a different downtown location.** Many demonstrators moved from Cowan Blvd. back toward downtown Fredericksburg following the release of CS gas. Demonstrators regrouped and marched in the roadway to the Fredericksburg Courthouse in downtown Fredericksburg (see prior section for timeline of events). PERF reviewed many social media accounts of this demonstration, officer body-worn camera footage, and police reports regarding the incident. At the Courthouse location, FPD had the assistance of other law enforcement agencies including the VSP, Fredericksburg Sheriff's Office, and the Stafford County Sheriff's Office.
- **The TFF again used CS gas at the downtown location without providing time for demonstrators to disperse.** Incident Commanders were concerned about the potential for destruction and violence to the courthouse facility and the broader downtown community. Incident Commanders determined the demonstration was an unlawful assembly and advised a supervisor to notify the crowd via a police vehicle loudspeaker system. As soon as the first announcement was provided, which took approximately 30 seconds, the TFF again deployed CS gas into the crowd. A review of both social media and body-worn camera footage shows motor vehicle traffic stopped among demonstrators and being directed to leave the area by law enforcement officers.

PERF provides the following recommendations based on this initial response to the spontaneous demonstration. Additional policy recommendations are included in Section IV of the report.

**Recommendation: Train senior department leaders in Incident Command.** The FPD should require that all senior department leaders who will operate as Incident Commanders attend training on the response to demonstrations and civil unrest. Police leaders must understand the purpose, capabilities, and limitations of using a TFF-type response as well as broader philosophies and strategies for responding to mass demonstrations. It is important for law enforcement leaders to understand that training does not just encompass tactics and equipment; it largely centers on the simultaneous processes of defining objectives, strategy and planning.

PERF recommends that both city and FPD leaders attend executive-level training regarding law enforcement's response to mass demonstrations and civil unrest. The Federal Emergency Management Agency's (FEMA) Center for Domestic Preparedness has the expertise and resources to provide this training. PERF has discussed the needs of the city of Fredericksburg with representatives from FEMA and has provided assistance with arranging this type of leadership training opportunity.

**Recommendation: Ensure that all responding personnel have PPE before deploying CS gas.** The FPD must ensure that officers are outfitted with protective equipment before deploying CS gas. Many officers had no protection from CS gas and were impacted by its release. Officers without adequate protection will be unable to perform their duties until they can be adequately decontaminated.

**Recommendation: Ensure that all demonstrators can hear any dispersal orders, and give them time to respond.** FPD's Incident Command must ensure that demonstrators have time to hear dispersal orders so they can begin leaving the area before officers enforce the dispersal order,

## Section II: PERF Assessment of the FPD Response

unless an immediate threat to persons or property is present. Dispersal orders must be loud, clear, and provided from as many directions as possible to be heard by everyone in the area.

**Recommendation: Consider whether CS gas will affect people who are not involved.** The FPD must consider the broader strategy and ramifications of deploying CS gas on a multi-lane road with vehicle traffic in a residential area. During the May 31 demonstration, although the crowd was not following police direction and legitimate concerns existed about protecting the FPD facility, minimal destruction and no personal injury were known to have occurred prior to the release of CS gas. Incident Commanders also must consider the broader concerns of releasing gas in a residential area and an area where demonstrators are walking in a roadway alongside vehicle traffic.

**Recommendation: Carefully consider the risks of using less-lethal munitions.** The FPD must carefully consider the use of less-lethal munitions - including Sting-Balls - to ensure they are only used to disperse an immediate threat to persons or property, not as a broader tool to disperse a crowd.

**Recommendation: Train officers not to engage demonstrators individually.** The FPD should ensure that individual officers do not attempt to engage groups of demonstrators. This is unsafe for the officer and can lead to an unnecessary response including the use of force to protect the officer. Officers should be operating as a team. This provides safety to the officers and reduces the possibility that force will be needed to protect an officer.

**Recommendation: Obtain FEMA training on mobile field force teams.** The FPD should involve key members of the TFF in training on demonstrations recommended above. In addition, TFF supervisors should seek additional FEMA-provided training on the use of mobile field force teams. FEMA provides a variety of classes that provide training in response to demonstrations and civil unrest. Such training would provide an additional perspective for TFF supervisors.

**Recommendation: Be prepared for any situation that would require mass arrests.** Although almost all arrests that occurred during the timeframe of our review were written summons in lieu of arrest, the FPD should continue to review and conduct tabletop exercises regarding mass arrest situations, specifically how to address the resources required to manage the arrest processes. FPD's policy **326 Mass Arrest** adequately addresses the arrest process, and FPD had vans staged on June 1-2 to facilitate arrests, if necessary. But PERF review of FPD's demonstration response indicated that inadequate staffing was a challenge. Given FPD's current staffing levels, it was difficult to properly staff arrest teams and provide them with the necessary resources to process arrests.

### TFF Equipment

When it was first created, the FPD's TFF unit purchased and distributed various equipment for TFF team members, including masks, helmets, shields, protective vests, and less-lethal munitions including CS gas and sting-ball grenades. The TFF also secured an area at the FPD police facility to store equipment and munitions. While it is necessary to possess the appropriate equipment to carry out TFF tasks, it is just as critical to ensure that all equipment is in working order and capable of providing an appropriate response to any type of civil disturbance.

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Although the FPD purchased most items to outfit the TFF team with protective equipment, it did not have adequate fit-tested masks for all FPD personnel. This clearly became an issue when the FPD deployed CS gas and officers were exposed. In addition, some munitions, including harmless white smoke which per policy is deployed prior to CS gas<sup>16</sup>, were found not fit for use.

**Recommendation: Equip all officers with PPE.** The FPD must ensure that all members of the agency are outfitted with protective equipment before they are involved in a response to civil unrest. In addition, the TFF team must ensure that all equipment, including less-lethal munitions, is in working order and accessible when needed.

**Update:** Since PERF's first site visit in late August 2020, FPD has indicated that all of their officers have been outfitted with gas masks.

### Engaging Fire and Emergency Medical Responders During Demonstrations

PERF observed that on May 31, 2020, when the FPD deployed CS gas and sting-ball grenades on Cowan Blvd. and also near the downtown Courthouse demonstrations, no fire department or emergency medical responders were observed on scene or included in a unified command. During mass demonstrations, there is potential for violence or the deployment of less-lethal munitions such as OC spray or CS gas, so police personnel should ensure that fire department and/or EMS personnel are close and on standby. FPD Policy 325 Civil Disturbance has an appendix with a "Civil Disturbance in Mass Arrest" checklist. The checklist directs having the fire department and emergency medical responders respond to the staging area. In Fredericksburg, interviews indicated that emergency medical responders were requested to assist some demonstrators impacted by CS gas, but there was no indication that fire personnel were part of a unified command or were staging resources for quick response.

Interviews with FPD personnel indicated fire and emergency medical responders were requested and staged in the city on June 1 and 2 during city demonstrations.

**Recommendation: Involve the Fire Department and EMS in Unified Command training.** The FPD should ensure that fire department and emergency medical responders are involved in unified command and that fire and emergency medical responders are close and on standby during large gatherings and demonstrations. This should be documented in the IAP, so officers know whom to contact or how they can access emergency medical responders.

### FPD Organizational Structure: SETT and TFF

The FPD has two key components that are critical to responding to planned and spontaneous demonstrations and protests:

- The first is the Special Equipment Tactical Team (SETT), FPD's tactically trained and equipped team composed of officers of various ranks who are also assigned to other full-time responsibilities in the department. This type of team is traditionally used for handling high-risk police situations, the execution of dangerous warrants, hostage or barricade situations, or other

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<sup>16</sup> White smoke serves as a warning to demonstrators, and can help inform decisions regarding the release of CS gas, by showing wind conditions.

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search and rescue needs. This team has advanced tactical training and equipment. The team trains together on a regular basis.

- The second key component is FPD's Tactical Field Force (TFF) team, described earlier in this section.

In larger law enforcement agencies, these two components would have separate personnel assigned to each capability. The FPD does not currently have this ability due to the department's size. Many members of the SETT team are also assigned and tasked with TFF duties and responsibilities, a situation that can create a challenge if both teams' resources are needed independently of each other, or if a violent encounter requires that the SETT team provide additional security for members of the TFF team.

Having the necessary personnel on hand and adequately trained for unplanned spontaneous events can challenge any agency. What FPD experienced after the killing of George Floyd was unprecedented in Fredericksburg and other communities across the United States. The FPD has limited sworn officer resources and must consider other approaches to ensure a safe and effective response to future mass demonstrations or civil unrest. This lack of resources to adequately control and mitigate potential harm from spontaneous demonstrators impacted FPD's decision-making and choices in their response.

**The FPD should start with discussions with members of the Rappahannock Area Law Enforcement Mutual Aid Agreement (RALEMAA). In these initial discussions, law enforcement leaders must discuss their ability and willingness to assist other agencies, their capabilities, and the philosophies in that response.**

It is understandable each agency will examine this need and response differently. For example, the Stafford County Sheriff's Office's philosophy to these demonstrations (specifically at the Falmouth Bridge mentioned previously), was to bar the demonstrators from entering Stafford County; a contrast to FPD's approach of providing crowd control as the demonstrators moved throughout the city. The most effective solution would be a regional approach and a regionally established civil disturbance response team that includes all RALEMAA members. For this solution to work, all members would need to agree to response philosophies and the commitment of resources and equipment. The FPD could then make organizational decisions regarding how to best proceed in the future.

This regional concept for police service has worked in many areas across the country, especially when law enforcement leaders make sure their approach is scalable to the event, and includes consideration for the use of uniformed bicycle officers (more appropriate for a city environment such as Fredericksburg) that can provide a less militaristic appearance, while also providing a quick and maneuverable team outfitted with some protective gear.<sup>17</sup> This response capability is perceived as less threatening, encourages community interaction and tactics, and bicycles can be used as instant barriers when needed.

In addition, many agencies are training all their personnel with the knowledge and understanding of how to respond to mass demonstrations or civil unrest. This is often provided during recruit training and then reinforced through in-service training opportunities.

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<sup>17</sup> See "The Police Response to Mass Demonstrations." PERF, 2018. Page 8.  
<https://www.policeforum.org/assets/PoliceResponseMassDemonstrations.pdf>

## Section II: PERF Assessment of the FPD Response

**Recommendation: Have high-level discussion with neighboring law enforcement agencies to ensure there are clear understandings about how mutual aid responses will be conducted.**

The FPD should have discussions both internally and within the RALEMAA group to consider solutions to the challenges discussed above. Internal discussions must include city leaders and elected officials and should take place after city and FPD leaders have received executive-level training as recommended above.

Going forward, the FPD should facilitate discussion specifically regarding the area law enforcements' response to demonstrations and protests. The FPD may not have adequate resources (which was evident based on what happened on May 31 during their response to protests) to maintain an independent TFF capability. Law enforcement leaders should discuss whether they should commit to combining resources for an effective response, practice that response, and finally, agree to a set of principles and strategies for an effective response.

As of now, the FPD has initiated and continued these discussions. As they proceed, several areas of concern must be addressed, recognizing that protests may have a greater impact on Fredericksburg compared to the surrounding counties. PERF recommends that law enforcement leaders immediately discuss the following topics:

- Incident Command/Unified Command
- Political/Community Jurisdictional Needs and Expectations
- TFF Staffing
- Use-of-Force Policy
- Training

The goal of these discussions should focus on achieving consensus on approaches to better combine resources, obtain training, establish clear policy guidelines, and ensure that applicable processes and appropriate accountability structures are in place when responding to unplanned demonstrations. Part of these partnership discussions must include an inventory review of the equipment that personnel have, as well as an assessment of the equipment that must be acquired to satisfy preparedness measures and standards.

As with any agreement between autonomous entities, there must be a mutual understanding, respect, and philosophy toward a regional police response for any mutual aid agreement to be effective. City government leaders must recognize the need for this agreement to be met and understood by all parties involved.

**Recommendation: Take advantage of FEMA training on TFF response.** The FPD should train all personnel in Tactical Field Force response so they understand crowd and demonstration dynamics, the agency's philosophy and expectations, TFF capabilities, and how to safely operate as a team. FPD can educate department instructors through the Federal Emergency Management Agency's (FEMA) Center for Domestic Preparedness, an expert in these areas, and then educate all department staff.

## Intelligence Gathering

Since collecting intelligence is a critical function to promote sound decision-making, PERF examined the FPD's intelligence gathering efforts for the period May 31-June 2, 2020.

Intelligence-gathering related to the mass demonstrations included:

- Social media posts (i.e., Facebook, Twitter, and Instagram)
- Live social and news media feeds of marches and events
- Intelligence provided by the Virginia Fusion Center
- Calls from citizens (such as a citizen call to report overhearing a group discussing looting of a downtown business, and a call to report overhearing a group discussing setting fire to the Rappahannock Regional Jail and releasing inmates).

In documents provided by the department, the FPD candidly identified gaps in their intelligence-gathering activities, namely that intelligence gathering was reactive at the beginning of the mass demonstration events. The FPD did indicate that they modified their approach to collecting information when the nature of the events changed to become daily demonstrations.

The FPD also indicated that while information was passed along to decision-makers, much of that information was last-minute in nature and could not be verified. The FPD further stated that some of the best intelligence they were able to gather was through live feed sources including social media that were broadcasting the demonstrations. Although FPD's ability to gather, review, and disseminate information on May 31 was a challenge, these tasks were assigned and improved over the next several days. FPD has correctly identified opportunities in this area for improvement.

**Recommendation: Include intelligence-gathering in the Incident Command System.**

Intelligence-gathering should be established as part of the Incident Command System (ICS). Specific department members should be assigned to this function, and the collection, evaluation, and dissemination of intelligence should continue over the duration of the incident.

**Recommendation: Provide intelligence to Incident Command promptly.** The FPD should ensure that information gathered during critical incidents is timely, vetted, and provided to Incident Command to inform their overall response - regardless of the information source (e.g., 911 calls, reviews of social media, etc.). In addition, the agency's IAP should include as much intelligence information as feasible.

## The FPD's Public Communications Response to the Demonstrations

FPD, like many other agencies, makes use of Public Information Officers (PIOs) whose function is to provide updates to the public through various media sources, including news media and social media. In the case of mass demonstrations and civil disturbances, such activities include alerting the public to events, such as road closures and areas of town to avoid because of events that may disrupt traffic.

PERF interviews with the FPD's PIO reveal that inadequate information-sharing took place between FPD leaders and the PIO on duty during the unplanned demonstrations that occurred on the evening of May 31.

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For example, as discussed below, the PIO revealed that they were not given a notification that officers had decided to deploy CS gas into the crowd. As a result, the PIO was forced to consult news media and social media to learn about police actions that were occurring. And when Fredericksburg residents began flooding the FPD's Facebook page with comments about the deployment of CS gas, the PIO initially tried to refute those assertions. The PIO could not get confirmation about the issue in a timely manner, and mentioned that some of FPD's leadership did not know that CS gas had been deployed.

When a live video of the CS gas deployment was posted to the department's Facebook page by a civilian as evidence of the action, the PIO was forced to admit being wrong in denying it and shift to damage control. The PIO expressed the challenge of also having to confirm the FPD's use of sting-ball grenades on the crowd.

**Recommendation: Keep public information officers informed.** FPD leaders must keep their PIOs informed, *especially* during unplanned, spontaneous events. PIOs are tasked with informing the public on behalf of the police department, and require timely and accurate information to share. Otherwise, the PIO and the FPD risk losing public trust when contradictory information is released to the public.

### Display of Firearms

During PERF's review of body-worn camera footage, it observed a small number of incidents where FPD officers were carrying patrol rifles during crowd control situations. On at least one occasion, demonstrators questioned why an officer needed to be carrying a patrol rifle during what appeared to be nonviolent protests. FPD's policy "303 - Weapons" clearly states that officers will not carry patrol rifles for controlling civil order unless fired upon. PERF did not observe or learn of situations where officers were fired upon during demonstrations.

**Recommendation: Enforce policy on carrying of patrol rifles.** FPD's policy "303 - Weapons" provides clear direction regarding patrol rifle use and deployment during a response to civil control. FPD supervisors must be observant of this policy and identify and address any officer carrying a rifle unless officers have been fired upon or information indicates a likelihood of this occurring.

### Use-of-Force Review

The FPD conducted a use-of-force review for all known use-of-force incidents and provided those reviews to the PERF team. All FPD uses of force were found by the agency to be within policy, with the exception of one incident connected to a curfew violation, which resulted in the prompt termination of an officer's employment. The use-of-force process should begin with the supervisor responding to the scene of any use-of-force incident, interviewing involved officer(s), suspect(s), and any available witnesses. Most importantly, the review needs to take a critical look at the *entire* event that led to the use of force, and ensure that the officer's actions did not unnecessarily increase the tension of the situation, thereby contributing to the creation of an incident where force would be needed.

**Recommendation: Use-of-force reviews should evaluate the entire incident, not just the moment force was used.** The FPD should ensure that a supervisor's review of use-of-force incidents is a critical review and does not solely look at the moment force was used, but also at

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the officer's overall response to the incident. Supervisors must ensure that an officer's actions were not unnecessarily or inappropriately escalating situations, leading to a need for force. When issues are identified, the involved officer(s) must be mentored and trained on how to better handle incidents in the future.

## Section III: The Community of Fredericksburg

From late August 2020 to late October 2020, PERF conducted extensive in-person and virtual interviews and solicited additional community feedback via emails to an account created by PERF for this purpose. PERF sought input from community members, FPD officers and supervisors, and city government leaders to obtain a thorough understanding of the incidents that occurred between May 31 and June 2, 2020. These interviews provided critical insights into the thoughts and attitudes of the Fredericksburg community.

This process revealed to PERF that there is a wide spectrum of views regarding the FPD's actions, the aftermath of which has left some residents of the city upset and distrustful of the city and the department. Many expressed fear that similar incidents may continue to occur in the future.

In the section below, PERF integrates community members' and city leaders' feedback with observations gleaned from viewing FPD body-worn camera footage to forge a narrative breakdown of the events that took place. This includes numerous direct quotes from those who shared their perspectives.

### Comments are grouped into the following categories:

- 1. City Leaders' Views on Demonstrations and the FPD*
- 2. Community Members Critical of FPD Response*
- 3. Community Members Critical of Demonstrators*
- 4. Community Support for the FPD and Their Response to Demonstrations*
- 5. Community Support for Demonstrations*
- 6. Business Community Views on Demonstrations*
- 7. Reactions from University of Mary Washington (UMW) Administrators and Students*
- 8. Fredericksburg Police Perspective of Events*
- 9. Race Relations and the Fredericksburg Police Department*

### 1. City Leaders' Views on Demonstrations and the FPD

PERF obtained views from Fredericksburg elected officials, former elected officials, and city government staff members.

One city council member said that constituents were split 60/40 regarding the FPD response to the unplanned demonstrations: 60% believed too much force was used, while 40% believed the police "did the correct thing." In this council member's view, if two sides had such different views, an independent review would be necessary for the city to find consensus and resolution.

#### Direct Quotes: Fredericksburg City Leaders on Demonstrations and the FPD

- "I fear another incident could happen that could trigger even more of a reaction."
- "The police department and the council didn't have experience with this. We're all in a learning curve."
- "The attack on the police department made it hard for them to help protesters."

- "Lots of police feel betrayed; they think the council doesn't support them. Some have resigned."
- "As a council, we embrace the movement; but it's a challenge going forward."
- "We have already had two years of race talks. There is a lack of leadership within these black protest efforts."
- "Changes in the city are happening; we are trying to find ways of connecting with the youth."
- "Young people love what they're seeing nationally and want to bring it home."
- "Protesters are committed to their cause, but they are unstructured and disorganized."
- "The status of civic education for the youth is embarrassing. The lack of education has combined with high emotion reacting to what's going on in America."
- "The council wants to maintain the police force, but wants to take this opportunity to enact lasting improvements."
- "I don't agree with the Mayor and Police Chief apologizing."
- "The protests started in reaction to George Floyd."
- "We should never have been gassed."
- "There were more emails and calls about excessive use of force than if it was proper."
- "The invocation of a potential threat to justify use of force is what the country says is wrong with policing."
- "The visual of police in gear contributed to constant escalation."
- "Police actions to mitigate risk are being perceived as excessive force."

#### Key Elements of Fredericksburg City Leaders' Comments

- Some city leaders are concerned that the Police Department was not prepared for major demonstrations, and that larger demonstrations could occur in the future.
- City leaders support calls for reforms, but want to make sure that reforms will be effective and long-lasting.
- There is an opportunity to bring the community together and search for consensus about improvements that can be made.

## 2. Community Members Critical of FPD Response

Interviews with community members revealed that residents across generations expressed hurt and disappointment that the police would use force against them. This feedback was received in person, over the telephone, and via email.

#### Direct Quotes: Fredericksburg Community Members Who Were Critical of FPD Response

- "Police showing up with combat gear gave perception of foreign country war. It was disturbing."
- "The police department needs to gain trust of all different types of demographics in Fredericksburg."
- "We need a hard look. We need to determine if police had proper protocol."
- "You talk about de-escalation when the conflict occurs, but what about preventing the conflict in the first place?"

### Section III: The Community of Fredericksburg

- **"The message from the police department of being 'scared' was the wrong message, because it came across that protesters should be feared."**
- **"The deployment and presence of tanks incited some people to defy it, because they think it was a disproportionate response."**
- **"The police have been incredibly condescending."**
- **"Police did not need to arrest 50 people. Police did not need to round up folks, pushing them together at a time of COVID. Police did not need to use loud noises or chemical irritants to disperse folks who were trying to go home."**
- **"I can confirm there was no violence anywhere near me or my line of sight, at any time. No damage in my neighborhood. No vandalism, no reason for police to decide to 'Hold the Line' on the Falmouth bridge (Stafford police) and on Cowan/Rt. 1 (Fredericksburg Police). They acted out of fear, a fear that they should be trained to overcome. No officers had a need to release pepper spray or other crowd deterrent methods."**
- **"The FPD is too quick to touch their guns when approaching a situation - it sets the tone of subsequent conversation. They are far more likely to touch their guns when the person(s) they are approaching are brown. I have watched it ALL of my life..."**
- **"It is nothing short of police abuse with no accountability, no apology and then to perpetuate the crime you charge the protestors. I am ashamed of the local police force for doing this and deeply sorry that common sense or fairness in this case is not happening. There is something wrong here!"**
- **"Whichever person in the chain of command gave the order to commit this violence upon the protestors should be fired."**
- **"The police should admit they overreacted and profusely apologize to the public and those they injured with pepper spray. This is violence against the community."**
- **"I hope our courts decide to condemn the response of the police and our city manager for deciding to impose a curfew and stop protests simply because they don't agree."**
- **"I believe from my perception of events that took place in the City of Fredericksburg that the city politicians took too long in doing anything to begin with, and then they handcuffed the police by not allowing them to do their job as was the case in some of the larger cities and their riots."**

#### Key Elements of Community Members' Critical Comments

- Some community members said that the deployment of CS gas, as well as the presence of a BearCat armored rescue vehicle, incited some people to be aggressive and defiant, because they thought it was a disproportionate response to what was happening.
- Some community members got the impression that police officers were afraid of demonstrators.
- As a result of what happened on May 31-June 2, a number of community members said there is now a perception that Fredericksburg is a "dangerous place to be."
- Community members called on police to not be afraid of demonstrators, and to begin with an approach of de-escalating tensions.

### 3. Community Members Critical of Demonstrators

Many members of the Fredericksburg community did not support the behavior of demonstrators over the course of May 31 - June 2, 2020.

#### Direct Quotes: Fredericksburg Community Members Critical of Demonstrators

- "I think the police were caught off guard. Mistakes were made on all sides."
- "The [Fredericksburg police] have been understanding and have shown patience to the point of locals being aggravated with the PD letting protesters 'break the law by marching in the streets.'"
- "The verbal disrespect toward police from attendees during the informational forum [hosted by the FPD] was appalling."
- "The protesters crossed the line with the vandalism of public/private property."
- "If their cause isn't worth getting tear-gassed, maybe it's not that important to them after all."
- "Rioters were aimlessly wandering around the city, stopping traffic, hindering businesses, and making the city unsafe week after week. Real estate values were negatively affected as well with all the bad publicity."
- "In our current environment, if I drive into downtown Fredericksburg, I am terrified that BLM protestors will jump on my car and threaten my life."
- "I no longer feel safe and will not return in the foreseeable future unless downtown Fredericksburg stops being a political mecca for protesters."

#### Key Elements of Comments by Community Members Who Were Critical of Demonstrators

- Demonstrators showed disrespect for the police and for public order.
- Protesters committed acts of vandalism, which undermined their standing.

### 4. Community Support for the FPD and Their Response to Demonstrations

#### Direct Quotes: Fredericksburg Community Support for FPD and Their Response

- "The firebombing attempt at the police department was a horrific start to everything."
- "Responsive and fantastic police department."
- "The [FPD] has shown vulnerability and flexibility to work with the community to make sure another May 31st doesn't happen."
- "We have a great community with an understanding police department. If we didn't have both qualities, things could have been worse."
- "The police department is not a 'good ole boy network.' "
- "The police struck a good tone protecting people and property."
- "I am proud that the police department adopted community policing early on - before Ferguson. Virginia State Police just started, and many surrounding counties were also slow."
- "I was sick to see what happened with George Floyd. Our police department doesn't tolerate that."
- "Many officers within the police department don't feel supported, and don't think they get paid enough."

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- **"The Police Chief said they were afraid for their lives."**
- **"I think highly of the police department; they do community policing."**
- **"I was surprised that Fredericksburg residents took their anger out on the police department."**
- **"I can without a doubt say that the Fredericksburg Police showed an incredible amount of courage and restraint during the recent riots and ought to be praised for their efforts."**
- **"The Fredericksburg police have done nothing wrong and I will donate heavily and vote to oust any politician who seeks to undermine them."**

### Key Elements of Community Members' Comments That Were Supportive of the Police

- The firebombing attempt understandably raised the Police Department's concern about violence.
- Police struck the proper balance between supporting First Amendment rights and protecting public safety and property.
- FPD has a reputation for creating good relationships with the community.

## 5. Community Support for Demonstrations

### Direct Quotes: Fredericksburg Community Support for Demonstrations

- **"Protestors' behavior was 100% acceptable."**
- **"Protests are meant to be a little disruptive."**
- **"I can see the peaceful protesters' narrative of how they 'got overrun by agitators.' The outside group was not interested in compromise."**
- **"The protesters felt like they were set up to fail."**
- **"We have never felt threatened by the protesters. The protests have been peaceful. The protesters demonstrate caring for our community by demanding racial justice and an end to police brutality."**
- **"I hope we can all feel less threatened by young people who want a better world. We should be joining them, not arresting them."**
- **"Fifty protestors should not have ever been charged, and any charges should be negated immediately."**

### Key Elements of Community Members' Comments in Support of the Demonstrators

- Demonstrations are a healthy part of civic life and should not be met with overly strict enforcement of traffic regulations, etc. when there is no threat to public safety.
- The FPD response to demonstrations was excessive at times.

## 6. Business Community Views on Demonstrations

### Direct Quotes: Fredericksburg Business Community Views on the Demonstrations

- **"Thoughts to board up businesses were squelched because it would send a message of fear."**
- **"Our business weathered as well as it did, because protesters were of the community."**
- **"Outsiders were agitating, but college kids helped keep things in line."**

## Section III: The Community of Fredericksburg

- **"To see the city and police department show leadership and solidarity was good."**
- **"Customers were scared to shop because of the protests."**
- **"Once the smoke cleared - literally and figuratively - Fredericksburg said: 'This isn't us; we don't want to be this.' "**
- **"Downtown is very white when there are no protests. How can we make it more inclusive?"**

### Key Elements of Business Leaders' Comments

- Property damage was limited because demonstrators were mostly Fredericksburg residents who have a stake in the community.
- Business leaders would like to be part of discussions for improving police-community relationships going forward.

## 7. Reactions from University of Mary Washington (UMW) Administrators and Students

### Direct Quotes: Reactions from UMW Administrators and Students

- **"During an event hosted by police, they walked away from student protesters, and students felt disrespected."**
- **"When using any type of force, police must err on the side of caution. It's all perception."**
- **"Students are dismayed, hurt, and disappointed."**
- **"If protests were to happen this fall on campus, I would want police presence to diffuse and protect. We are trying to explain to students the benefits of these partnerships."**
- **"The campus is changing rapidly. There are more students of color on campus over the past decade - especially the past four years - versus the white conservatism of the past."**
- **"The school is experiencing a lot of transformation, change, and growing pains."**
- **"The campus is more inclusive. More access and equity means more activism, with a focus on social justice and community engagement."**
- **"I was overwhelmed by seeing officers in riot gear."**
- **"I could see people closing the windows to their homes to avoid the tear gas. Some of the elderly were choking on the gas coming through the air vent. That's why city residents were upset."**
- **"The police were spoiling for a fight."**
- **"The force wasn't clear in their mind who they were serving. I watched that mindset express itself."**
- **"The police felt outnumbered and outmanned. The temptation is to be military force vs. police."**
- **"This is a betrayal the people won't soon forget."**
- **"We were all mistreated that night, including those who live downtown."**

### Key Elements of Comments by UMW Administrators and Students

- Some UMW leaders said they believed that the FPD overreacted with the use of CS gas and other force.

- UMW students were disappointed that the UMW campus police were involved because of its mutual aid agreement with FPD.

## 8. Fredericksburg Police Perspective of Events

Following the demonstrations, city leaders held a series of town hall meetings led by the Mayor, the Police Chief, and the City Manager. At one of these town halls, the Mayor and Police Chief apologized to the Fredericksburg community for using CS gas to disperse the demonstrators.

At the time of PERF's first visit to Fredericksburg in August 2020, at least four officers had left the FPD. By the time PERF returned in late October 2020 for a follow-up visit, twelve police personnel in total had left the force. PERF was told during interviews with FPD leadership, that exit interviews with the departing staff revealed that some had left for more money in the surrounding counties, and others left their law enforcement career altogether.

### Direct Quotes: Fredericksburg Police Personnel

- **"Everyone was taken by surprise. This never happened here. It unfolded rapidly."**
- **"We had a sinking feeling like Minneapolis, that folks would take over a place and set it on fire."**
- **"We feared that protesters would overtake the Police Department."**
- **"We weren't big enough by ourselves to handle the entirety of the protest elements."**
- **"We learned that we can't do this on our own. We need mutual aid, but they have to get here in advance."**
- **"We didn't have the vision to foresee May 31st."**
- **"We were confident that protesters were coming to the PD. We thought their intent was malice."**
- **"There was a 'mob mentality,' yelling that they'd destroy city hall and the courthouse."**
- **"There was lots of fear from residents with protesters banging on cars, especially for those with kids in the car."**
- **"We never want to deploy gas again because it's a horrible perception."**
- **"Police that are leaving will tell you they don't feel supported by the city when giving their exit interviews."**

### Key Elements of Comments by Police Personnel

- Large-scale rioting in other cities following the death of George Floyd, combined with the attempted firebombing of FPD headquarters, raised concerns about the safety of police personnel and facilities.
- FPD resources are limited for responding to major events.
- Some FPD members do not feel supported by the community or elected officials.

## 9. Race Relations and the Fredericksburg Police Department

Some Fredericksburg community members said that the city has a history of racial tension that contributed to demonstrations. One community leader recounted her perspective as a Fredericksburg native, from the vantage point of watching the evolution of the FPD since her childhood during the 1960s civil rights movement. That experience included past occasions of being racially profiled by the police, she said.

### Slave Auction Block

Another source of conflict for Fredericksburg's Black community centered on the continued presence of a slave auction block that had been located in downtown Fredericksburg at the corner of William Street and Charles Street for approximately 180 years.

According to city council members, the city was close to removing the auction block before the demonstrations of May 31-June 2. On June 5, 2020, the slave auction block was finally removed.<sup>18</sup>

One member of Fredericksburg's Black community whose family has lived in the city since the 1800s told PERF that it was not fair that some of Fredericksburg's Black residents avoided downtown altogether or refused to go down the street where the auction block was located, because it was too painful to see it or pass nearby.

### Direct Quotes: Race Relations and the Fredericksburg Police Force

- "Schools and neighborhoods are more diverse, but there exists polarized community behavior."
- "When the KKK dropped leaflets in town, I decided to join the police advisory council and take part in panels. I am pleased with the practices of the former and current Police Chiefs. I am happy to see change happen."
- "I don't think police signed up to do the work of social justice, but someone has to do it."
- "If you ask most people in town, they probably support both Blacks and the police."
- "There is no playbook for this racial justice issue."
- "I felt we were making strides with race relations, but a few incidents on both sides have derailed these efforts."
- "Black Lives Matter [BLM] was the most willing to come to the table and talk to achieve concrete actions."
- "Fredericksburg must be framed in context of the national situation."
- "We shouldn't have to go to the oppressor to get permission to walk down the street."
- "We're used to the passive-aggressive racism."
- "You can't erase generations of fear with the police, when you're looking at why there are no takers for a career in law enforcement."
- "If you're not a higher-up, this community doesn't listen to you."
- "Yes, residents avoided the street to not see the slave auction block."

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<sup>18</sup> "After a long debate, Fredericksburg, Va., finally removes a slave auction block from downtown." *Washington Post*, June 6, 2020. <https://www.washingtonpost.com/history/2020/06/06/slave-auction-block-fredericksburg/>

### Section III: The Community of Fredericksburg

- "It's quite likely that my mother's people were auctioned on that slave block."
- "To me, the slave block represented if you had your grandmother's rapist's picture in your living room."
- "In 2005, I brought a motion to get the [slave auction] block removed, but I couldn't get a second."
- "It's very hard to trust the police. I believe I'd be safer staying in my house."

#### Key Elements of Community Members' Comments About Racial Issues and Policing

- The effects of generations of racism in the community and in police departments cannot be undone overnight.
- Events in Fredericksburg must be seen through the prism of what's happening across the nation.
- Some residents do not feel safe during encounters involving the police.

## Section IV: Review of FPD Policies and Procedures Relating to Use of Force and Mass Demonstrations

The PERF team reviewed the FPD’s policies related to use of force and mass demonstrations for thoroughness and compliance with nationally recognized progressive policing practices. We also examined whether FPD’s policies are sufficient to give officers a clear understanding of the rules, expectations, and guidelines regarding use of force.

This section provides recommendations on how the FPD can continue to improve its policies, as well as specific recommendations for strengthening language in current policies. It should be noted that the FPD has put its policies on the city’s website: <https://www.fredericksburgva.gov/1187/Department-Directives>. This is a best practice in policing that promotes transparency to the public.

PERF recommendations on policies are presented below in sequential order based on the policy number, and not in any order of priority.

Specifically, PERF reviewed the following policies:

- 302—Response to Resistance; Lethal and Less-Lethal Weapons
- 303—Weapons
- 320—Incident Command System/Critical Incident
- 325—Civil Disturbance
- 326—Mass Arrests
- Tactical Field Force Manual

Once FPD has implemented changes in these policies, the department should conduct agency-wide training to inform all personnel of the changes, as well as the department’s expectations for the conduct and behavior of its officers.

### PERF’s Analysis of Demonstrations and Use-of-Force Issues Nationally

***When the City of Fredericksburg contracted with PERF to conduct the study described in this report, it asked PERF not only to review the FPD’s handling of demonstrations in May-June 2020, but also to review FPD’s policies on demonstrations and on use of force by police, independent of the events of May 31-June 2.***

#### Demonstrations

PERF has conducted national research projects, with assistance from police executives across the country, on the police response to large and small demonstrations. One key issue has been that the nature of demonstrations has changed in recent years, with the onset of spontaneous “leaderless” demonstrations that are organized informally through social media, rather than by established civil rights groups or other organizations.

PERF’s reports on demonstrations include the following:

- ***The Police Response to Mass Demonstrations: Promising Practices and Lessons Learned*** (2018)<sup>19</sup>
- ***Handling Large, Preplanned Events: Recommendations from Preparations for the 2016 National Political Conventions*** (2018)<sup>20</sup>
- ***Managing Major Events: Best Practices from the Field*** (2011)<sup>21</sup>

The most recent of these reports, *The Police Response to Mass Demonstrations*, includes chapters on the following topics that are relevant to the events of May 31-June 2 in Fredericksburg. This research helped to inform PERF's recommendations in this report:

- Proportionality: Tailoring responses to the actions and mood of the crowd
- Avoiding mass arrests but being prepared if arrests are necessary
- Internal communication: Setting clear expectations for officers and command staff
- Training: How departments should equip and train their officers
- Training together: Bringing mutual aid agencies together to prepare for mass demonstrations
- The importance of mutual aid, and systems for managing it
- Use of force: Ensuring that all agencies are operating under the same guidelines
- The Incident Command System
- Bicycle officers: A critical resource in mass demonstrations
- The changing nature of mass demonstrations: Dealing with leaderless groups

### Use-of-Force Policies

PERF has conducted research and developed model policies on use of force for decades, and especially over the last six years, following controversial police shootings in Ferguson, Missouri and other locations. This work is summarized below.

Much of this work is about de-escalation of certain types of incidents, in order to prevent them from ever reaching the point where police need to use force. For example, when police encounter a person experiencing a mental health crisis, there are many strategies and tactics that police should use, detailed in many PERF reports, to deescalate the situation, "slow it down," bring additional resources to the scene, and generally resolve it without use of force.

*De-escalation strategies are useful in policing not only in the context of reducing police use of force, but also in the context of de-escalating tensions during demonstrations, where emotions may be running high and both the demonstrators and the police officers may be tense.*

The recommendations in this chapter on FPD policies reflect PERF's research in the following reports:

- ***Suicide by Cop: Protocol and Training Guide*** (2019)<sup>22</sup>

<sup>19</sup> <http://www.policeforum.org/assets/PoliceResponseMassDemonstrations.pdf>

<sup>20</sup> <http://www.policeforum.org/assets/HandlingLargePreplannedEvents.pdf>

<sup>21</sup> [https://www.policeforum.org/assets/docs/Critical\\_Issues\\_Series/managing%20major%20events%20-%20best%20practices%20from%20the%20field%202011.pdf](https://www.policeforum.org/assets/docs/Critical_Issues_Series/managing%20major%20events%20-%20best%20practices%20from%20the%20field%202011.pdf)

<sup>22</sup> <https://www.policeforum.org/suicidebycop>

## Section IV: Review of FPD Policies and Procedures Relating to Use of Force and Mass Demonstrations

- ***ICAT: Integrating Communications, Assessment, and Tactics*** (2016) <sup>23</sup>
- ***Guiding Principles on Use of Force*** (2016) <sup>24</sup>
- ***Re-Engineering Training on Police Use of Force*** (2015) <sup>25</sup>
- ***Defining Moments for Police Chiefs*** (2015) <sup>26</sup>

PERF's "*Guiding Principles*" report is the core document of this work, providing 30 recommendations, including the following:

- The sanctity of human life should be at the heart of everything an agency does.
- Agencies should continue to develop best policies, practices, and training on use-of-force issues that go beyond the minimum requirements of *Graham v. Connor*.
- Police use of force must meet the test of proportionality.
- Adopt de-escalation as formal agency policy.
- The Critical Decision-Making Model provides a new way to approach critical incidents.
- Duty to intervene: Officers need to prevent other officers from using excessive force.
- Respect the sanctity of life by promptly rendering first aid.
- Shooting at vehicles must be prohibited.
- Prohibit use of deadly force against individuals who pose a danger only to themselves.
- Use Distance, Cover, and Time to replace outdated concepts such as the "21-foot rule" and "drawing a line in the sand."
- Provide a prompt supervisory response to critical incidents to reduce the likelihood of unnecessary force.
- Scenario-based training should be prevalent, challenging, and realistic.

PERF's training program, *ICAT: Integrating Communications, Assessment, and Tactics*, provides officers with the tools, skills, and options they need to implement the Guiding Principles, and to safely defuse a range of critical incidents.

Many of PERF's Guiding Principles have been adopted in departments across the country, and [many departments](#) have given ICAT training to their officers.

***Note: The following recommendations regarding FPD policies are not necessarily relevant to any of the events that occurred in Fredericksburg on May 31-June 2.***

***Rather, these recommendations pertain to the City of Fredericksburg's request that PERF also provide general recommendations regard FPD's policies on police use of force.***

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<sup>23</sup> <https://www.policeforum.org/assets/icattrainingguide.pdf>

<sup>24</sup> <https://www.policeforum.org/assets/guidingprinciples1.pdf>

<sup>25</sup> <https://www.policeforum.org/assets/reengineeringtraining1.pdf>

<sup>26</sup> <https://www.policeforum.org/assets/definingmoments.pdf>

## 302—Response to Resistance; Lethal and Less-Lethal Weapons

This is FPD’s main use-of-force policy. FPD updated its policy in July 2020.

### 302.00—Use of Force

Section 302 discusses proportionality, but can be strengthened with a more detailed discussion of what proportionality means in practice, including the use of distance and cover to protect officers’ safety while buying time for them to evaluate and respond to the situation, and tactics designed to “slow down” situations that do not pose an immediate threat, as well as calling for supervisors and other resources to respond to the scene to help resolve the situation. FPD also should add language to this section emphasizing the sanctity of human life.

**Recommendation: Expand policy on tactical repositioning, slowing down certain types of incidents, etc.** The FPD’s use-of-force policy should include a more detailed discussion of proportionality, the use of distance and cover, tactical repositioning, “slowing down” situations that do not pose an immediate threat, calling for supervisors and other resources, and similar actions and tactics.<sup>27</sup> For example, the Camden County, New Jersey Police Department’s use-of-force policy states that “when force cannot be avoided through de-escalation or other techniques, officers must use no more force than is proportionate to the circumstances... Some of the factors that officers should consider when determining how much force to use include...whether further de-escalation techniques are feasible, ... the time available to an officer to make a decision, and whether additional time could be gained through tactical means...”<sup>28</sup>

**Recommendation: Add a definition of “proportionality” in use of force:** The FPD should add a definition of “proportionality” to the Definitions section of policy. As explained in PERF’s report on Guiding Principles on Use of Force, the definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers’ actions. The concept of proportionality does not mean that officers, at the moment they have determined that a particular use of force is necessary and appropriate to mitigate a threat, should stop and consider how their actions will be viewed by others. Rather, officers should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality also considers the nature and severity of the underlying events.

**Recommendation: Create a policy on the sanctity of human life.** The FPD should add a sentence in Section 302.00 emphasizing the sanctity of human life. For example, the Baltimore

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<sup>27</sup> PERF, *Guiding Principles on Use of Force*, pp. 54-65. <http://www.policeforum.org/assets/guidingprinciples1.pdf>.

<sup>28</sup> Camden Police Department. 2013. “Use of Force.” January 28, 2013. <https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5d5c89c2e3bc4c000192f311/1566345667504/CCPD+UOF+Policy+%288.21.19%29+%28FINAL%29.pdf>

## Section IV: Review of FPD Policies and Procedures Relating to Use of Force and Mass Demonstrations

Police Department's use-of-force policy states: "The policy of the Baltimore Police Department is to value and preserve human life in all situations."<sup>29</sup>

### 302.01. De-escalation.

Overall, this language is sound. However, the FPD should remove the reference to "verbal judo," as it is a somewhat dated concept.

**Recommendation: Remove references to "verbal judo."** The FPD should remove "verbal judo" from the examples of de-escalation strategies in Section 302.01. FPD should replace this with "crisis communication" or a similar term.

### 302.02 Use of Deadly Force

**Recommendation: Use term "lethal force" to align with "less-lethal force."** The FPD should replace the current term (and subsequent references to) "deadly force" with "lethal force" to align itself more accurately with the department's term "less-lethal force." Related agency policies should also be reviewed to ensure that these new terms are applied consistently in related policies.

### 302.03 Discharging Firearms At or From a Moving Vehicle

This section should be simplified to state that shooting at vehicles is prohibited, with two exceptions: if a person inside a vehicle is using or threatening lethal force by means other than the vehicle itself, or if the vehicle is being used as a weapon of mass destruction.

**Recommendation: Simplify policy on shootings at or from vehicles:** The FPD should strengthen the language in this section to state, "Shooting at or from a moving vehicle is prohibited, unless someone inside the vehicle is using or threatening lethal force against an officer or another person by means other than the vehicle itself, or the vehicle is being used as a weapon of mass destruction in an apparent act of terrorism." This policy change should also be reflected in training.

### 302.08—Taser

Current policy refers to Electronic Control Weapons (ECWs) as both "Electronic Control Weapons" and "Tasers." A uniform term should be used, one that makes it clear that use of the weapon carries a risk of harm. In 2011, PERF worked with the U.S. Department of Justice to create guidelines on the use of ECWs.<sup>30</sup> That report recommended use of the term Electronic Control Weapons (ECWs) to reflect the reality that these tools are less-lethal weapons that are meant to help control persons who are actively resisting authority or acting aggressively.

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<sup>29</sup> Baltimore Police Department (2016). "Policy 1115 ('Use of Force')."

[https://www.baltimorepolice.org/sites/default/files/Policies/1115\\_Use\\_of\\_Force.pdf](https://www.baltimorepolice.org/sites/default/files/Policies/1115_Use_of_Force.pdf)

<sup>30</sup> Police Executive Research Forum. 2011. "2011 Electronic Control Weapon Guidelines."

[https://www.policeforum.org/assets/docs/Free\\_Online\\_Documents/Use\\_of\\_Force/electronic%20control%20weapon%20guidelines%202011.pdf](https://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf)

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**Recommendation: Use term “Electronic Control Weapon.”** The FPD should revise its policy to replace all references to “TASER” with the more descriptive and appropriate term, “Electronic Control Weapon (ECW).” This change will help clarify that ECWs are in fact weapons that carry a risk of harming persons, including fatal injuries in some cases. The change should be made throughout FPD’s policy manual and in all other orders, directives, and training curricula which reference such devices. The current policy occasionally refers to these devices as ECWs, but not consistently.

**Recommendation: Consider use of brightly colored ECWs.** The FPD should consider adopting brightly colored ECWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the ECW for a firearm. Specialized units such as Special Equipment Tactical Team may prefer dark-colored ECWs for tactical concealment purposes.

**Recommendation: Do not use ECWs in presence of combustible materials.** Current policy states that ECWs should not be used on a subject if it is known that the person is saturated with, or in the presence of, highly flammable or combustible materials or liquid. FPD should indicate whether or not its brand of OC spray is alcohol-based (and thus flammable).

Current policy states that “Personnel should use the Taser for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to the Taser for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent Taser exposures beyond 15 seconds of multiple applications or continuous cycling should be independently justifiable, and the risks should be weighed against other force options. (Any person exposed to the Taser for longer than 15 seconds shall be taken to the hospital for a medical evaluation).”

If the ECW has not worked after three applications, it will likely not work a fourth time. At that point, officers should consider another force option.

**Recommendation: Strengthen policy against multiple uses of ECWs.** The FPD should replace the sentence “Personnel should consider that exposure to the Taser for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury” with “Personnel should consider that exposure to the ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. At that point, another force option should be considered.”

**Recommendation: Arrange for medical response if ECW use is anticipated.** Current policy states that “all subjects who have been Tased shall receive a medical evaluation. This can be accomplished by having a medic unit respond to the officer’s location to evaluate the tased subject.” The FPD can strengthen this requirement by adding language stating that when possible, emergency medical personnel should be notified when officers respond to calls for service in which they anticipate an ECW application may be used against a subject.”

### 302.10—Medical Aid

Current language is satisfactory, but the FPD should add language to its policy that officers shall promptly render first aid to individuals who are injured or complain of an injury after a use-of-force incident until an EMT arrives.

**Recommendation: Require first aid for injuries after use of force.** The FPD should add language to Section 302.10 to require that officers render first aid to individuals who are injured or complain of an injury after a use-of-force incident until an EMT arrives.

### 302.11—Duty to Intervene

Current policy language contains a strong “duty to intervene” requirement. This section should be moved up toward the beginning of the policy (such as after “302.01 De-Escalation”). The duty to intervene is an important component of the department’s overall use-of-force philosophy that ties into related concepts such as de-escalation, proportionality, and the sanctity of life.

**Recommendation: Give greater emphasis to duty to intervene.** The FPD should move Section 302.11 to the beginning of the department’s Response to Resistance policy. Duty to intervene, along with concepts such as de-escalation and proportionality, are key components to the department’s use of force philosophy and should be reflected earlier in policy.

### 302.12—Use-of-Force Reports

Current policy states that officers “will make immediate verbal notification to their supervisors whenever force is used in the performance of an official police duty, or when exercising their law enforcement authority.” Current policy requirements can be strengthened by requiring supervisors to respond to the scene of all reportable uses of force (with the exception of pointing a firearm or ECW) to conduct the initial investigation, and if possible, to respond to the scene before force is used. Supervisors should receive training on how to conduct this initial investigation.

There is a growing recognition in the policing profession that in critical incidents where force may be necessary, supervisors play an important role. If a supervisor can get to the scene prior to force being used, the supervisor usually has a stabilizing effect and may prevent the incident from escalating unnecessarily.

At PERF’s 2016 meeting on *Guiding Principles on Use of Force*, former San Diego Police Chief William Lansdowne said that in incidents that involved an officer-involved shooting, there was typically about a 15-minute window of time from when the call came in until shots were fired. “If you have a system set up within your organization that gets a supervisor to the scene early on, within the 15-minute window, your chance of having an officer-involved shooting ... is reduced by about 80 percent, because they can manage the situation as a team,” Chief Lansdowne said.<sup>31</sup> Therefore, PERF recommends that supervisors be aware of the types of incidents that can result in force being used – such as calls involving persons

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<sup>31</sup> Police Executive Research Forum, *Guiding Principles on Use of Force*, (Washington, D.C.: Police Executive Research Forum): p. 63.

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with a mental illness, developmental disability, drug addiction, or other condition that is causing them to behave erratically or dangerously – and that supervisors respond to those calls.

In situations where a supervisor is unable to arrive at the scene prior to a use of force, it is important that the supervisor respond as soon as possible to begin an investigation at the scene of the incident.

FPD should create a new section to policy entitled Supervisor Responsibilities. This section should state the department's expectations of its first-line supervisors concerning use of force. Policy should have an explicit requirement that supervisors respond to the scene of all reportable uses of force (with the exception of pointing a firearm or ECW—which should still be documented and reviewed by the officer's supervisor) to conduct the initial investigation. Supervisors should also be dispatched to all incidents where it is anticipated that force might be used. Supervisors should not only be responsible for reviewing the actual use of force, but the events leading up to it.

**Recommendation: Require supervisors to respond to scene of most reportable uses of force.**

FPD should create a new section to policy entitled "Supervisor Responsibilities," stating the department's expectations of its first-line supervisors concerning use of force. Policy should have an explicit requirement that supervisors respond to the scene of ALL reportable uses of force (with the exception of pointing a firearm or ECW) to conduct the initial investigation. Supervisors should also be dispatched to all incidents where it is anticipated that force might be used. Supervisors should not only be responsible for reviewing the actual use of force, but the events leading up to it.

### 302.12—Use-of-Force Reports

Section 302.12 specifies the actions in which a use-of-force report is to be filed. FPD can simplify this language by stating that supervisors are to immediately respond to any scene: where a weapon (including a firearm, edged weapon, rocks, or other improvised weapon) is reported; where a person experiencing a mental health crisis is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force. This language should be moved to the new Supervisor Responsibilities section discussed above.

**Recommendation: Require supervisors to respond to scenes where a significant use of force may be likely.** FPD should simplify notification and response requirements by stating that supervisors are to immediately respond to any scene: where a weapon (including a firearm, edged weapon, rocks, or other improvised weapon) is reported; where a person experiencing a mental health crisis is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force. This language should be moved to the new Supervisor Responsibilities section discussed above.

### 302.13—Show-of-Force Reporting

The FPD can strengthen this requirement by requiring that an Incident Based Reporting System (IBR) report (FPD's report-writing system) be completed any time an officer points an ECW at a subject, as is current practice for pointing a firearm, which is a nationally recognized best practice.

**Recommendation: Require an Incident Based Reporting System report for pointing an ECW.**

The FPD should require that an IBR report be completed any time an officer points an ECW at a

subject. Sergeants should review these incidents carefully to ensure that ECWs are being used effectively as a necessary show of force.

### 302.14—Administrative Review of Use-of-Force Reports

The FPD can greatly strengthen the quality and thoroughness of its administrative reviews by creating a special investigative body that is responsible for the administrative investigation of all serious uses of force by FPD members. The FPD should also require that a tactical debriefing occur no later than 72 hours after an officer-involved shooting or in-custody death. The purpose of this review is to look at the entirety of each incident, not just the moment force was used.

**Recommendation: Create a Critical Incident Review Board.** The FPD should create a Critical Incident Review Board (CIRB) that is responsible for reviewing: all serious uses of force; lethal force; less-lethal force with a tool; injury; complaint of injury; all in-custody deaths; and any other critical police incident as directed by the chief of police. The formal review of these incidents, conducted as a matter of course, will provide valuable opportunities to identify lessons that can be incorporated into officer training, gaps in tactics, any need for additional equipment to be provided to officers, or any need for changes in policy.

**Recommendation: Specify staffing and issues for the CIRB to review.** The CIRB, consisting at a minimum of the Patrol Division captain, a representative from the training function, a patrol officer representative, and a representative from professional standards, should convene quarterly to review each serious use-of-force incident. The review board should serve to ensure that tactics, equipment, and policy are reviewed, and areas of concern are addressed.

**Recommendation: Hold a tactical debriefing within 72 hours of an OIS or in-custody death.** The FPD should require that a tactical debriefing occur no later than 72 hours after an officer-involved shooting or in-custody death, to identify potential issues in training, policy and/or equipment without having to wait until the completion of the official shooting investigation. Members of the CIRB should be included in these tactical debriefings. As part of this review, a member of the training function should be allowed access to the scene after all investigative measures have been completed, to help inform the debriefing of the CIRB.

### Policy 303—Weapons

Section 303.20 addresses deployment of the rifle by the Patrol Rifle Operator (PRO). Language in this section clearly states that patrol rifles may not be deployed by a PRO to control civil disorders, except when officers at the scene have been fired upon.

The FPD needs to review this policy and ensure that it is being followed. Body-worn camera footage reviewed by PERF shows officers who were not in SETT outfits but were carrying rifles,<sup>32</sup> and the video footage showed at least one incident where the carrying of the rifle agitated protesters.

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<sup>32</sup> SETT is the FPD's Special Equipment Tactical Team. Policy 352 Civil Disturbance states that "SETT personnel may utilize issued tactical equipment at the Incident Commander's discretion (Consider the event and circumstances at the time." M4 rifles are part of the SETT team's equipment.

**Recommendation: Review enforcement of restrictions on patrol rifles.** The FPD should ensure that current policy requirements are being adhered to with regard to Patrol Rifle Operators.

(The deployment of patrol rifles to control civil disorders is expressly prohibited by policy; however, PERF’s review of BWC found several instances where officers were wearing rifles, but were not in SETT outfits.)

### Policy 320—Incident Command System/Critical Incident

The FPD established an Incident Command System (ICS) in the field on May 31, and in the detective room at the FPD headquarters during the following days. While PERF learned that the detective room proved unsatisfactory to FPD’s needs, the decision to house the department’s ICS in a secure location removed from areas of demonstration was sound. Having an ICS located away from the scene of a mass demonstration provides the ICS with a calmer environment so that decisions are not influenced by activity on-scene that has the potential for distraction.

Policy 320 requires that once an ICS has been implemented, an Incident Action Plan (IAP) is to be created. The IAP is to include, at a minimum, the following four elements:

- What do we want to do?
- Who is responsible for doing it?
- How do we communicate with each other?
- What is the procedure if someone is injured?

PERF identified multiple incidents on body-worn camera video where officers and even police leaders gave somewhat different orders or directions to citizens or other officers. PERF further observed some differences in the enforcement of the curfew as a result of no clear direction from leadership.

Whenever an ICS is established, the FPD should issue an IAP and update it at least every 24 hours (though 12 hours is preferable). This will help ensure that officers understand FPD’s goals and objectives, relevant information such as curfews, and other information that should be conveyed to officers in the field.

**Recommendation: Ensure that policies on Incident Action Plans are adhered to.** The FPD should ensure it is disseminating an Incident Action Plan (IAP) per policy that provides officers with details and direction for the upcoming events as known and what their responsibilities will be. This should be updated at least every 24 hours, but ideally every 12 hours. This will ensure that officers understand the department’s goals and objectives, relevant information such as curfews, and other information that should be conveyed to officers in the field. This will help ensure a uniform response to demonstrators by the department.

### Policy 325--Civil Disturbance

#### Renaming Policy

This current policy title only references civil disturbances. The FPD should rename Policy 325 “Crowd Management and Public Demonstrations” to reflect the fact that not all mass gatherings will result in a

civil disturbance. Training should be provided to all officers on the new policy, containing the recommendations provided by PERF.

**Recommendation: Rename policy to reflect that demonstrations often do not involve any civil disturbance.** The FPD should rename the title of Policy 325 “Crowd Management and Public Demonstrations” to reflect the fact that not all mass gatherings will result in a civil disturbance, though some mass gatherings may have the potential to result in civil disturbances that require law enforcement action.

**Recommendation: Provide new training to all officers on demonstrations.** The FPD should train all officers on the new Crowd Management and Public Demonstrations policy, containing the recommendations made by PERF.

### Civil Disturbance and Mass Arrests Checklist

Policy 325 contains an appendix with a Civil Disturbance and Mass Arrests checklist. There was no indication through PERF’s review of available information that this checklist was used. For example, the checklist states that the fire department and EMS should respond to the staging area. However, PERF did not see any indication that the fire department responded, or was standing by, during the May 31-June 2 demonstrations. The only thing PERF observed through BWC footage was that the fire department was called to assist several individuals that were affected by CS gas or OC spray.

**Recommendation: Use the existing checklist of actions to ensure prompt responses.** The FPD should review the checklist contained in Policy 325 whenever it is anticipated that an event has the potential to result in a civil disturbance or mass arrest situation.

### Policy Statement

The FPD should add language to the beginning of Policy 325 to state that the department’s approach to its handling of public demonstrations has two equal components: upholding the First Amendment rights of demonstrators, while ensuring public safety.<sup>33</sup> This should be the cornerstone of the department’s overall philosophy in managing demonstrations.

**Recommendation: Add mission statement to policy on demonstrations.** The FPD should add language to the beginning of Policy 325 to state that the department’s approach to its handling of public demonstrations has two equal components: upholding the First Amendment rights of demonstrators, while at the same time ensuring public safety.

### Mass Surveillance

The FPD should rename its Policy 325 “Surveillance,” deleting the word “Mass.” The term “mass surveillance” has negative connotations, particularly with respect to certain tools such as unmanned aerial vehicles, or “drones.” This policy should state that the use of surveillance is limited to instances where the department has reasonable, reliable information that criminal activity will occur.

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<sup>33</sup> The Policing Project at NYU School of Law (2020). Policing Protests to Protect Constitutional Rights and Public Safety. New York, NY.

**Recommendation: Create policy limiting surveillance tools.** The FPD should add a new section to Policy 325, titled “Surveillance.” This section should state that the use of surveillance tools, including unmanned aerial vehicles (UAVs) or “drones,” undercover officers, and cameras, is limited to instances where the department has reasonable, reliable information that criminal activity will occur. If there is no clear and convincing threat, surveillance techniques should not be used. Policies on UAVs are a controversial emerging issue that should be discussed with the community and city elected officials in advance.

### Proportionality

Policy 325 contains a discussion of proportionality; however, it is limited to discussion of the demobilization of personnel following the conclusion of a civil disorder event. This language should instead state that the department’s response to mass demonstrations must always be proportional to the crowd’s actions. Policy should state that the department will have a tiered response to mass demonstrations in which the department’s first response should involve officers in “soft” gear (typically the department’s uniform of the day), to avoid having a chilling effect on the crowd.

**Recommendation: Add policy linking police response to demonstrators’ actions.** The FPD should add language stating that the department’s response to mass demonstrations be proportional to the crowd’s actions. Policy should state that the department will have a tiered response using officers in “soft” gear to handle general crowd interactions. If the department anticipates the possible need for a heightened response, officers in riot gear (such as FPD’s Tactical Field Force) can be deployed, but generally should be kept out of sight when not needed, to avoid escalating tensions.

**Recommendation: Add policy to distinguish crowd management, intervention, and control.** The FPD should include language in Policy 325 and related policies that establish three increasing levels of response, known as crowd management, intervention, and control:

- Crowd management—the lowest level of response, in which police respond to all forms of public assemblies to maintain the event’s lawful activities.
- Crowd intervention—an intermediate response, in which police respond to pre-planned or spontaneous activities to isolate unlawful behavior that impacts public safety, while allowing for the activity to continue.
- Crowd control—the highest level of response, in which police respond to pre-planned or spontaneous events that have become unlawful or violent, and where arrests and crowd dispersal may be required.

### Targeted Enforcement

The FPD should add language to Policy 325 to give priority enforcement to crimes of violence, property destruction, or other serious crimes, as opposed to minor acts of civil disobedience such as traffic violations and walking on roadways. Officers should be provided direction on FPD’s plans or intent with regard to low-level acts of civil disobedience. Many police departments often determine that it is better to let low-level offenses occur, in order to avoid escalating tensions.

## Section IV: Review of FPD Policies and Procedures Relating to Use of Force and Mass Demonstrations

For example, in PERF's 2011 report, *Managing Major Events: Best Practices from the Field*, Charles Ramsey, then Commissioner of Police in Philadelphia, said, "Maybe [protesters will] block an intersection, but so what? Just direct traffic around them and let them sit there. You really need to think about these situations in advance to determine whether or not you should make an arrest in different scenarios. If they're blocking an Interstate highway, of course you have to do something. But a city street where you can just redirect traffic is a different ballgame."<sup>34</sup>

**Recommendation: Add policy to distinguish serious crimes from minor civil disobedience.** The FPD should add language to Policy 325 to give priority enforcement to crimes of violence, property destruction, or other serious crimes, as opposed to minor acts of civil disobedience such as traffic violations and walking on roadways.

### Outreach to Demonstration Coordinators

The FPD should add language to Policy 325 to require that, to the extent possible, outreach efforts be made to demonstration organizers and participants to facilitate cooperation and to discuss the types of activities that are permissible and those which may result in arrest.

In recent years, it has become difficult to identify leaders of many demonstrations. In the past, demonstrations usually were organized by established civil rights organizations or other known leaders. By contrast, today's demonstrations often occur more spontaneously and are organized informally through social media. But in some cases, police can identify informal leaders of a demonstration, either by watching public social media accounts or by observing demonstrations as they are occurring.

**Recommendation: When possible, identify and work with demonstration organizers.** The FPD should add language to Policy 325 to require that, to the extent possible, outreach efforts be made to demonstration organizers and participants to facilitate cooperation and to discuss the types of activities that are permissible and those which may result in arrest.

### News Media Relations

The FPD should add language to Policy 325 to address news media relations. This section should include information about the overall importance of relationships with news media reporters with regard to mass demonstrations and assemblies, as well as the department's use of social media to disseminate information.

Social media accounts are an extremely efficient mechanism for police to share information in advance of a demonstration, and also on a minute-by-minute basis during a demonstration. A key advantage of social media is that it can be targeted directly to the demonstrators and other people who want and need to receive information from the police.

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<sup>34</sup> *Managing Major Events: Best Practices from the Field*. PERF, 2011. Page 44.  
[https://www.policeforum.org/assets/docs/Critical\\_Issues\\_Series/managing%20major%20events%20-%20best%20practices%20from%20the%20field%202011.pdf](https://www.policeforum.org/assets/docs/Critical_Issues_Series/managing%20major%20events%20-%20best%20practices%20from%20the%20field%202011.pdf)

For social media to be most effective, it should be used on a daily basis, not only during major events or critical incidents. In that way, members of the public will already be familiar with police departments' various social media accounts and will know where to look for the department's social media posts.

**Recommendation: Add policy on the importance of news media relations during demonstrations.** FPD should add language to Policy 325 to address media relations. This section should include information about the overall importance of the news media with regard to mass demonstrations and assemblies. Policy should require that the PIO provide updates to the public through various news media and social media platforms.

Social media is especially effective for informing the public about the department's plans for facilitating demonstrations at certain time and locations, road closures that may be undertaken, any restrictions on protest activities that the department may want to impose, any curfews, and other types of information that are important for demonstrators to know and understand in real time.

### Policy 326--Mass Arrests

PERF did not identify any areas of concern with this policy. As stated in PERF's 2018 report, *The Police Response to Mass Demonstrations: Promising Practices and Lessons Learned*,

"Many [police] officials at [a PERF conference] said that police agencies should use engagement and de-escalation techniques to avoid making mass arrests as much as possible during demonstrations. Mass arrests are legally and logistically complex, and they can produce mistrust and antagonism between the police and demonstrators.... [i]f we have to make mass arrests, you have to make sure you have a system for handling mass arrests before a large protest takes place. How are you going to process people if you do arrest them?"<sup>35</sup>

### Tactical Field Force (TFF) Manual

The FPD's Tactical Field Force manual governs the operations of the department's TFF operations. PERF was informed that the department's Tactical Field Force policy manual was largely similar to that of the Virginia State Police's Tactical Field Force, which provided FPD its training and policy.

#### I. Tactical Field Force Concept

This section of the policy discusses the concept and purpose of the FPD's Tactical Field Force. The department should ensure that this section reflects the broader philosophy (proportionality, de-escalation, etc.) of PERF's recommendations to "Policy 302--Response to Resistance; Lethal and Less-Lethal Weapons" and related policies. This will ensure that the Tactical Field Force's operating procedures are in line with FPD's larger approach to use of force.

**Recommendation: Expand on Tactical Field Force policy to reflect use-of-force concepts such as de-escalation.** The FPD should review Section I. Tactical Field Force Concept to ensure that it

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<sup>35</sup> <http://www.policeforum.org/assets/PoliceResponseMassDemonstrations.pdf> Pp. 16-18.

reflects the department's philosophy and approach to use of force, reinforcing concepts such as proportionality and de-escalation.

## IX. Training

This section outlines training requirements for Tactical Field Force personnel. The FPD should update this section to include command-level staff, even though they may not be members of the Tactical Field Force. This is to ensure that those responsible for departmental decision-making are aware of the unique nature and role of the Tactical Field Force in the FPD's response to crowd control and mass demonstrations. FPD command staff should also receive executive-level training on the use of mobile field forces and the leadership of such teams. The Federal Emergency Management Agency (FEMA) offers such courses.<sup>36</sup>

**Recommendation: Provide TFF training to command-level staff.** The FPD should update training to require that command-level staff be included in Tactical Field Force training, so that the department's decision-makers are aware of the unique nature and role of the Tactical Field Force in the department's response to crowd control and mass demonstrations. FPD command staff should also take executive-level training on the use of mobile field forces and the leadership of such teams.

## XI. Military Bearing/Show of Force

This section discusses the Tactical Field Force's overall approach to dispersing crowds and mass demonstrations. The FPD should rename this section "Professional and Structured Response." The terms "military bearing" and "show of force" reflect a militarized approach to handling mass demonstrations that does not accurately reflect the nature of FPD's policies and philosophy.

PERF's 2015 report, *Defining Moments for Police Chiefs*, includes a section in which police chiefs from across the nation explain how use of military-style equipment and militaristic language can send the wrong message to protesters and demonstrators who are merely exercising their First Amendment rights.<sup>37</sup>

**Recommendation: Change terminology on "military bearing."** The FPD should rename "XI. Military Bearing/Show of Force" with the new title, "Professional and Structured Response."

### C. Use of Chemical Agents

Subsection C of "Section XI: Military Bearing" contains considerations for the use of chemical agents.

**PERF discovered multiple instances (in both interviews and review of body-worn camera footage) in which existing policy or best practices were not adhered to in Fredericksburg on May 31-June 2.**

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<sup>36</sup> Refer to FEMA's Center for Domestic Preparedness (CDP) for further information on courses. "Training the Best for the Worst." <https://cdp.dhs.gov/>

<sup>37</sup> *Defining Moments for Police Chiefs*. PERF, 2015. Pp. 17-24. <https://www.policeforum.org/assets/definingmoments.pdf>

## Section IV: Review of FPD Policies and Procedures Relating to Use of Force and Mass Demonstrations

- **Audible warnings to demonstrators:** In our review of body worn camera footage, PERF did not hear warnings given to the crowd that chemical munitions would be deployed as part of the unlawful assembly announcements. FPD policy can be strengthened by establishing requirements that officers provide specific warnings and instructions.
- **Warning smoke:** In only one instance was smoke deployed prior to chemical munitions being deployed.
- **Protecting officers with gas masks:** In several instances, CS gas was deployed even though officers on-scene were not equipped with gas masks.
- **Targeting the impact:** Witnesses and bystanders who were not part of the protests were also affected; PERF was informed of instances where CS gas made its way into people's houses. PERF reviewed body-worn camera footage in which CS gas deployed near occupied vehicles that were traveling in the area and would have been impacted by the gas effects.

The department's Tactical Field Force Manual should contain a broader discussion of the ramifications of chemical agents, and what will happen if a crowd's response escalates as a result of the use of these agents. The manual should provide guidance on when and how to determine if the deployment of CS gas is appropriate. Specifically, CS gas should not be considered unless there is clearly a legitimate concern about destruction and/or violence.

Subsection C1 currently states that the use of CS gas will be authorized by the squad sergeant in conjunction with Incident Command. The FPD should revise this subsection to state that the use of CS gas will be authorized ONLY by Incident Command.

**Recommendation: Develop strong guidelines on the limitations of CS gas in the Tactical Field Force Manual.** The FPD's Tactical Field Force Manual should incorporate a broader discussion of the ramifications of chemical agents.

- This should include discussion of what will happen if a crowd's response escalates as a result of the use of these agents.
- The manual also should provide guidance on when and how to determine if the deployment of CS gas is appropriate.
- Specifically, CS gas should not be considered unless there is clearly a legitimate concern about property destruction and/or violence, and other less-lethal options directed at specific individuals involved in criminal acts are not feasible.

**Recommendation: Require Incident Commander approval of any use of CS gas.** The FPD should revise subsection C1 of the Tactical Field Force manual so that the deployment of CS gas is to be authorized by the Incident Commander only. The Incident Commander can take advice and input from various individuals, including TFF supervisors, but policy should clearly state that it is the IC's responsibility to make decisions about deployment of CS gas and other munitions, including Sting-Balls, as discussed in the next section.

### **D. Non-Lethal Munitions**

The FPD should rename this section "Less-Lethal Munitions" to reflect the fact that while some weapons are designed to be less lethal than firearms, they sometimes do result in death.

**Recommendation: Remove all references to “non-lethal” munitions.** The FPD should rename this section “Less-Lethal Munitions” to reflect the fact that while some weapons are designed to be less lethal than firearms, they sometimes do result in death. Any references to “Non-Lethal Munitions” in the Tactical Field Force Manual and related documents should be renamed accordingly.

As with PERF’s recommendation on the decision to deploy CS gas above, the decision to deploy less-lethal munitions in a crowd should be made ONLY by Incident Command. Policy should be changed to reflect this recommendation.

**Recommendation: Require Incident Command approval of use of less-lethal munitions.** The FPD should revise subsection D1 of the Tactical Field Force manual so that the deployment of less-lethal munitions is to be authorized only by the incident commander.

### **Deployment of Chemical and Less-Lethal Munitions**

PERF observed body-worn camera footage and found instances where policy was not adhered to in this area. As specified in the Tactical Field Force Manual, two canisters of white smoke are to be deployed to determine wind direction and crowd reaction. If the crowd refuses to disperse, red smoke is to be deployed to provide a visual signal to the TFF team that chemical agents (CS gas) are going to be deployed.

PERF observed only one instance of smoke being deployed; red smoke was deployed outside the police station, as white smoke was not available, according to FPD documents. In all other instances where chemical munitions were deployed, smoke was not deployed prior to CS gas.

Additionally, PERF witnessed instances on BWC footage where the unlawful assembly order was completed, but CS gas was deployed immediately, before the crowd had any opportunity to leave. Barring exigent circumstances, crowds need to be given enough time to properly disperse and leave the area. Furthermore, it is not evident in our video review that FPD gave instructions about how the crowd should leave the area, as part of the unlawful assembly order.

**Recommendation: Provide clear dispersal orders, and provide time for demonstrators to obey the orders:** Police must give clear dispersal orders, providing a time limit and instructions about how to have an orderly process, with directions about which streets demonstrators should use to leave the area, so there will be no confusion. These instructions should also include information about the repercussions for failing to leave.

Per policy, once gas has been deployed, TFF members may use a variety of munitions to target specific individuals. In one instance, PERF’s review of BWC footage showed a deployment of a sting-ball grenade that was likely used as an area-affect weapon and not targeted at any specific person(s). Furthermore, sting-ball devices are intended to be deployed at ground level so that the impact projectiles hit the lower body. However, in this instance, the sting-ball was thrown onto a hill with people gathered below the hill. The projectiles had the potential to hit onlookers in the head and upper body.

## Conclusion

Based on all of the information PERF gathered about the events of May 31 – June 2, 2020, it appears that the Fredericksburg Police Department did not have a sense of how large the unplanned demonstrations would become.

This was not unusual at all. In fact, hundreds of cities across the United States experienced demonstrations stemming from the death of George Floyd on May 25 in Minneapolis, and many of them were not expecting or prepared for the protests. And some cities far from Minneapolis experienced rioting, violence, and property destruction.

As a result, FPD's response to the demonstrations of May 31-June 2 at times was disorganized:

- The FPD did not have adequate resources available - including prearranged regional mutual aid - to respond to the situation as it would have liked.
- At times it appeared that FPD used tools such as CS gas and a sting-ball grenade without considering the broader ramifications of using these less-lethal munitions. Such tools should be considered only when there is a significant concern about demonstrators committing acts of violence and/or property destruction.
- FPD also failed to adhere to best practices for ensuring that CS and other tools, when used, are effective, such as:
  - announcing the impending use of the tools as a warning;
  - providing enough time for demonstrators to leave the scene;
  - making announcements that all demonstrators can hear, stating a deadline to leave and providing information about repercussions for failing to leave;
  - providing specific instructions to demonstrators about which streets they should use to leave, so it will be clear whether the demonstrators are attempting to comply or not;
  - using white and red smoke to serve as warnings and to determine wind direction, to avoid CS gas being blown back toward officers; and
  - providing officers with PPE so they will not be impacted by the gas.

Going forward, PERF believes the FPD can improve its response to mass demonstrations by adopting recommendations contained in this report.

Below are PERF's top recommendations for the FPD:

- **The FPD Incident Command must focus on objectives, not merely tactics.** Commanders should focus on questions such as “What is our objective in this situation?” before asking “What less-lethal options or other tools do we have?”
- **Expand policy on tactical repositioning, slowing down certain types of incidents, etc.** The FPD's use-of-force policy should include a more detailed discussion of proportionality, the use of distance and cover, tactical repositioning, “slowing down” situations that do not pose an immediate threat, calling for supervisors and other resources, and similar actions and tactics.
- **Recommendation: Add a definition of “proportionality” in use of force:** The definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate

## Conclusion

the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers' actions.

- **Recommendation: Create a policy on the sanctity of human life.**
- **Fredericksburg's civic leaders and FPD leaders should attend executive-level training regarding the law enforcement response to mass demonstrations and civil unrest.** The Federal Emergency Management Agency's (FEMA) Center for Domestic Preparedness has the expertise and resources to provide this training. PERF has discussed the needs of the city of Fredericksburg with representatives from FEMA and has provided assistance for arranging this type of leadership training opportunity.
- **The FPD should ensure that individual officers do not attempt to engage groups of demonstrators.** This is unsafe for the officer and can lead to an unnecessary response, including the use of force to protect the officer.
- **FPD leaders must keep their public information officers in the information loop, especially for unplanned, spontaneous events.** PIOs are tasked with informing the public on behalf of the police department, and require timely and accurate information to share. Otherwise, the PIO and the FPD risk losing public trust when wires are crossed unnecessarily.
- **FPD's Incident Command must ensure that demonstrators have time to hear and respond to dispersal orders, so they can begin leaving the area before officers begin enforcement, unless an immediate threat to persons or property is present.** Dispersal orders must be loud, clear, and provided from multiple locations if necessary to ensure that they are heard. These orders also should provide a time limit, instructions about which streets to use in order to have an orderly process, and the consequences of refusing to leave.
- **The FPD must consider the broader strategy and ramifications of deploying CS gas on a multi-lane road with vehicle traffic that is also located within a residential area.** In one instance, even though a crowd near FPD headquarters was not following police direction and legitimate concerns existed about protecting the FPD facility, minimal destruction and no personal injury were known to have occurred prior to the release of CS gas. Incident Commanders must consider the broader concerns of releasing gas in a residential area with demonstrators walking in a roadway alongside vehicle traffic.

## Moving Forward: The Future of Fredericksburg

It is apparent from PERF's in-person interviews, virtual calls, and community feedback that the events from May 31 to June 2, 2020 had a considerable impact on the residents of Fredericksburg. Although personal injury and property damage were minimal, the spirit of the small, historic city on the Rappahannock was shaken.

However, PERF saw many positive signs in Fredericksburg:

- The FPD quickly learned from the events of May 31 and on June 1-2 did a better job of staffing, planning, and managing spontaneous demonstrations.

## Conclusion

- The department quickly started a review process of their actions and created work sheets to identify weaknesses, develop solutions for those weaknesses, and assign responsibility for them.
- FPD began improving its use-of-force policy before it received PERF's recommendations.
- PERF's review of body-worn camera footage showed many officers showing compassion, understanding and empathy with protesters. And most officers did a good job of defusing potential hostile moments.
- From the Chief of Police to every officer PERF spoke with, FPD employees clearly wanted to know what they can do better to respond to these incidents.
- Historically, FPD has had a good relationship with the Fredericksburg community. A community member who was present at one of the demonstrations told PERF that demonstrators repeatedly chanted, "Not Us, Not Fredericksburg," as an indication that Fredericksburg is not the kind of place where racism is accepted or excessive use of force by police will be tolerated.

**In the spirit of acknowledging the past, being accountable to the present, and working toward an improved future, PERF ends this report with the voices of Fredericksburg community members, expressing what success looks like going forward:**

- **"Much has been achieved. The police department has admitted fault, and the slave auction block was removed from downtown. The protests have impacted change."**
- **"The youth's militancy in fighting for social justice needs to be tempered with guidance from the older generations to channel, filter, and redirect the more aggressive energy into something more creative and productive."**
- **"This community can work through issues because of mutual respect for each other."**
- **"I see an opportunity for police to be heroes."**
- **"Change will require police to be courageous."**
- **"Police must love and be humble with their approach to work. We have the power to make these changes."**
- **"Police don't sign up to be leaders of a movement; they are there to protect and serve."**
- **"Mess up. Fess up. Clean up."**
- **"We have to keep telling our stories to understand each other."**
- **"Police must love and be humble with their approach to work. We have the power to make these changes."**

## Appendix I: PERF's Recommendations

- 1. Recommendation: Share policies with mutual aid partners.** Once FPD implements the policy recommendations contained in this report, they should be shared with FPD's mutual aid partners. PERF has other recommendations addressed later in this section regarding shared response capabilities, training, and equipment.
- 2. Recommendation: Include Fire and EMS in Incident Command.** Incident Command must be able to simultaneously focus on operational tactics as well as overall strategy and desired outcomes/resolutions for planned and spontaneous events. PERF interviews and observations indicate Incident Command was typically limited to police personnel. A large-scale event involving mass demonstrations and the potential for injury to community members or law enforcement personnel can benefit from command-level representatives of the fire department and emergency medical response as well as other law enforcement agencies.
- 3. Recommendation: Locate the Incident Command Center strategically.** The FPD should ensure that Incident Command is physically located far enough away from events to allow for security, but close enough to provide for event awareness, planning, decision-making, communication and access. FPD leaders must be in a location that allows them to keep perspective and understand the big picture of what is taking place, without being influenced by the high stress and emotions that can accompany being on the front line of events.
- 4. Recommendation: The FPD should ensure that other command-level leaders are requested, and when feasible, can assist in unified command.** This will ensure that mutual aid resources (including other law enforcement agencies, fire department, and medical personnel) are efficiently staged and deployed as needed. Large-scale events, whether planned or spontaneous, can require a multi-agency response. Establishing a unified command and having the necessary resources on hand is critical to an effective response strategy. It is also an opportunity to discuss and work through varying agency philosophies regarding strategies and tactics.
- 5. Recommendation: Focus on objectives, not merely tactics.** The FPD Incident Command must focus not just on operational tactics, but more importantly on how to achieve a successful resolution with sound strategy and resources. Commanders should focus on questions such as "What is our objective in this situation?" before asking "What less-lethal options or other tools do we have?" PERF's review of these incidents indicated the FPD did improve these responses in the days and weeks following the initial incidents on May 31.
- 6. Recommendation: Use Incident Action Plans to ensure that officers understand their mission and duties.** FPD should create IAPs in situations that will require officers to have clear and concise direction. This will help to ensure a unified, consistent response to mass demonstrations and similar events.

- 7. Recommendation: Ensure that Incident Commanders know the details of whom they are commanding.** In order to successfully manage resources, it is important that Incident Commanders be aware of which officers and other employees are available, where they have been deployed, what information have they been provided, and how they will receive communication. The Incident Management Team should assist with this process by ensuring that all responding resources check in, preferably in person at a designated site, before being deployed to the field.
- 8. Recommendation: Continue to hold regular Incident Management Team meetings, and develop standard forms to guide the process.** The FPD's Incident Management Team should continue to meet quarterly and discuss critical incident planning and training. In addition, the IMT should create standard Incident Command System forms, such as an Incident Action Plan form, that are applicable to the FPD. This will save time and serve as a reminder of what plans and documentation are needed during a critical incident.
- 9. Recommendation: Use Incident Management to anticipate and plan for upcoming events.** FPD leaders should continue to develop and utilize a strategic Incident Management Team to assist in the preparation and response to demonstrations. Such a team should be tasked with anticipating and planning out FPD needs for upcoming events, as well as identifying FPD leadership strategies and expectations. The team should be responsible for creating and disseminating an Incident Action Plan (IAP) – as identified in current policy - that provides officers with directions and details on upcoming events, and their related responsibilities.
- 10. Recommendation: Require responding officers from FPD and all other agencies to check in with FPD.** The FPD should ensure that officers, deputies, and troopers responding to assist the FPD in mutual aid situations check in with FPD personnel for incident awareness, direction, and protocols. In addition, it is important that adequate and sufficient communication processes are put in place.
- 11. Recommendation: Train senior department leaders in Incident Command.** The FPD should require that all senior department leaders who will operate as Incident Commanders attend training on the response to demonstrations and civil unrest. Police leaders must understand the purpose, capabilities, and limitations of using a TFF-type response as well as broader philosophies and strategies for responding to mass demonstrations. It is important for law enforcement leaders to understand that training does not just encompass tactics and equipment; it largely centers on the simultaneous processes of defining objectives, strategy and planning.

PERF recommends that both city and FPD leaders attend executive-level training regarding law enforcement's response to mass demonstrations and civil unrest. The Federal Emergency Management Agency's (FEMA) Center for Domestic Preparedness has the expertise and resources to provide this training. PERF has discussed the needs of the city of Fredericksburg with representatives from FEMA and has provided assistance with arranging this type of leadership training opportunity.

- 12. Recommendation: Ensure that all responding personnel have PPE before deploying CS gas.** The FPD must ensure that officers are outfitted with protective equipment before deploying CS gas. Many officers had no protection from CS gas and were impacted by its release. Officers without adequate protection will be unable to perform their duties until they can be adequately decontaminated.
- 13. Recommendation: Ensure that all demonstrators can hear any dispersal orders, and give them time to respond.** FPD's Incident Command must ensure that demonstrators have time to hear dispersal orders so they can begin leaving the area before officers enforce the dispersal order, unless an immediate threat to persons or property is present. Dispersal orders must be loud, clear, and provided from as many directions as possible to be heard by everyone in the area.
- 14. Recommendation: Consider whether CS gas will affect people who are not involved.** The FPD must consider the broader strategy and ramifications of deploying CS gas on a multi-lane road with vehicle traffic in a residential area. During the May 31 demonstration, although the crowd was not following police direction and legitimate concerns existed about protecting the FPD facility, minimal destruction and no personal injury were known to have occurred prior to the release of CS gas. Incident Commanders also must consider the broader concerns of releasing gas in a residential area and an area where demonstrators are walking in a roadway alongside vehicle traffic.
- 15. Recommendation: Carefully consider the risks of using less-lethal munitions.** The FPD must carefully consider the use of less-lethal munitions - including Sting-Balls - to ensure they are only used to disperse an immediate threat to persons or property, not as a broader tool to disperse a crowd.
- 16. Recommendation: Train officers not to engage demonstrators individually.** The FPD should ensure that individual officers do not attempt to engage groups of demonstrators. This is unsafe for the officer and can lead to an unnecessary response including the use of force to protect the officer. Officers should be operating as a team. This provides safety to the officers and reduces the possibility that force will be needed to protect an officer.
- 17. Recommendation: Obtain FEMA training on mobile field force teams.** The FPD should involve key members of the TFF in training on demonstrations recommended above. In addition, TFF supervisors should seek additional FEMA-provided training on the use of mobile field force teams. FEMA provides a variety of classes that provide training in response to demonstrations and civil unrest. Such training would provide an additional perspective for TFF supervisors.
- 18. Recommendation: Be prepared for any situation that would require mass arrests.** Although almost all arrests that occurred during the timeframe of our review were written summons in lieu of arrest, the FPD should continue to review and conduct tabletop exercises regarding mass arrest situations, specifically how to address the resources required to manage the arrest processes. FPD's policy **326 Mass Arrest** adequately addresses the arrest process, and FPD had vans staged on June 1-2 to facilitate arrests, if necessary. But PERF review of FPD's

## Appendix I: PERF's Recommendations

demonstration response indicated that inadequate staffing was a challenge. Given FPD's current staffing levels, it was difficult to properly staff arrest teams and provide them with the necessary resources to process arrests.

- 19. Recommendation: Equip all officers with PPE.** The FPD must ensure that all members of the agency are outfitted with protective equipment before they are involved in a response to civil unrest. In addition, the TFF team must ensure that all equipment, including less-lethal munitions, is in working order and accessible when needed.

**Update:** Since PERF's first site visit in late August 2020, FPD has indicated that all of their officers have been outfitted with gas masks.

- 20. Recommendation: Involve the Fire Department and EMS in Unified Command training.** The FPD should ensure that fire department and emergency medical responders are involved in unified command and that fire and emergency medical responders are close and on standby during large gatherings and demonstrations. This should be documented in the IAP, so officers know whom to contact or how they can access emergency medical responders.

- 21. Recommendation: Have high-level discussion with neighboring law enforcement agencies to ensure there are clear understandings about how mutual aid responses will be conducted.**

The FPD should have discussions both internally and within the RALEMAA group to consider solutions to the challenges discussed above. Internal discussions must include city leaders and elected officials and should take place after city and FPD leaders have received executive-level training as recommended above.

Going forward, the FPD should facilitate discussion specifically regarding the area law enforcements' response to demonstrations and protests. The FPD may not have adequate resources (which was evident based on what happened on May 31 during their response to protests) to maintain an independent TFF capability. Law enforcement leaders should discuss whether they should commit to combining resources for an effective response, practice that response, and finally, agree to a set of principles and strategies for an effective response.

As of now, the FPD has initiated and continued these discussions. As they proceed, several areas of concern must be addressed, recognizing that protests may have a greater impact on Fredericksburg compared to the surrounding counties. PERF recommends that law enforcement leaders immediately discuss the following topics:

- Incident Command/Unified Command
- Political/Community Jurisdictional Needs and Expectations
- TFF Staffing
- Use-of-Force Policy
- Training

The goal of these discussions should focus on achieving consensus on approaches to better combine resources, obtain training, establish clear policy guidelines, and ensure that applicable processes and appropriate accountability structures are in place when responding to unplanned demonstrations. Part of these partnership discussions must include an inventory review of the

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equipment that personnel have, as well as an assessment of the equipment that must be acquired to satisfy preparedness measures and standards.

As with any agreement between autonomous entities, there must be a mutual understanding, respect, and philosophy toward a regional police response for any mutual aid agreement to be effective. City government leaders must recognize the need for this agreement to be met and understood by all parties involved.

- 22. Recommendation: Take advantage of FEMA training on TFF response.** The FPD should train all personnel in Tactical Field Force response so they understand crowd and demonstration dynamics, the agency's philosophy and expectations, TFF capabilities, and how to safely operate as a team. FPD can educate department instructors through the Federal Emergency Management Agency's (FEMA) Center for Domestic Preparedness, an expert in these areas, and then educate all department staff.
- 23. Recommendation: Include intelligence-gathering in the Incident Command System.** Intelligence-gathering should be established as part of the Incident Command System (ICS). Specific department members should be assigned to this function, and the collection, evaluation, and dissemination of intelligence should continue over the duration of the incident.
- 24. Recommendation: Provide intelligence to Incident Command promptly.** The FPD should ensure that information gathered during critical incidents is timely, vetted, and provided to Incident Command to inform their overall response - regardless of the information source (e.g., 911 calls, reviews of social media, etc.). In addition, the agency's IAP should include as much intelligence information as feasible.
- 25. Recommendation: Keep public information officers informed.** FPD leaders must keep their PIOs informed, *especially* during unplanned, spontaneous events. PIOs are tasked with informing the public on behalf of the police department, and require timely and accurate information to share. Otherwise, the PIO and the FPD risk losing public trust when contradictory information is released to the public.
- 26. Recommendation: Enforce policy on carrying of patrol rifles.** FPD's policy "303 - Weapons" provides clear direction regarding patrol rifle use and deployment during a response to civil control. FPD supervisors must be observant of this policy and identify and address any officer carrying a rifle unless officers have been fired upon or information indicates a likelihood of this occurring.
- 27. Recommendation: Use-of-force reviews should evaluate the entire incident, not just the moment force was used.** The FPD should ensure that a supervisor's review of use-of-force incidents is a critical review and does not solely look at the moment force was used, but also at the officer's overall response to the incident. Supervisors must ensure that an officer's actions were not unnecessarily or inappropriately escalating situations, leading to a need for force. When issues are identified, the involved officer(s) must be mentored and trained on how to better handle incidents in the future.

- 28. Recommendation: Expand policy on tactical repositioning, slowing down certain types of incidents, etc.** The FPD's use-of-force policy should include a more detailed discussion of proportionality, the use of distance and cover, tactical repositioning, "slowing down" situations that do not pose an immediate threat, calling for supervisors and other resources, and similar actions and tactics.<sup>38</sup> For example, the Camden County, New Jersey Police Department's use-of-force policy states that "when force cannot be avoided through de-escalation or other techniques, officers must use no more force than is proportionate to the circumstances... Some of the factors that officers should consider when determining how much force to use include...whether further de-escalation techniques are feasible, ... the time available to an officer to make a decision, and whether additional time could be gained through tactical means..."<sup>39</sup>
- 29. Recommendation: Add a definition of "proportionality" in use of force:** The FPD should add a definition of "proportionality" to the Definitions section of policy. As explained in PERF's report on Guiding Principles on Use of Force, the definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers' actions. The concept of proportionality does not mean that officers, at the moment they have determined that a particular use of force is necessary and appropriate to mitigate a threat, should stop and consider how their actions will be viewed by others. Rather, officers should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality also considers the nature and severity of the underlying events.
- 30. Recommendation: Create a policy on the sanctity of human life.** The FPD should add a sentence in Section 302.00 emphasizing the sanctity of human life. For example, the Baltimore Police Department's use-of-force policy states: "The policy of the Baltimore Police Department is to value and preserve human life in all situations."<sup>40</sup>
- 31. Recommendation: Remove references to "verbal judo."** The FPD should remove "verbal judo" from the examples of de-escalation strategies in Section 302.01. FPD should replace this with "crisis communication" or a similar term.
- 32. Recommendation: Use term "lethal force" to align with "less-lethal force."** The FPD should replace the current term (and subsequent references to) "deadly force" with "lethal force" to

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<sup>38</sup> PERF, *Guiding Principles on Use of Force*, pp. 54-65. <http://www.policeforum.org/assets/guidingprinciples1.pdf>.

<sup>39</sup> Camden Police Department. 2013. "Use of Force." January 28, 2013.

<https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/5d5c89c2e3bc4c000192f311/1566345667504/CCPD+UOF+Policy+%288.21.19%29+%28FINAL%29.pdf>

<sup>40</sup> Baltimore Police Department (2016). "Policy 1115 ('Use of Force')." .

[https://www.baltimorepolice.org/sites/default/files/Policies/1115\\_Use\\_Of\\_Force.pdf](https://www.baltimorepolice.org/sites/default/files/Policies/1115_Use_Of_Force.pdf)

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align itself more accurately with the department's term "less-lethal force." Related agency policies should also be reviewed to ensure that these new terms are applied consistently in related policies.

- 33. Recommendation: Simplify policy on shootings at or from vehicles:** The FPD should strengthen the language in this section to state, "Shooting at or from a moving vehicle is prohibited, unless someone inside the vehicle is using or threatening lethal force against an officer or another person by means other than the vehicle itself, or the vehicle is being used as a weapon of mass destruction in an apparent act of terrorism." This policy change should also be reflected in training.
- 34. Recommendation: Use term "Electronic Control Weapon."** The FPD should revise its policy to replace all references to "TASER" with the more descriptive and appropriate term, "Electronic Control Weapon (ECW)." This change will help clarify that ECWs are in fact weapons that carry a risk of harming persons, including fatal injuries in some cases. The change should be made throughout FPD's policy manual and in all other orders, directives, and training curricula which reference such devices. The current policy occasionally refers to these devices as ECWs, but not consistently.
- 35. Recommendation: Consider use of brightly colored ECWs.** The FPD should consider adopting brightly colored ECWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the ECW for a firearm. Specialized units such as Special Equipment Tactical Team may prefer dark-colored ECWs for tactical concealment purposes.
- 36. Recommendation: Do not use ECWs in presence of combustible materials.** Current policy states that ECWs should not be used on a subject if it is known that the person is saturated with, or in the presence of, highly flammable or combustible materials or liquid. FPD should indicate whether or not its brand of OC spray is alcohol-based (and thus flammable).
- 37. Recommendation: Strengthen policy against multiple uses of ECWs.** The FPD should replace the sentence "Personnel should consider that exposure to the Taser for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury" with "Personnel should consider that exposure to the ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. At that point, another force option should be considered."
- 38. Recommendation: Arrange for medical response if ECW use is anticipated.** Current policy states that "all subjects who have been Tased shall receive a medical evaluation. This can be accomplished by having a medic unit respond to the officer's location to evaluate the tased subject." The FPD can strengthen this requirement by adding language stating that when possible, emergency medical personnel should be notified when officers respond to calls for service in which they anticipate an ECW application may be used against a subject."

- 39. Recommendation: Require first aid for injuries after use of force.** The FPD should add language to Section 302.10 to require that officers render first aid to individuals who are injured or complain of an injury after a use-of-force incident until an EMT arrives.
- 40. Recommendation: Give greater emphasis to duty to intervene.** The FPD should move Section 302.11 to the beginning of the department's Response to Resistance policy. Duty to intervene, along with concepts such as de-escalation and proportionality, are key components to the department's use of force philosophy and should be reflected earlier in policy.
- 41. Recommendation: Require supervisors to respond to scene of most reportable uses of force.** FPD should create a new section to policy entitled "Supervisor Responsibilities," stating the department's expectations of its first-line supervisors concerning use of force. Policy should have an explicit requirement that supervisors respond to the scene of ALL reportable uses of force (with the exception of pointing a firearm or ECW) to conduct the initial investigation. Supervisors should also be dispatched to all incidents where it is anticipated that force might be used. Supervisors should not only be responsible for reviewing the actual use of force, but the events leading up to it.
- 42. Recommendation: Require supervisors to respond to scenes where a significant use of force may be likely.** FPD should simplify notification and response requirements by stating that supervisors are to immediately respond to any scene: where a weapon (including a firearm, edged weapon, rocks, or other improvised weapon) is reported; where a person experiencing a mental health crisis is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force. This language should be moved to the new Supervisor Responsibilities section discussed above.
- 43. Recommendation: Require an Incident Based Reporting System report for pointing an ECW.** The FPD should require that an IBR report be completed any time an officer points an ECW at a subject. Sergeants should review these incidents carefully to ensure that ECWs are being used effectively as a necessary show of force.
- 44. Recommendation: Create a Critical Incident Review Board.** The FPD should create a Critical Incident Review Board (CIRB) that is responsible for reviewing: all serious uses of force; lethal force; less-lethal force with a tool; injury; complaint of injury; all in-custody deaths; and any other critical police incident as directed by the chief of police. The formal review of these incidents, conducted as a matter of course, will provide valuable opportunities to identify lessons that can be incorporated into officer training, gaps in tactics, any need for additional equipment to be provided to officers, or any need for changes in policy.
- 45. Recommendation: Specify staffing and issues for the CIRB to review.** The CIRB, consisting at a minimum of the Patrol Division captain, a representative from the training function, a patrol officer representative, and a representative from professional standards, should convene quarterly to review each serious use-of-force incident. The review board should serve to ensure that tactics, equipment, and policy are reviewed, and areas of concern are addressed.

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- 46. Recommendation: Hold a tactical debriefing within 72 hours of an OIS or in-custody death.** The FPD should require that a tactical debriefing occur no later than 72 hours after an officer-involved shooting or in-custody death, to identify potential issues in training, policy and/or equipment without having to wait until the completion of the official shooting investigation. Members of the CIRB should be included in these tactical debriefings. As part of this review, a member of the training function should be allowed access to the scene after all investigative measures have been completed, to help inform the debriefing of the CIRB.
- 47. Recommendation: Review enforcement of restrictions on patrol rifles.** The FPD should ensure that current policy requirements are being adhered to with regard to Patrol Rifle Operators. (The deployment of patrol rifles to control civil disorders is expressly prohibited by policy; however, PERF's review of BWC found several instances where officers were wearing rifles, but were not in SETT outfits.)
- 48. Recommendation: Ensure that policies on Incident Action Plans are adhered to.** The FPD should ensure it is disseminating an Incident Action Plan (IAP) per policy that provides officers with details and direction for the upcoming events as known and what their responsibilities will be. This should be updated at least every 24 hours, but ideally every 12 hours. This will ensure that officers understand the department's goals and objectives, relevant information such as curfews, and other information that should be conveyed to officers in the field. This will help ensure a uniform response to demonstrators by the department.
- 49. Recommendation: Rename policy to reflect that demonstrations often do not involve any civil disturbance.** The FPD should rename the title of Policy 325 "Crowd Management and Public Demonstrations" to reflect the fact that not all mass gatherings will result in a civil disturbance, though some mass gatherings may have the potential to result in civil disturbances that require law enforcement action.
- 50. Recommendation: Provide new training to all officers on demonstrations.** The FPD should train all officers on the new Crowd Management and Public Demonstrations policy, containing the recommendations made by PERF.
- 51. Recommendation: Use the existing checklist of actions to ensure prompt responses.** The FPD should review the checklist contained in Policy 325 whenever it is anticipated that an event has the potential to result in a civil disturbance or mass arrest situation.
- 52. Recommendation: Add mission statement to policy on demonstrations.** The FPD should add language to the beginning of Policy 325 to state that the department's approach to its handling of public demonstrations has two equal components: upholding the First Amendment rights of demonstrators, while at the same time ensuring public safety.
- 53. Recommendation: Create policy limiting surveillance tools.** The FPD should add a new section to Policy 325, titled "Surveillance." This section should state that the use of surveillance tools,

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including unmanned aerial vehicles (UAVs) or “drones,” undercover officers, and cameras, is limited to instances where the department has reasonable, reliable information that criminal activity will occur. If there is no clear and convincing threat, surveillance techniques should not be used. Policies on UAVs are a controversial emerging issue that should be discussed with the community and city elected officials in advance.

- 54. Recommendation: Add policy linking police response to demonstrators' actions.** The FPD should add language stating that the department's response to mass demonstrations be proportional to the crowd's actions. Policy should state that the department will have a tiered response using officers in “soft” gear to handle general crowd interactions. If the department anticipates the possible need for a heightened response, officers in riot gear (such as FPD's Tactical Field Force) can be deployed, but generally should be kept out of sight when not needed, to avoid escalating tensions.
- 55. Recommendation: Add policy to distinguish crowd management, intervention, and control.** The FPD should include language in Policy 325 and related policies that establish three increasing levels of response, known as crowd management, intervention, and control:
- Crowd management—the lowest level of response, in which police respond to all forms of public assemblies to maintain the event's lawful activities.
  - Crowd intervention—an intermediate response, in which police respond to pre-planned or spontaneous activities to isolate unlawful behavior that impacts public safety, while allowing for the activity to continue.
  - Crowd control—the highest level of response, in which police respond to pre-planned or spontaneous events that have become unlawful or violent, and where arrests and crowd dispersal may be required.
- 56. Recommendation: Add policy to distinguish serious crimes from minor civil disobedience.** The FPD should add language to Policy 325 to give priority enforcement to crimes of violence, property destruction, or other serious crimes, as opposed to minor acts of civil disobedience such as traffic violations and walking on roadways.
- 57. Recommendation: When possible, identify and work with demonstration organizers.** The FPD should add language to Policy 325 to require that, to the extent possible, outreach efforts be made to demonstration organizers and participants to facilitate cooperation and to discuss the types of activities that are permissible and those which may result in arrest.
- 58. Recommendation: Add policy on the importance of news media relations during demonstrations.** FPD should add language to Policy 325 to address media relations. This section should include information about the overall importance of the news media with regard to mass demonstrations and assemblies. Policy should require that the PIO provide updates to the public through various news media and social media platforms.

Social media is especially effective for informing the public about the department's plans for facilitating demonstrations at certain time and locations, road closures that may be undertaken, any restrictions on protest activities that the department may want to impose, any curfews, and

other types of information that are important for demonstrators to know and understand in real time.

- 59. Recommendation: Expand on Tactical Field Force policy to reflect use-of-force concepts such as de-escalation.** The FPD should review Section I. Tactical Field Force Concept to ensure that it reflects the department's philosophy and approach to use of force, reinforcing concepts such as proportionality and de-escalation.
- 60. Recommendation: Provide TFF training to command-level staff.** The FPD should update training to require that command-level staff be included in Tactical Field Force training, so that the department's decision-makers are aware of the unique nature and role of the Tactical Field Force in the department's response to crowd control and mass demonstrations. FPD command staff should also take executive-level training on the use of mobile field forces and the leadership of such teams.
- 61. Recommendation: Change terminology on "military bearing."** The FPD should rename "XI. Military Bearing/Show of Force" with the new title, "Professional and Structured Response."
- 62. Recommendation: Develop strong guidelines on the limitations of CS gas in the Tactical Field Force Manual.** The FPD's Tactical Field Force Manual should incorporate a broader discussion of the ramifications of chemical agents.
- This should include discussion of what will happen if a crowd's response escalates as a result of the use of these agents.
  - The manual also should provide guidance on when and how to determine if the deployment of CS gas is appropriate.
  - Specifically, CS gas should not be considered unless there is clearly a legitimate concern about property destruction and/or violence, and other less-lethal options directed at specific individuals involved in criminal acts are not feasible.
- 63. Recommendation: Require Incident Commander approval of any use of CS gas.** The FPD should revise subsection C1 of the Tactical Field Force manual so that the deployment of CS gas is to be authorized by the Incident Commander only. The Incident Commander can take advice and input from various individuals, including TFF supervisors, but policy should clearly state that it is the IC's responsibility to make decisions about deployment of CS gas and other munitions, including Sting-Balls, as discussed in the next section.
- 64. Recommendation: Remove all references to "non-lethal" munitions.** The FPD should rename this section "Less-Lethal Munitions" to reflect the fact that while some weapons are designed to be less lethal than firearms, they sometimes do result in death. Any references to "Non-Lethal Munitions" in the Tactical Field Force Manual and related documents should be renamed accordingly.
- 65. Recommendation: Require Incident Command approval of use of less-lethal munitions.** The FPD should revise subsection D1 of the Tactical Field Force manual so that the deployment of less-lethal munitions is to be authorized only by the incident commander.

**66. Recommendation: Provide clear dispersal orders, and provide time for demonstrators to obey the orders:** Police must give clear dispersal orders, providing a time limit and instructions about how to have an orderly process, with directions about which streets demonstrators should use to leave the area, so there will be no confusion. These instructions should also include information about the repercussions for failing to leave.

Per policy, once gas has been deployed, TFF members may use a variety of munitions to target specific individuals. In one instance, PERF's review of BWC footage showed a deployment of a sting-ball grenade that was likely used as an area-affect weapon and not targeted at any specific person(s). Furthermore, sting-ball devices are intended to be deployed at ground level so that the impact projectiles hit the lower body. However, in this instance, the sting-ball was thrown onto a hill with people gathered below the hill. The projectiles had the potential to hit onlookers in the head and upper body.