

City of Lancaster

BUREAU OF POLICE

To: City Council and Mayor Sorace
From: Jarrad P. Berkihsier, Chief of Police
Subject: Report to City Council – Use of Pepper Spray during demonstrations
May 30th and May 31st

On May 25, 2020, the killing of George Floyd by Minneapolis police officers shocked, saddened, and enraged communities across the United States including our own. Members of the Lancaster Bureau of Police felt and shared those same emotions and bore the additional burdens of disgrace and shame to their profession.

During large scale, emotional and unannounced/spontaneous demonstrations on May 30 and May 31, 2020 our officers utilized pepper spray a total of six (6) times, each during the course of an arrest. Following the week of June 1, we conducted a full review of each of those pepper spray uses by analyzing the records produced from the occurrences and reviewing over 80 hours of police body camera footage. That review and analysis was conducted to determine with respect to each application of pepper spray if its use was (1) justified and (2) effectuated in accordance with our police bureau policies and our training.

With one exception, I have determined that each decision to use pepper spray and the manner in which it was deployed on May 30th and 31st was consistent with Police Bureau policy and, perhaps even more importantly, was for lack of a better description “textbook” – each fell squarely within the teachings and education generally provided to police officers across the country, to me and to my officers and was consistent with Bureau policy. In one instance, the decision to use the pepper spray was appropriate but the manner in which it was used was inconsistent with our policy and training and the officer involved has been retrained.

While finding that the decisions to use pepper spray were by the book, I am reporting to you tonight that the book needs to be rewritten. As Chief of your Police Bureau, I recognize that the decisions of police leadership and officers’ actions come with great responsibility and that I need to do all that I can to assure the safety of the public and my fellow officers. To do so, I must, with your help, the help of the Community Police Working Group and the guidance of the Mayor rewrite the playbook to assure that, through effective situational analysis, policy implementation, education and training, decisions to utilize de-escalation and other means to avoid uses of force are made and applied whenever and wherever possible.

As a police officer and former member of the military, I am trained to provide reports that factually report on matters. With that in mind I am providing to you a separate more detailed factual report summary of police activities on May 30 and May 31

City of Lancaster

BUREAU OF POLICE

for your review. During the remainder of my time with you this evening, I would like to begin our conversation on rewriting the playbook.

I have been a member of the Lancaster Bureau of Police since May, 1994, working my way through the ranks over the last 26 years to Chief. I have a bachelor's degree in criminal justice with a concentration in organizational law enforcement leadership, a master's degree in management with a concentration in organizational leadership, served our country as a member of the United States Air Force Security Police, graduated from the Federal Bureau of Investigation National Academy, have a graduate certificate from the University of Virginia for coursework in leadership context and culture, conflict resolution for law enforcement executives, contemporary issues in law enforcement, and advanced psychology of law enforcement, and have attended several thousand hours of law enforcement training covering topics including patrol tactics, community policing, SWAT operations, investigations, leadership and supervision.

I list these matters of my background not to brag or to convince you that my opinions are correct but rather to confirm to you that the decisions to utilize pepper spray and the methods in which it were deployed were absolutely consistent with the training and education I have received and passed on to my officers. The playbook on the response, decision-making process involved in the handling of protests and demonstrations and the use of force during them needs to be examined and rewritten after careful consideration to best evidence-based practices in law enforcement based in community policing. This examination is happening throughout the law enforcement profession.

During my career in Lancaster, we have not seen demonstrations of this type and scale and after review it is clear that we were not properly prepared to encounter or respond to the dynamics related to these demonstrations.

On May 30th, we were monitoring the demonstration like we have done in the past with no real police involvement and were prepared to block streets if necessary. Throughout the afternoon, the size of the crowd grew and demonstrators unexpectedly marched on major thoroughfares throughout the city causing us to quickly change our tactics and role. We conducted traffic control to limit pedestrian and vehicle interaction with the goals of keeping everyone safe (pedestrians and vehicle operators), avoiding confrontations and providing a safe environment for the community to peacefully demonstrate.

Once the crowd size lessened to a more manageable size, in order to accommodate other calls for service and staffing constraints, we discontinued traffic

City of Lancaster

BUREAU OF POLICE

control efforts, but placed traffic barricades at Prince and Chestnut Sts. to provide a safe area for demonstrators to continue gathering.

My overall concern for keeping the streets clear was to avoid a tragedy like the one that happened in Charlottesville, VA when cars ran into crowds and wounded and killed pedestrians.

On May 31st, the Police Bureau was made aware of a “Honk and Drive” demonstration organized by Lancaster Stands Up scheduled to begin at 2PM and continue until 3PM. Based on information provided by organizers and participants who confirmed and explained they would observe traffic laws, our plan was to monitor the matter and respond to calls for service related to the event.

At approximately 11:30 AM a second demonstration (not announced to us or anticipated) originally involving about 10 people commenced on foot on the sidewalk at the intersection of Prince and Chestnut Streets, directly blocking the planned route of travel of the “Honk and Drive” event. I advised Lt. Carpenter that the Police Bureau could not allow for the street to be blocked because of the mobile demonstration route.

Around 1:00 PM, we began to receive calls through County 911 dispatch that lanes of traffic were being blocked at Prince and Chestnut Streets. Officers responded to the area and requested that demonstrators move to the sidewalk so we could open the street for the “Honk and Drive” demonstrators. On this occasion, the demonstrators complied.

Lt. Carpenter contacted me at different times to update me on the demonstrations, both of which were very quickly increasing in size. Our overall goal was to keep the lanes of travel open because of the mobile demonstration. We were also extremely concerned about demonstrator/pedestrian safety due to the large number of vehicles and people.

Due to the growing crowd size, the multiple threats to public safety, and the backup of traffic throughout multiple streets in the City, Lt. Carpenter, as officer in command and with my knowledge, requested additional county police units including the PA State Police.

In order to clear passage for the vehicles on the streets, officers began to make arrests of pedestrians blocking the street. Each arrest began with a warning to the individual to move out of the street or there would be an arrest if they refused. As officers began to affect the arrests, individuals in the crowd, closest to the arrest moved towards the arresting officers. In accordance with the textbook, cover officers used O.C. pepper spray to keep those individuals back from the arrest to protect both the officers and the individuals being arrested. During a second series of arrests shortly after 2:30

City of Lancaster

BUREAU OF POLICE

p.m., as the arrests began individuals within the crowd immediately approached the arrests and OC Spray was used again to keep those individuals back. It was around this time, that a small group of individuals in the crowd began to throw objects at police, including the Mounted Units.

The tensions in the crowd increased as PA State Police and county officers arrived on the scene wearing riot gear (vests, helmets, and shields) in compliance with their guidelines and protocols coupled with the information that objects were being thrown at officers.

Once additional county units and the State Police were on scene, we stopped trying to open the street at that time and I made a phone call to Mayor Sorace to ask for her assistance to mobilize community leaders to help de-escalate the situation. We also began to divert traffic on the surrounding streets to lessen the volume at the intersection.

The de-escalation took some time and was eventually successful in allowing us to get traffic flowing. When the queued traffic cleared, we closed the 1st block of W. Chestnut St. to allow the demonstration to continue safely.

While we followed the textbook in responding as we did on May 31, it became clear to me that our collective police efforts were further escalating the situation. We needed to do something different to de-escalate tensions. As the week progressed, city leaders and the police department were able to open a dialogue with demonstrators that included me, more than a dozen of our officers and our police social worker, listening to demonstrators and speaking with them to hear their concerns, fears and anger. My overall goal throughout the week was to continue dialogue and ensure public safety. There were no subsequent uses of force.

As I indicated earlier, I will be seeking your counsel along with the counsel of members of our community and law enforcement personnel across the country to help write a new playbook to guide us in making the decisions that contributed to the use of pepper spray during the demonstrations on May 30 and 31; namely, (1) how do we determine when to enforce the laws regarding use of our public thoroughfares during times of demonstration and protest, (2) how to better analyze and determine whether the assistance of outside police agencies is needed; (3) how to assure that when outside police agencies are called in for assistance that their approach to the situation is consistent with ours; (4) when to use the power of arrest to accomplish the goal of clearing the right of way; and (5) deciding what level of force should be applied in effectuating those arrests based on the level of resistance.

While it will not be easy or possible to come up with a one approach fits all solution to the threats posed to public safety and resource management in situations where groups of people are intentionally and/or spontaneously blocking a lane of traffic

City of Lancaster

BUREAU OF POLICE

on a busy thoroughfare, I am confident that we can collectively work to develop response procedures that strike an appropriate balance and utilize an effective approach to preserve the rights of all of our residents. These conversations among county law enforcement professionals and changes in response are ongoing since May 31st.

I, as your Police Chief, am committed to assuring that the Lancaster Bureau of Police remains responsive to the public safety needs of our community and to the evolution of its policies and procedures, training and retraining, and to engaging our community in that process.

To that end, we are moving forward with plans to seek accreditation through the PA Chiefs of Police which establishes a credible framework for evaluating agency practices and procedures, improves law enforcement and community relations, and develops improved methods for providing services to the community as well as many other benefits. As I continue to meet with and seek input from many community stakeholders we are continuing to evaluate other changes within the Bureau and I will keep you and the public advised of them.

Not as a defense of the Police Bureau and our decisions, but to ensure you are aware of the underlying dynamics, it is also worth mentioning the level of professionalism Lancaster Bureau of Police officers along with other responding agencies maintained throughout the week of demonstrations. I am proud of how officers handled themselves in the face of a small, but very vocal number of individuals among the demonstrators using extreme verbal profanity, including racial slurs directed at officers, especially minority officers. Unfortunately, some of this continues to this day – during regular calls for service and even when officers are walking into their shifts in civilian clothing. As I said earlier, I am fully responsible for all of the decisions made and actions taken, and I am grateful to my officers for implementing my decisions in a thoroughly professional manner under extremely difficult circumstances. For that, I thank them and hope you will as well.

I want to thank and express my utmost appreciation to the community leaders, residents, clergy, and city government officials who helped us maintain public safety throughout the week.

Thank you for your time this evening.