

Denver Police Department's Response to the Office of the Independent Monitor's Protest Report

DENVER – Tuesday, December 08, 2020 – The Denver Police Department, starting in late May, has responded to numerous large-scale demonstrations beyond anything our city has experienced in recent decades, some of which, especially during the initial George Floyd protest activities, escalated into violence and rioting resulting in immediate and significant public safety issues involving weapons and arson and intentional violence directed at our officers and others that resulted in serious bodily injury and extensive property damage. These circumstances were extraordinary, and extraordinary events can assist us in identifying potential gaps or opportunities for improvement in policies, practices, training, and procedures. The Denver Police Department is committed to learning from its response to the unprecedented protest activities occurring not only in Denver but throughout the country and is adapting and implementing policy changes based upon its review, as well as from the suggestions of outside agencies, including the Office of the Independent Monitor (OIM).

Since the initial George Floyd protest response, DPD began its review of several issues that came to light during our response to the protests and worked to swiftly implement changes. The Department began to implement changes even before the release of the report by the Office of the Independent Monitor. Those changes include the areas of: use and tracking of less-than-lethal munitions, processes for documenting the use-of-force during a protest response, affixing body-worn cameras and officer identification to officers' protective equipment, improving dispersal orders, and addressing concerns related to our mutual aid partners. We recognize there is still work to be done and we will continue to focus our efforts on implementing changes to improve upon existing policies, training and procedures.

The Denver Police Department appreciates the review the OIM completed of its responses to the unprecedented protest activity and is still in the process of considering issues and recommendations raised in the report to determine what additional process and training improvements might be appropriate. As always, the Department remains committed to making necessary changes to its policies, procedures and training to ensure compliance with best practices and continues to be part of this national discussion with community, city, and national leaders – helping to ensure the safety of participants, residents and responding officers while addressing criminal activity and weapons-related issues.

DPD provides the following response to the OIM recommendations:

1. The OIM recommends that the DPD amend its Operations and Crowd Management Manuals to require the creation of a log or tracking system for the distribution and deployment of all less-lethal munitions during crowd control events. **DPD response: Agree**

Due to the unprecedented, large-scale, continuously evolving and violent nature of the initial George Floyd Protest activity, the on-scene officers did not have the opportunity to account for all of less-lethal munitions that were deployed due to the number of hours they were working and the inability to take the time to complete full use of force reports before returning to duty. Having the officers stop during the chaos and violence to complete a written report would have jeopardized everyone's safety and the hours the officers were required to work did not reasonably permit a report to be completed at the end of such a lengthy shift. We provide this information not to minimize the recommendation or the need for such documentation, but to merely clarify what occurred. However, after the first few days of protest activity, recognizing the difficulty the officers were having with completing use of force reports under such extenuating circumstances, the DPD developed a system to

document the distribution and use of all less lethal munitions and continues to evaluate best practices moving forward. DPD also moved the less lethal coordinator for the department to the Commander's Office in the Special Operations Bureau.

With respect to this specific recommendation, DPD is currently working on revising its Operations and Crowd Control Manuals, which will be completed by **01/31/2021**, to further memorialize the requirement of the creation of a log or tracking system for the distribution and deployment of all less-lethal munitions during crowd control events.

2. The OIM recommends that the DPD amend its Crowd Management Manual to require the creation of rosters of all officers who are assigned to crowd control events, and that the DPD ensure that such rosters are created in the future. **DPD response: Agree**

Again, due to the unprecedented nature of the George Floyd protests, we learned that the existing roster system did not function properly under such extraordinary circumstances. Instead, the Department quickly set up a centralized command post and immediately requested resources as determined necessary to respond to the rapidly evolving activities. Since that time, the Department has gone back and considered whether the digital employee staffing software it uses to generate these lists is able to be effectively used should similar circumstances arise. We have determined that it is. As a result, the Operations and Crowd Control Manuals will be amended by **01/31/2021** to specifically require the creation of digital rosters of all officers who are assigned to crowd control events and training will be provided to ensure rosters are kept at all times, even during unanticipated and/or unprecedented circumstances.

3. The OIM recommends that the DPD amend its Operations and Crowd Management Manuals to require that all sworn personnel working in the field during protest operations be required to wear body worn cameras (BWCs), regardless of rank. Further, the OIM recommends that protest operations plans assign a supervisor to conduct regular spot check comparisons between rosters and the BWC database to identify any gaps in officer recording that must be addressed. **DPD response: Agree**

As a result of the initial George Floyd protest activities, in June 2020, DPD implemented a requirement that all officers wear BWC when responding to protest activities, including command staff, and BWC are required to be activated during confrontations with protestors. After implementing this requirement, DPD learned that some of its officers had apparently lost or broken equipment necessary to wear BWC on their uniforms. DPD has since corrected this issue and also developed a check list for supervisors to use to ensure that the responsible supervisor and all officers under their supervision are equipped with BWC, properly affixed to their uniforms prior to being deployed to respond to protest activity.

The Operations Manual will also be amended by **01/31/2021** to further memorialize this requirement. DPD will conduct a review following the end of the shift comparing officer rosters and uploaded body worn camera videos.

4. The OIM recommends that the DPD amend its Operations and Crowd Management Manuals to detail the specific requirements for use of force reporting and review during crowd control operations. The OIM also recommends that the DPD ensure that Use of Force Reports are promptly created by officers and reviewed by supervisors and IAB during future crowd control events to identify possible divergences from the Use of Force Policy. **DPD response: Agree**

The unprecedented circumstances and need for a large number of officers to work very long hours in response to the protest activities interfered with the ability to get timely use of force reports completed at the time the force was used. Requirements for use of force exist, but modifications are sometimes necessary depending upon the circumstances.

DPD is considering what additional steps may be taken to ensure officers have the time to complete use of force reports as soon as the circumstances reasonably permit and what steps may be taken during unanticipated or unprecedented circumstances to get reports completed in a timely manner as possible. Those additional steps will be reflected in the Operations Manual.

5. The OIM recommends that during future protest events, the DPD ensure that its supervisors routinely issue multiple dispersal orders before using force to disperse crowds, when the time and circumstances permit. **DPD response: Agree to continue to adhere to requirements of Law Enforcement Integrity Act, effective June 19, 2020.**

DPD has consistently had a policy that required dispersal orders to be given prior to using force during protest activities when time and circumstances permit. As of June 19, DPD amended its policy to specifically reflect the language of the new Colorado law and provided training to its officers to ensure they understood the requirements of the new law regarding responses to protests or demonstration. DPD's policy—as required by the new law—requires dispersal orders to be given in a sufficient manner to ensure the order is heard and repeated, if necessary, followed by sufficient time and space to allow compliance with the order.

6. The OIM recommends that the DPD ensure that crowd dispersal orders are consistently audio or video recorded and documented in writing during future crowd control events. **DPD response: Agree**

Prior to the George Floyd protests, DPD policy provided that dispersal orders were to be recorded when possible. In light of the requirements of the Law Enforcement Integrity Act, on June 19, DPD also required that all dispersal orders be recorded.

7. The OIM recommends that the DPD ensure that all officers have their badges and badge numbers prominently displayed and easily visible on the exterior of their uniforms or protective gear at all times during future crowd control events. The OIM also recommends that supervisors should be required to verify compliance for each member of the teams under their command. **DPD response: Agree**

All officers display their name and badge number on their uniforms per policy. However, the use of protective gear by the officers unintentionally obscured this information. After recognizing this issue, the Department ordered badge numbers and name plates for the protective gear. As of November 25, 2020, all officers are able to display their names and badge numbers on their issued protective gear.

8. The OIM recommends that the DPD ensure that only officers who have been trained and certified on the use of pepperball and 40mm launchers be permitted to use them during future crowd control events. The OIM also recommends that the DPD amend its Crowd Management Manual to specify that only authorized officers will be allowed to use pepperball and 40mm launchers during crowd control operations. **DPD response: Agree**

As with all weapons DPD officers carry, officers are required to be trained and certified on the use of such weapons, including pepperballs and 40mm launchers, prior to being authorized to use such weapons. To the extent that there is reason to believe that a supervising officer authorized an officer to use pepperballs or 40mm launchers without such training and certification or an on-duty officer used a weapon for which he or she were not authorized to use, such incidents will be thoroughly investigated and appropriate action will be taken in response based upon the information obtained. DPD's existing policy will also be referenced in its Crowd Management Manual.

9. To enhance transparency, the OIM recommends that the DPD evaluate how to most effectively operationalize each of the internal controls on the use of force discussed in this report and report back to the public with an explanation of how they will be employed during future protests. **DPD response: Agree**

The DPD is still in the process of reviewing the OIM report in detail and will create a public dashboard documenting changes made and dates of completion.

10. The OIM recommends that the DPD disallow the use of rubber-ball grenades during crowd control operations. The OIM further recommends that the DPD articulate clear and specific standards for when rubber-ball grenades may be used, by whom, and when their use is prohibited in its Operations Manual. **DPD response: Agree**

During the George Floyd protest activities, DPD examined the use of rubber-ball grenades to determine whether such use should continue for purposes of crowd control. DPD reached the conclusion the OIM now recommends. In fact, on May 30, DPD discontinued the use of the grenades as part of its crowd control options. As a result, the Operations and Crowd Control Manuals will be amended by **01/31/2021** to further memorialize this decision to prohibit the use of rubber-ball grenades during crowd control operations. The Operations Manual will also be amended to clarify the specific circumstances during which officers are authorized to use such grenades for other purposes.

11. The OIM recommends that the DPD articulate clear and specific standards for when NFDDs may be used, by whom, and when they are prohibited in its Operations Manual. **DPD response: Agree**

Only members of SWAT are trained on and authorized to use NFDDs. The training provided includes specific standards for such use. Like the use of rubber-ball grenades, during the initial George Floyd protest activities, DPD examined the continued use of NFDDs by SWAT members for purposes of crowd control and determined on May 30th that NFDDs would no longer be used. With respect to the OIM's recommendation, DPD agrees that it would be beneficial to provide additional clarification in its Operations and Crowd Control Manuals regarding the specific circumstances under which SWAT is authorized to use NFDDs and when such use is prohibited. The Operations and Crowd Control Manuals will be amended by **01/31/2021** for this purpose.

12. The OIM recommends that the DPD revise its standards for pepperball use during crowd control situations to limit direct-fired applications to only circumstances in which a person is displaying active aggression or aggravated active aggression. **DPD response: Agree**

DPD has considered this recommendation and agrees that making this specific change would be appropriate in light of lessons learned from DPD's response to the initial protest activities. The Operations and Crowd Control Manuals will be amended by **01/31/2021** to authorized direct-fired applications of pepperball during crowd control situations only in response to circumstances in which a person is displaying active aggression or aggravated active aggression.

13. The OIM recommends that the DPD develop mutual aid agreements with neighboring jurisdictions that address potential crowd control assistance. These agreements should adhere to best practices, including, but not limited to specifying the circumstances under which assistance may be requested and provided, acceptable request methods, forms of assistance to be provided, and an agreed upon command and control structure. **DPD response: Agree**

DPD previously had informal agreements with neighboring jurisdictions but learned from these unprecedented protests that additional clarification regarding roles and response would be appropriate to ensure all law enforcement understands expectations related to crowd control response. The DPD will convene metro chiefs and sheriffs to discuss formalizing mutual aid agreements by **02/28/2021**.

14. The OIM recommends that during future mutual aid deployments in Denver, the DPD require its Mutual Aid Partners to adhere to DPD's Use of Force Policy, and to utilize only types of weapons and munitions approved for use by the DPD. **DPD response: Agree in part**

As indicated in our prior response, the DPD will convene metro chiefs and sheriffs to discuss formalizing mutual aid agreements by **02/28/2021**. Colorado law has now clarified conduct in response to protests and demonstrations and we believe that language—which all jurisdictions must comply with—accomplishes what this recommendation is attempting to address.

15. The OIM recommends that the DPD seek to participate in periodic joint trainings and exercises with its potential Mutual Aid Partners to ensure a unified and consistent response during future mutual aid deployments in Denver. **DPD response: Agree**

DPD had planned on engaging in joint trainings and exercises with its potential Mutual Aid Partners ahead of the 2020 general election, prior to the start of the pandemic. During the current pandemic, it was not possible to schedule large, in-person trainings because of staffing and financial constraints. As reflected in the report, the training prior to the DNC in 2008 was made possible in part through a surge in hiring and the receipt of federal funds for multiagency training. As the public health landscape improves, DPD will work with our metro-area and federal Mutual Aid Partners to improve future response by scheduling joint trainings and exercises, as the Pandemic and other circumstances may permit, hopefully by the end of 2021.

16. The OIM recommends that the DPD convene internal stakeholders to evaluate possible operations issues that arose during the GFP (George Floyd Protests) including but not limited to concerns raised by some supervisors and officers; 1) that they received little guidance from an on-the-ground field commander or Operations Chief conveying clear tactical and strategic objective; 2) that the single radio channel used by all officers was often overcrowded and inaccessible for communication with the Command Post; and 3) the DPD needs to substantially increase its

investments in crowd control and field force training to properly prepare officers for the possibility of other mass protest events in the future. **DPD response: Agree**

DPD has been conducting internal reviews, debriefings and evaluations related to its response to protest activities and how such response could be improved in the future. It will continue to do so in light of the additional information reflected by the OIM report, including these three specific issues identified by the OIM report. DPD will determine how to best communicate its determinations once its internal evaluation is complete to ensure concerns raised by supervisors and officers are appropriately responded to and additional guidance and training is provided, as determined appropriate.

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