

MEMORANDUM



TO: Steve Powers
City Manager

FROM: Jerry Moore
Chief of Police

Skip Miller
Deputy Chief

DATE: June 24, 2020

SUBJECT: Review of Protest Events

The City of Salem provides resources, including police officers, to assist lawful assemblies and demonstrations. The Salem Police Department's Mobile Response Team (MRT) helps all participants enjoy their demonstration in a safe and controlled environment free of various forms of interference. As necessary, the team will provide traffic control, encourage participants to use sidewalks, obey all traffic laws and allow participants to peacefully and lawfully exercise their Constitutional Rights.

OVERALL OBSERVATIONS

For the first time in the history of Salem, the Salem Police Department was involved in crowd control events that resulted in riots, property damage, arrests and the deployment of munitions utilized to break-up unlawful activities. We were placed into a position of making decisions in an environment that continued to change and evolve quickly and dynamically.

There were many lessons learned and even as we went from one operational period to the next, we were able to adjust some of our operations from the previous night(s).

In most other time periods, if faced with similar circumstances as those outlined in this report, the department would have been able to call on other agencies to assist us. Our events were similar to events that Eugene experienced and ones that Portland experienced to a greater degree than we did. Without exception, the events that led to enforcement actions in the City all started at the Capitol. This is not an area where we generally enforce laws, as the Capitol has its own State Troopers assigned to enforcement. Additionally, there are some unique laws and exceptions to laws that do not necessarily match up to other state laws/city ordinances. Due to events that were going on around the State, we were not able to rely on other agencies to assist us. OSP was not even able to provide their normal level

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of response to the events that took place on State property. This is not to be taken as a criticism; OSP had over 100 troopers in Portland assisting with their riots.

The Salem Police Department took some of its harshest criticism for using crowd management techniques that involved CS gas and other munitions on “peaceful protestors.” There is video of the events that led up to the use of munitions on the crowd. Those events show the crowd launching and throwing items at our officers. There are also people in the crowd who brought or ended up wearing gas masks, riot type gear, milk to aid in the washing of CS gas, and explosive devices along with sharp objects to damage vehicle tires or officers’ feet. In all our years as a City, we have never encountered this type of wide spread behavior in such a short period of time. We provided repeated verbal warnings for people to leave the area, yet people remained with the intent to engage in illegal activities, including attempts to assault police officers.

While the protests alone were challenging for the department to respond to, the militia group that came into the City created even more challenges. It is ironic that a group that has created multiple issues around the State and has made repeated disparaging comments toward law enforcement and elected officials would end up causing us to be on the defensive for how we tried to control the situation. This is noted, as other areas of the State have had previous militia groups occupy locations for nearly three months and still end in deadly use of force scenarios and situations.

The department received additional criticism for not arresting or taking enforcement action on a group of armed militia who responded to the City after a request for protection from a local business owner. This group created a clear safety concern for our community. We routinely attempted to gain voluntary compliance on issues surrounding the City Emergency Declaration and issues surrounding curfew. Some of the criticism we have received is a result of people not understanding Oregon or Salem Revised Code as it relates to open carry, more specifically what the Salem Police Department has the legal authority to enforce. Additionally, some of the words or actions many officers used, with the goal of de-escalation, has created a belief the City was supporting the militia’s efforts.

Oregon is an open carry state and there was no evidence that Salem Revised Codes were being violated. The City did have an ordinance in place regarding sidewalk behavior as it relates to the Emergency Declaration but for the most part there did not appear to be violations of law that created an objectively reasonable governmental interest in a law enforcement response. The department was thoughtful in weighing options and evaluating the past responses of other law enforcement agencies around Oregon and the United States as it related to this or similar militia type organizations.

It is unfortunate there are not more videos circulating that show our officers shaking hands with all groups who were talking to us or offering us their hand. It is unfortunate there are not more videos circulating of us telling all people we met, who were not engaged in active hostilities toward us, to please get off the street, into a business or into their vehicles. These events did take place. Equally important, the Salem Police Department, as an organization, did not and does not side with the militia; and our attempts to de-escalate tense situations is not a result of officers being “white-supremacists”.

The widespread, controversial video of our officer interacting with the armed individuals was an example of what officers throughout the city were doing - making every effort to deescalate tense situations and convince everyone to abide by the laws so that no one would be arrested. Based on the fact that no one was arrested simply for curfew anywhere in the city, it appears that approach was successful.

What the Salem Police Department did was ensure that in times of extreme tumultuous events occurring in our Nation, State and Community, police officers kept people and their property safe. With many of our officers working multiple days with only three to four hours sleep, the worst known injuries to anyone involved in the protests/riots was a young woman who had another protestor hit her in the head with a brick that was being thrown at our officers. Officers responded by providing first aid and ensuring an ambulance transported her to the hospital.

The department did not make a bad situation worse with the armed militia who have repeatedly made threats to law enforcement and the government. We did, however, ensure they did not engage, or continue to engage, in open conflict with the other protestors and rioters, even when we had information that members of both groups were desirous of open conflict. Ultimately, we were able to persuade them to leave.

The final area which needs to be addressed is in setting up better time frames for our supervisors and officers' work periods. They all worked to the point there was a concern we would start seeing additional injuries or mistakes due to lack of sleep and mental/physical exhaustion. While we hope to never experience times like these again, there will be a need to address a rotation of supervisor and officer coverage that allows for more time off prior to returning to deal with the issues at hand. Ideally, a recommendation implementing 12 hour shifts and canceling days off for our officers would be made. Unfortunately, by the time this need was recognized, we were well into the operations and nearly past the need to do so.

The department is a learning organization and we have learned a lot over the past few weeks. We have made changes to the issues we recognize and understand needed changed.

BACKGROUND

Prior to the events on 05/30/2020 the City was dealing with issues surrounding the State and City closures of businesses due to COVID-19 concerns. On or around 05/04/2020, a local business owner had very publicly announced she was going to re-open her salon in Salem. The owner reported receiving threats and made a request for armed citizens to come to Salem to protect her business. In response, multiple armed individuals arrived in front of the business. Salem Police officers contacted some of the militia members on 05/06/2020 and advised them they were in violation of the City's Emergency Declaration and provided them with copies of the order. The militia members and other protestors who had gathered in front of the business stated they would not leave of their own choice and would have to be arrested. As the department prepared to respond and potentially issue citations or arrest for violations of the Governor's and the City's orders the group called for more armed members to respond

from all over the Northwest to assist in their cause. Ultimately, the group complied to some degree with the City's Emergency Declaration and the decision was made to not escalate the situation by further police response.

Several factors guided our decision to take no further action. The group, while larger, began to abide by the emergency declaration by social distancing and marching, rather than remaining stationary. Additionally, the group included women and children who had responded to the scene. Finally, and perhaps most importantly, we made the decision that escalating an already tense situation with a group of armed individuals who had made anti-government and law enforcement statements, mixed amongst men, women and small children was a poor decision and tactically unsound.

30 MAY 2020: Saturday

During the early morning of 5/30/2020, Deputy Chief Miller received an official request from the Portland Police Bureau to help them in controlling the riots that had erupted in Portland. Around the same time, we also received a request from Eugene Police Department to provide them with assistance, to help with their concerns about rioting in their city. The scope and scale of these riots were greater than either city had seen recently. In fact, the attack on the justice center showed a marked deviation from previous riotous behavior.

During the afternoon of 5/30/2020, Deputy Chief Miller and three Lieutenants went to Portland to attend their briefing for their planned events and potential responses over the next 12 hours. Prior to going to Portland, we were starting to hear about a planned protest in Salem. The protest in Salem was scheduled to start at 2200 hours. In addition to the protest information found on social media, we started receiving information from multiple sources that there were groups intending to loot, riot and commit acts of arson. Based on the above information, we informed Portland Police we would remain in Salem to ensure we were present to try and maintain civil, non-violent protests and keep the peace in our own community.

The event in Salem did not have a permit to operate at the State Capitol or for street closures within the City of Salem. Lt. VanMeter, the Emergency Operations Group Commander for the Mobile Response Team (MRT) contacted the person who was involved in organizing the event. In speaking with her, she said she was going to work on canceling the event due to safety concerns involving protestors and armed militia.

At around 2000 hours Deputy Chief Miller was informed we had a city-wide curfew declaration that could be enacted if needed. Deputy Chief Miller asked Chief Moore whether we were going to put the curfew into place immediately and was informed the decision had been made by the City Manager to wait and see if it was needed. The patrol lieutenants who were involved in the operation were briefed of the curfew and informed they could request its implementation if we started experiencing rioting, looting, disorderly conduct, obstructing bridge and traffic lanes, like what had been taking place in Portland or Eugene.

At around 2100 hours a crowd of approximately 100 people started marching West on Court Street NE from the Capitol without a permit and with no traffic control measures in place. We did not attempt to direct or control the march route until the protestors had passed the militia group several times. Each time the two groups encountered each other the posture and tension of each group visibly increased. Ultimately, Lt. VanMeter, other supervisors and Salem Police officers attempted to employ traffic control measures to ensure the safety of those who were participating in the event and reduce the chances of a confrontation between the protestors and the militia.

By 2130 hours the crowd had grown to several hundred people who continued to march through the streets of Salem shutting down multiple lanes of traffic. Our officers continued to block traffic and redirect both vehicular and the pedestrian traffic in a manner intended to keep everyone safe. By 2240 hours one of the march organizers contacted Lt. VanMeter and asked for assistance in trying to get the group of protestors back to the State Capitol. We assisted by providing traffic control and directions to the protestors to return to the Capitol. By 2300 hours the large portion of the protestors had returned to the Capitol and the organizers announced the protest was over. At this point some of the people who had been protesting left; however, between 150 to 200 people remained, and some started spraying graffiti on the property surrounding or on the Capitol property. By 2318, the large group still at the Capitol left and started moving west on Court Street. Additionally, we started receiving information that an armed group of protestors were marching toward the militia group in order to provoke a confrontation.

In an effort to prevent a potential violent conflict between the protestors and the militia, attempts to destroy the new police building, and the continued vandalism to business owners' property (as had been witnessed at the State Capitol) the decision was made to block Court Street at Winter Street NE. Commands over a loud speaker were given for the group to return to the Capitol or to leave the area. At approximately 2323 hours Deputy Chief Miller received information that officers were having items thrown at them. Items included water bottles, bricks, rocks, glass and explosive devices. Deputy Chief Miller informed Lt. VanMeter to continue to provide announcements for the crowd to leave immediately. Ultimately Deputy Chief Miller authorized the use of CS gas as to prevent officers from being injured by any of the projectiles that were being thrown at them. Deputy Chief Miller also requested the Chief enact the curfew.

At around 2330 hours the crowd was informed there was a City curfew in place, and everyone needed to leave. At approximately 2333 hours, after continuing to have explosive projectiles, rocks and bricks thrown at them, MRT deployed CS gas on the main body (consisting of approximately 100 people) of the crowd. At this point our MRT was divided into two squads, as one squad was forced to engage the militia group (some of whom were equipped with plate carriers and had open carry rifles or handguns) and one squad was with the main body of protestors. The militia group and a smaller group of protestors had started engaging in fighting/tumultuous behavior occurring approximately half a block away from the other MRT squad and main group of protestors. The MRT squad assigned to the militia group, deployed munitions to break-up the fights and ensure the two groups were separated. MRT was ultimately able to separate the two factions; everyone in the group that had been fighting was dispersed.

Eventually MRT was able to concentrate on the main protest group and was able to generally disperse it. As the crowd on Court Street began to disperse, we then received information that the Salem Center Mall was being looted. As MRT responded to the location they continued to receive hostile behaviors from those who were protesting in the area. Commands were repeatedly given for everyone to leave the area and go back to their vehicles. As officers attempted to move the crowds and get them to disperse, they were continually having objects and explosives launched at them. At one point they were able to ensure that while there was damage to the mall there was no actual looting taking place.

Once again MRT had to split its resources between two crowds. One crowd had formed on Chemeketa Street and one had formed on Liberty Street. Both crowds were still throwing objects at officers. The crowd on Liberty Street posed a unique issue that night as the protesters began to intermix with bystanders who were protecting their businesses, leaving businesses or just watching events unfold.

While the team was still split and continuing to deal with hostility and aggressive rioters, two of the protestors ended up in a motor vehicle crash in the intersection of Court and High Street NE. The drivers of the two vehicles, along with other vehicles, had been following the crowds and were doing "cookies" in the intersections as well as engaging in other reckless driving acts. Officers then had to respond and care for those involved in the crash while still trying to control the hostile group that was around them. Ultimately, after securing the crash site, medics transported one of the patients to the hospital. It was shortly after this that the protestors and rioters left the area. We were subsequently able to get most people off the street and by 0300 hours 5/31/2020 we did not have anyone rioting or protesting left on the streets. We did still have multiple people wandering around or standing in front of downtown businesses but none of them appeared to be involved in unlawful behavior aside from violating the new curfew. It should also be noted that we were using the curfew as a tool to help stop riotous behaviors in our City. There were no arrests made that night as it related to the protests, riots or curfew.

Critique:

Faced with multiple objectives of: (1) ensuring the two groups (protestors and militia members) were kept apart; (2) controlling the movements of those committing unlawful acts; (3) protecting the safety of the marchers from vehicle traffic (4) deescalating and dispersing both armed militia and protesters; and (5) protecting downtown business from property damage and looting; no arrests were made as we did not have enough officers to meet all of the above objectives. Instead, due to the limited staffing, we focused on trying to keep the two groups separated and everyone safe while remaining adaptable in order to react to the continually evolving situation.

Command staff did not properly brief on the curfew, as there was not time to do so. Future orders like the curfew should not be implemented prior to ensuring all officers understand what is permitted/not permitted prior to utilization. In this situation, that would have resulted in the curfew not being put into place on this date/time.

Additionally, the Long Range Acoustic Device (LRAD) was not set up prior to the event taking place. The LRAD is an important piece of equipment in crowd management situations. The LRAD can be clearly heard over large crowds, background noise and over long distances. We know that providing clear, audible directions and information to crowds is important. People need to know where they can and cannot gather, if their assembly is legal and what exit routes are available if the group is ordered to disperse. Additionally, the LRAD allows those breaking the law to be warned of the consequences of their actions. Utilizing the LRAD to provide this important information also creates distance between protestors and officers which can reduce the chance of confrontation between the groups. The delay in the deployment of the LRAD was partially due to the change from our operation going to Portland to assist them and then the last-minute change to stay in Salem.

While there were appropriate team briefings, it is unusual for our MRT to not have more time to prepare for organized and coordinated protests in Salem. As this was an impromptu event, our ability to research and establish routes of march or coordinate with organizers was limited or otherwise non-existent. We are typically engaged when permits are sought to close streets in support of a safe marching zone. This occurs weeks in advance of a planned event.

31 May 2020: Sunday

On 5/31/2020 we had our MRT on stand-by for deployment. We knew there was another planned protest for 2200 hours but there was no known point of contact for organizing the event. At around 2057 hours we were informed that an impromptu group of protestors started marching from the Capitol and ended up blocking the Marion Street Bridge. The group was estimated to be around 300 people in total.

Upon hearing the protestors had blocked the bridge, Deputy Chief Miller authorized MRT activation and by the time the team arrived the protestors had left the bridge and returned to the Capitol. Deputy Chief Miller was informed that this group of protestors appeared to be more agitated and hostile than the original group of protestors from the previous night. Additionally, we were informed that members of the group were handing out gas masks to others in the group. Shortly after we heard about the gas masks being handed out, we learned they were marching from the Capitol headed back toward the Center Street Bridge. The group was once again shutting down traffic and appeared to have the intent of blocking the bridge traffic.

MRT formed a line at Liberty and Center Streets and as the crowd approached the LRAD provided announcements that there was a curfew in place and the protestors need to leave the area. At around 2155 hours projectiles, specifically mortar fireworks and other improvised explosive devices were thrown at Salem Police Officers. There were also rocks, bottles and bricks, large nails or other sharp objects being thrown at the officers. It is unknown if the nails were being thrown to cause injuries to the officers' feet, as several officers ended up with the nails stuck in their boots, or if it was intended to disable our vehicles. In the end I believe the City had to repair or replace 19 tires to its police fleet. It is

unknown how many other vehicles in the community also received flat tires from these improvised devices.

At 2158 hours, Lt. VanMeter authorized the use of CS gas and other munitions on the unlawful protestors and those launching items at the officers. LRAD announcements continued to be given. While we are not aware of any injuries to those in the crowd due to police actions, we were able to assist one female protestor who officers witnessed being struck in the head by a brick thrown by another protestor/rioter. After providing medical assistance and ensuring she was safe we had her transported to the hospital via ambulance. While continuing to try to disperse the protestors, we were able to see more of them putting on riot type gear and more gas masks.

Although MRT disengaged the protestors/rioters on two occasions (with the intent of deescalating the situation) the group failed to disperse. Even after continually providing them lawful orders to leave, the protestors continued to remain energized and at one point surrounded an occupied vehicle driving on Court Street and started jumping on the hood of the car. When protestors surrounded the vehicle, MRT and other officers moved in to affect a vehicle rescue. As the protestors saw police vehicles and MRT move into the area they began to disperse in multiple directions. It was after the vehicle rescue that the majority of arrests were made.

The department made 14 arrests for trespass, rioting and disorderly conduct. Additionally, after the arrests were made, it did appear to help in getting the others in the crowd to leave the area and stop rioting.

At approximately 0106 hours on 6/1/2020 we ended the crowd management operation. While there were still numerous people wandering around the downtown and Capitol area, there were no longer groups blocking the road or committing other unlawful acts separate from the curfew violation.

Critique:

Deputy Chief Miller chose not to deploy MRT to peaceful protests due to concerns that police presence at that time may have inflamed the situation. The delayed deployment of our MRT, in hind-sight, may have been the wrong decision as it allowed more time for people to engage in unlawful activity. Deploying the team earlier may have resolved the situation sooner. It also cannot be underscored the importance of us determining who is organizing a protest and subsequently establishing communication with them both prior to and during the event.

Since the previous night was the first time we had ever operated with a curfew in place for the city and it was the first time we had responded to actual riots on the streets of Salem, we had tried to make improvements to our previous night's plans. Among those changes: We activated members of the SWAT team at the outset to help secure the new police building. We also used members of SWAT to assist as arrest teams for MRT. They were utilized due to the ability to get them into the department quickly upon request and because they are the only other team that is equipped with gas masks.

We also utilized members from the Criminal Investigations Section (CIS) to assist with charging documents and interviews and a transport van from Marion County Correctional Facility (MCCF) to assist with moving those who were arrested. While this plan was beneficial, there were issues with charging documents and officer reports. Mostly this was a result of lack of coordination between the arrest teams and the teams managing the charging documents, who were working at different locations.

One resolution to this was to ensure that all officers would write reports prior to going end of shift during future operational periods.

01 JUNE 2020: Monday

On 6/1/20 MRT was again deployed to support a protest event at the Capitol and a planned march to the new Police Department. The march was to take place after the City curfew and was not permitted by the City for street closures or traffic control. However, a decision was made to allow the march and not enforce the curfew ordinance. This was done to facilitate the peaceful expression of free speech and protest. In our conversations with the organizers leading up to the event, we recognized the event was organized by someone who was working to prohibit unlawful behavior of anyone in the crowd and at one point even drew attention to a group he suspected was going to try and create problems. The march went from the Capitol to the new police station and we ensured the safety of those marching by closing the streets to traffic. Two of our lieutenants walked with the protestors and tried to build relationships with those who were participating by engaging with portions of the peaceful demonstrations.

Aside from the curfew violation and the unplanned/permitted closure of streets, the organized portion of the event did not result in any unlawful acts. At approximately 23:05 hours, about 75 people left the Capitol and walked to Center and Capitol Streets NE where they blocked the road. MRT responded to the location and used the LRAD to give commands to leave. The protesters/rioters then began throwing projectiles at the officers. No CS gas was used (due to the crowd size being smaller than in previous nights) to encourage the rioters to leave; however, sound diversion devices were used, and several people were taken into custody. Following the arrests of nine protestors, the rest of the protestors/rioters left the area. As with the previous night(s), there were no arrests for curfew violations. Curfew violation was an additional charge to rioting and disorderly conduct.

The operational period was completed by 0100 hours and MRT stood down. No other enforcement actions were taken that night and no other laws, aside from the curfew violation of numerous people walking around downtown or at the Capitol were observed. While people were warned for curfew, if they were not actively engaging in other unlawful activities, no arrests were made.

Critique:

The department once again made use of arrest teams. This worked well in allowing MRT to focus on their sole job as crowd safety and management.

There was still some confusion with the custody teams consisting of CIS as it related to communication in how many people we had taken into custody. MRT was aware of the arrests they had made but there were other officers and supervisors working in the area as support for MRT who also had people in custody. The result was a slight delay in determining how many arrests/ juvenile referrals we had.

Throughout all the above operational periods we had four detectives on duty to secure the new police facility. We should have arranged for a private security company to provide security for the building sooner.

Operationally, MRT, SWAT, and supporting officers were facing exhaustion from the long hours, stressful conditions and lack of sleep/time-off. Had Portland not been in an even worse position than we were, I would have made the request of Oregon State Police to assist us in MRT operations.

There were other events and protests we participated in over the next two weeks. While we still maintained a large officer presence to ensure the safety of all those involved, we did not take any enforcement actions on anyone who was involved in protesting or counter protesting. OSP did investigate one incident of a reported harassment, that occurred at the Capitol. I do not believe that investigation has resulted in an arrest.

Based off the crowd and organizers (for the event on 06/01/2020) requests for more officers to be present to speak and engage with, we ended up forming a team of officers who were able to connect with members of subsequent protests. This proved beneficial in helping to assist in opening lines of communication and promoting peaceful protests.