

Background

On May 25, 2020, four officers from the Minneapolis Police Department arrested George Floyd, a Black man, after receiving a complaint that he had used a counterfeit twenty-dollar bill. Mr. Floyd was pinned down by three officers, and seventeen minutes after the first police car arrived on scene, Mr. Floyd lay unconscious in the street with no pulse. The next day, the Minneapolis Police Department fired all four officers, and shortly thereafter, all were criminally charged.

In the days after Mr. Floyd's death, protests erupted throughout the United States, starting in Minnesota on May 26, and spreading to dozens of other cities in the succeeding days, including Denver. Beginning on May 28, Denver experienced several weeks of sustained protests that ended in mid-June ("George Floyd Protests" or "GFP"). The first five protest days were characterized by peaceful demonstrations, as well as property destruction, fires, and violence that resulted in significant injuries to both officers and community members.

The Denver City Council requested that the Office of the Independent Monitor ("OIM") conduct an investigation into the Denver Police Department's ("DPD") response to these demonstrations. Between June and November 2020, the OIM conducted dozens of interviews and reviewed voluminous records related to the GFP, including DPD operational plans, after-action reports, less-lethal munition inventories, and hundreds of hours of body worn camera ("BWC") video. On December 8, 2020, the OIM issued a 69-page report, called *The Police Response to the 2020 George Floyd Protests in Denver, an Independent Review*.

Key Findings

During its review, the OIM found significant gaps in the DPD's use of internal controls to help manage officer use of force during the protests. For example, the DPD did not effectively track the less-lethal munitions deployed by its officers and was unable to produce rosters of the officers who worked during the first four days of the GFP. The DPD also could not produce BWC video for many officers who policed the protests, and many DPD officers did not complete written use of force statements until more than 12 days after the GFP began.

These issues, and others discussed in the report, were an obstacle to a thorough after-the-fact analysis of the DPD's use of force during the protests. They also point to an even bigger problem. A number of these internal controls could have played a role in command review of force *while* events were unfolding. That is, DPD command personnel could

have reviewed tracking logs to determine whether certain teams or officers were exhausting supplies of munitions at disproportionate rates and contemporaneous use of force statements to determine whether force was being used in compliance with policy. The deficient internal controls were a missed opportunity for greater managerial oversight of use of force by the DPD.

Further, in our review of BWC video, we observed examples of DPD officers deploying less-lethal munitions in ways that were extremely troubling, such as at persons who were verbally objecting to police behavior and not engaged in apparent physical resistance. The OIM referred video of these incidents to the DPD for review and possible investigation. Our analysis also revealed areas of DPD policy, such as the lack of guidance on the use of high-risk explosive devices during crowd control events, that we believe can be improved.

Eighteen neighboring law enforcement agencies provided aid to the DPD during the GFP, and the OIM also identified a number of important deficiencies in the framework the DPD used to organize that support. Most notably, the DPD had no mutual aid agreements in place with those agencies. It also permitted each agency to follow its own guidelines about when force could be used and utilize less-lethal tools that were not permitted under DPD policy, potentially subjecting protesters to force that would not have otherwise been used by DPD officers.

Finally, we referred certain issues to the DPD for its own consideration. This included concerns expressed to us by some DPD supervisors and officers: 1) that they received insufficient tactical and strategic direction in the field, 2) that the single radio channel used for all police radio transmissions during the GFP was overcrowded and often inaccessible, and 3) that the DPD has not made enough recent investments in crowd control and field force operations training to properly prepare officers for an event like the GFP.

Recommendations

In light of these findings, the OIM made 16 recommendations to the DPD. Regarding internal controls on the use of force, the OIM recommended 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.
- 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.

- 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 BWCs, regardless of rank. Further, protest operations plans should 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.
 - 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. Additionally, the DPD should 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.
 - During future protest events, the DPD ensure that its supervisors routinely issue multiple dispersal orders before using force to disperse crowds, when time and circumstances permit.
 - The DPD ensure that crowd dispersal orders are consistently audio or video recorded and documented in writing during future crowd control events.
 - 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. DPD supervisors should be required to verify compliance for each member of the teams under their command.
 - 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. Additionally, the DPD should amend its Crowd Management Manual to specify that only authorized officers will be allowed to use pepperball and 40mm launchers during crowd control operations.
 - To enhance transparency, the DPD evaluate how to most effectively operationalize each of the internal controls on the use of force discussed in the report, and report back to the public with an explanation of how they will be employed during future protests.
- The DPD articulate clear and specific standards for when noise flash diversionary devices may be used, by whom, and when they are prohibited in its Operations Manual.
 - 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.

Regarding mutual aid, the OIM recommended 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.
- During future mutual aid deployments in Denver, the DPD require its mutual aid partners to adhere to the DPD's Use of Force Policy, and to utilize only types of weapons and munitions approved for use by the DPD.
- 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.

Regarding additional issues referred for DPD review, the OIM recommended that:

- The DPD convene internal stakeholders to evaluate possible operational issues that arose during the GFP, 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 conveying clear tactical and strategic objectives; 2) that the single radio channel used by all officers was often overcrowded and inaccessible for communication with the Command Post; and 3) that 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.

The review presented here is discussed in depth in the OIM's full report, *The Police Response to the 2020 George Floyd Protests in Denver, an Independent Review*, which can be accessed at <http://denvergov.org/oim>.

Nicholas E. Mitchell, Independent Monitor
Office of the Independent Monitor
101 W. Colfax Avenue, 1st floor
Phone: (720) 913-3306
<https://denvergov.org/oim>