# AFTER-ACTION ASSESSMENT OF THE POLICE RESPONSE TO THE AUGUST 2014 DEMONSTRATIONS IN FERGUSON, MISSOURI

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CRITICAL RESPONSE INITIATIVE

# AFTER-ACTION ASSESSMENT OF THE POLICE RESPONSE TO THE AUGUST 2014 DEMONSTRATIONS IN FERGUSON, MISSOURI

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# LETTER FROM THE DIRECTOR

Dear colleagues,

In September 2014, at the request of Chief Jon Belmar of the St. Louis County Police Department, the Office of Community Oriented Policing Services agreed to conduct an after-action review of the regional police response to mass demonstrations following the shooting death of Michael Brown in Ferguson, Missouri.

This report summarizes the independent, objective and candid review of police activities for the 17 days following the death of Michael Brown. It delves into how the police managed the mass demonstrations in Ferguson and provides 48 findings and more than 100 lessons learned, which I believe will be of great benefit to the law enforcement field going forward.

I applaud Chief Belmar and the former superintendent of the Missouri State Highway Patrol, Colonel Ron Replogle; the chief of the St. Louis Metropolitan Police Department, Colonel Sam Dotson; and the former chief of the Ferguson Police Department, Thomas Jackson for their willingness to undergo this intensive examination. It takes a strong commitment to public safety and a genuine desire to make improvements for leaders to expose their agencies to such a review, especially knowing that the outcome may highlight challenges and areas of concern and expose the agencies to increased scrutiny and criticism.

Yet we know that only through this type of self-reflection can the profession improve the services we provide to our communities. The failure to learn from our experiences—both our successes and setbacks—increases the likelihood of repeating mistakes and contributes to loss of public trust. In asking for this review, these leaders recognized that the truth often hurts, but selective ignorance is fatal to an organization.

It is our hope that the lessons learned in Ferguson will provide guidance to the more than 16,000 police departments around the country and will prepare these agencies to respond effectively and constitutionally to the challenges of mass demonstrations in the 21st century.  In many ways, the demonstrations that followed the shooting death of Michael Brown were more than a moment of discord in one small community; they have become part of a national movement to reform our criminal justice system and represent a new civil rights movement.

Law enforcement must be prepared to respond to this new movement and to do so in a manner different from that of the civil rights movement of the 1950s and 1960s, when law enforcement was often used to disrupt demonstrations, oppress free speech, and deny constitutional rights. We know today's law enforcement leaders are committed to protecting the rights of all to demonstrate while also protecting the people who live and do business in the community from violent crime and vandalism. This report will help ensure that the policing practices used in response to mass demonstrations match this commitment.

Again, we are grateful to the four police agencies for their willingness to open their agencies and share their experiences. And we are equally grateful to all who contributed to this report.

Sincerely,

Ronald L. Davis, Director
Office of Community Oriented Policing Services

# ACKNOWLEDGMENTS

The nature of this project was both complex and sensitive, and it required a great deal of information gathering and a significant amount of time to conduct interviews. This project was performed under conditions wherein the agencies involved realized there could very well be criticism of their decisions that were made under conditions of uncertainty and stress. Moreover, as this assessment was being conducted, the police agencies were still dealing with demonstrations and confrontations of various kinds, as well as handling their ongoing police services. Nonetheless, each individual the assessment team dealt with was helpful, open, cordial, and professional.

In particular, we sincerely extend our appreciation and thanks for the commitment and support provided by Chief Jon M. Belmar of the St. Louis County Police Department, Chief Samuel Dotson of the St. Louis Metropolitan Police Department, former Superintendent Ronald Replogle and Captain Ronald S. Johnson of the Missouri State Highway Patrol, and former Chief Thomas Jackson of the Ferguson Police Department. Without exception, our presence was met with welcoming accommodation and candid responses to our many questions and follow-ups. We thank you.

Each agency provided us with a point of contact who handled the logistics of our visits, scheduled interviews, provided documents and other information, and otherwise facilitated our assessment efforts. Our sincere appreciation is extended to Executive Director William Howe and Sergeant John Wall of the St. Louis County PD, Lieutenant John M. Carnaghi of the St. Louis Metropolitan PD, Captain Greg Smith of the Missouri State Highway Patrol, and former Interim Chief Alan Eickhoff of the Ferguson PD. Each of these officials was exceptionally responsive to our requests, even on evenings and weekends. Without their ready and open assistance, our tasks would have been significantly more difficult. We cannot thank them enough.

The assessment team needed information from a diverse array of sources to accomplish our mission. We extend our appreciation to the many men and women of the St. Louis County PD, St. Louis Metropolitan PD, Missouri State Highway Patrol, and Ferguson PD for the time and openness they provided to us during our interviews.

In addition, critical to this assessment is the voice of the community. We are deeply grateful to the many community members, business owners, and protesters who freely gave their time and provided open, candid information during the assessment. Their willingness to take time out of their schedules to meet with assessment team members or to participate in telephone interviews demonstrates their tremendous commitment to share their thoughts and perspectives of the events that occurred during the assessment period. Their input was invaluable to this process. While Ferguson has become a national symbol, to each and every community member we spoke to, this is their community and their home. We thank the community members for opening themselves up to us, especially on sensitive issues, and providing their feedback and thoughts.

# EXECUTIVE SUMMARY

On Saturday, August 9, 2014, at 12:02 p.m., CDT, in the street near 2947 Canfield Drive in Ferguson, Missouri, Police Officer Darren Wilson shot and killed 18-year-old Michael Brown following a law enforcement encounter. There were significant reactions to the shooting, especially with the delay in releasing information about the incident. More broadly, the relationship between law enforcement and the communities of color in St. Louis County were extremely strained. Lawful public demonstrations (see the glossary of operational definitions) as well as unlawful activities, rioting, and encounters with the police occurred. Beginning with the initial police response at the homicide scene, police actions were questioned and criticized by the public. The criticism was immediate, explicit, and vocal, and it was amplified by social media and national news coverage.

The U.S. Department of Justice (DOJ) determined there was a need to assess the police response in Ferguson to determine if actions could be taken to improve situations like it in the future. As part of several DOJ initiatives and at the request of the St. Louis County police chief, the Office of Community Oriented Policing Services (COPS Office) agreed to conduct an after-action assessment of the police response to the mass demonstrations (see the glossary for operational definitions) in Ferguson.

Of particular concern were the early days of the response; therefore, this assessment encompasses a 17-day period starting immediately after the shooting at 12:02 p.m., CDT, on August 9, 2014, through midnight on August 25, 2014, the day of Mr. Brown's funeral. This 17-day period represents the beginning of mass gatherings and protests through periods of both peaceful demonstrations and violence.

While more than 50 law enforcement agencies were involved in the police response in Ferguson during the assessment period, the four core agencies involved in this assessment are the St. Louis County Police Department, the St. Louis Metropolitan Police Department, the Missouri State Highway Patrol, and the Ferguson Police Department. These agencies were selected for the assessment because they were the primary responders to the demonstrations.

The goal of the assessment was to examine the police response to the mass gatherings, identify significant findings about critical decisions and practices, and develop lessons learned that law enforcement agencies nationwide can use to help build trust, improve relationships, and protect civil rights in the communities they serve. The assessment team reviewed a wide range of documents, including a content analysis of policies, procedures, computer-aided dispatch logs, training materials, training records, arrest records, and other relevant documents from each of the four core law enforcement agencies. The team also performed a content analysis on related news stories, photographs, and videos. The latter two were the most valuable for providing and confirming evidence of practices and facts.

The heart of the information collected and analyzed was from confidential interviews. Between November 2014 and May 2015, the assessment team conducted more than 160 interviews, encompassing more than 680 hours. The team interviewed law enforcement personnel from the four agencies in all ranks, from executives to line officers. Officers from different assignments related to the response were also interviewed, from tactical operations to intelligence to patrol. Outside of law enforcement, interviews were conducted with a broad range of community members as well as members of the Ferguson business community, clergy, union leaders, the academic research community with knowledge of Ferguson, and protesters.

The team members assessed and discussed all information and came to a clear consensus agreement on all findings in the report. The team members cooperatively worked to develop the findings and lessons learned that are presented in this report.

In virtually any type of assessment, themes will emerge. This project was no exception. The assessment team concluded that six themes permeated all aspects of the police response and will be covered throughout the report:

1. **Inconsistent leadership.** Inconsistency in direction, incident management, and tactical orders was apparent and particularly evident in the comments of frontline officers and supervisors.

2. **Failure to understand endemic problems in the community.** There was insufficient understanding of community concerns, and relationships between law enforcement and some community segments were lacking.

3. **A reactive rather than proactive strategy.** The police response to the mass demonstrations was generally reactive and did not appear to establish a strategic approach to effectively mitigate the complexity of issues and respond more effectively to the mass gatherings.

4. **Inadequate communication and information sharing.** There was a lack of effective communication and information management. Communication gaps led to tactical and strategic uncertainty within law enforcement agencies, between law enforcement agencies, and with the community.

5. **Use of ineffective and inappropriate strategies and tactics.** There were instances where specific actions were taken that infringed upon constitutionally-protected activities and were not aligned with current national best practices. These strategies and tactics had the unintended consequence of escalating rather than diminishing tensions.

6. **Lack of law enforcement response continuity.** Complicating factors were presented by the response of smaller municipal law enforcement agencies in the region, each with disparate missions, policies, training, equipment, and policing cultures.

With these six themes laying the foundation for the report, the assessment team identified 48 findings and developed 113 lessons learned. The following 10 issues and selected relevant findings were the most critical:

1. **Police-community relationships.** The Ferguson PD had virtually no established community relationships with the residents of Canfield Green Apartments, where Mr. Brown was killed, or with much of the African-American community in Ferguson. The Ferguson protests demonstrate the importance of law enforcement agencies engaging in dedicated and proactive efforts to understand the communities they serve and to foster strong trust in law enforcement. This outreach is of critical importance in disenfranchised neighborhoods, especially those with high poverty and unemployment.

Because relationships with some community segments were lacking, community leadership was underused in the overall response. Elected and appointed officials, local clergy, and community leaders can be very effective in sending the message that violence damages the community in ways that will take years to mend.

**FINDING.** *The Ferguson PD lacked community relationships with the residents of Canfield Green Apartments and with much of the African-American community. (See finding 46 on page 116.)*

**FINDING.** *The Ferguson PD had no agency-wide efforts in place to manage the community reaction. In addition, the fact that long-term relationships with the community were seemingly not developed over time led to devastating effects. Community members had no central source of contact to reach with questions or concerns. (See finding 45 on page 116.)*

**FINDING.** *The absence of trust between the police in Ferguson and many in the community negatively impacted the response of all agencies involved and was a barrier to responding agencies' efforts to communicate effectively with the community. (See finding 33 on page 88.)*

**FINDING.** *The protests were sparked by the shooting of Michael Brown, but they were also a manifestation of the long-standing tension between the Ferguson PD and the African-American community. (See finding 47 on page 116.)*

2. **Command and control.** The incident command structures throughout the evolution of the Ferguson demonstrations were uncoordinated and incomplete in the early days. The National Incident Management System (NIMS) was never fully implemented. This resulted in reactive responses and poor communication both within the command center and among the many law enforcement agencies involved:

   a. While a viable intelligence process was functioning, incident command's use of the intelligence products was minimal. If properly applied, the intelligence providers should work closely with the incident command operations section to prepare incident action plans for the incident commander (IC).[1] These plans would have given the IC a far better grasp of the strategic issues involved, would have produced enough staff to meet requirements, and would have been an important tool in communicating a common operating picture and uniform procedures to the tactical units on the street.

**FINDING.** *Incident command did not functionally incorporate available intelligence into the strategic decision-making process because NIMS was not fully implemented. The St. Louis County PD, the St. Louis Metropolitan PD, the St. Louis Fusion Center, and the Missouri State Highway Patrol (via the Missouri Information Analysis Center) each developed a significant amount of intelligence about threats and public disorder concerns related to the mass gatherings and protests, though that intelligence did not systematically inform operations or decision making. (See finding 30 on page 85.)*

**FINDING.** *Limited intelligence was shared with incident commanders, despite intelligence personnel being assigned to the command post. This resulted from a lack of a formal information sharing mechanism within the incident command structure. (See finding 31 on page 85.)*

   b. Once the nature of the demonstrations was realized, the failure to almost immediately establish a joint information center greatly hampered the IC's ability to ensure that responding agencies both spoke with a single voice through the designated public information officer and operated under uniform standards. This significantly degraded the IC's ability to get accurate and timely information out to both the media and to the protesters. The result was inaccurate, sometimes conflicting, and misleading information was shared over social media that further inflamed the emotions of the protesters.

**FINDING.** *Incident command did not follow the NIMS public information protocols, including establishing a joint information center (JIC), which could have reduced or eliminated some of the conflict between law enforcement and the media and improved relations with the community. (See finding 38 on page 95.)*

**FINDING.** *Law enforcement agencies initially offered limited public information and did not commit to proactive communications with the public, both of which set a negative tone for media relations for the rest of the demonstrations. (See finding 37 on page 95.)*

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1.　See appendix D for the definition.

c. At the height of response to the events in Ferguson, more than 50 different law enforcement agencies were involved. This resulted in confusion, some inconsistency in policy applications, complicated communications, and diluted organizational control of responding personnel. Regional mutual aid organizations must make joint training and Incident Command System (ICS)-based tabletop exercises a priority. Not finding the time to conduct these critical preparatory steps will likely lead to repeating the problems identified in this report.

**FINDING.** *The Code 1000 Plan, along with the mutual aid agreements from the Missouri State Highway Patrol and St. Louis Metropolitan PD, was the only police resource option available at the time to respond to the Ferguson demonstrations; however, it proved to be an ineffective response mechanism for the demonstrations for the following reasons:*

- *There were no effective protocols in place to handle an event like this; if such protocols had been in place, they would have identified the appropriate police resources and procedures for the event to accompany the mutual aid agreements*

- *The inability to effectively provide command and control for the many responding agencies*

- *The inconsistent training among officers in the responding agencies*

- *The different approaches to policing*

- *The tendency toward officer self-deployment by agencies not included in this assessment in the early days of the Ferguson demonstrations, which reduced officer accountability (See finding 1 on page 38.)*

**FINDING.** *While incident command was established, the National Incident Management System (NIMS) was not fully implemented, which inhibited coordination and response efforts. (See finding 4 on page 39.)*

**FINDING.** *Because of the lack of clear direction for unified operational policies, officers from more than 50 law enforcement agencies involved in the response to the mass gatherings typically relied on their parent agency's policies to govern their actions. That lack of consistency in policy led to unclear arrest decisions, ambiguous authority on tactical orders, and a confusing citizen complaint process. (See finding 26 on page 72.)*

**FINDING.** *The deployment of less-lethal weapons in the multiagency response to the demonstrations was not centralized or tracked. The unprecedented nature of this event does not justify the lack of documentation and need to track the use of less-lethal responses. (See finding 11 on page 52.)*

3. **Use of force.** Canine use in incidents like Ferguson invokes powerful emotions in many observing citizens and protesters, particularly where racial tensions exist. The use of canines for crowd control in Ferguson was an inappropriate and ineffective strategy. Canine use should be narrowly limited, focusing only on the protection of life or prevention of bodily injury to persons or officers or on the prevention of significant property damage.

There were instances where CS gas (tear gas) was deployed inappropriately, including without proper warnings, without sufficient attention paid to safe egress, without consideration for environmental conditions, and without documentation that justified and tracked its use.

**FINDING.** *The use of canines during the Ferguson demonstrations raised many questions and concerns and the assessment team determined the following:*

- *The St. Louis County PD and the Ferguson PD used canine units for crowd control to protect the homicide scene on August 9. While consistent with both agencies' policy, such use is inconsistent with widely accepted policing practices and in fact exacerbated tensions by unnecessarily inciting fear and anger among amassing crowds.*

- *Canines were used within accepted policing practices by St. Louis County PD, Ferguson PD, and St. Louis Metropolitan PD for specific activities as documented by the team, including backup, building searches, and tracking suspects. Canines were used for tracking suspects on August 10, 11, and 17.*

- *Agencies outside the scope of this assessment used canines and may have used them for crowd control.*

- *None of the four core agencies that are the focus of this assessment prohibits the use of canine units for crowd control—which is not consistent with widely accepted policing practices. (See finding 7 on page 51.)*

**FINDING.** *The assessment team identified a lack of thorough documentation of the use of CS gas (tear gas), including justification, deployment strategy, and outcomes. The team also identified instances of tear gas being deployed inappropriately without proper warnings, without sufficient attention paid to safe egress, and without consideration for environmental conditions (e.g. weather, wind direction, proximity to a densely populated area, potential impact on the safety of citizens as well as law enforcement). (See finding 8 on page 51.)*

4. **Militarization.** The use of military weapons and sniper deployment atop military vehicles was inappropriate, inflamed tensions, and created fear among demonstrators. Agencies possessing military-type equipment or weaponry should restrict its deployment to limited situations in which the use of the equipment or weapons is clearly justified by the events. The equipment and weapons should be kept out of sight and not be used routinely or in the absence of special circumstances. Policies and procedures should clearly state the limited situations for deployment.

**FINDING.** *While a tactical response was warranted at times during the Ferguson demonstrations because of threats to public safety, the highly elevated initial response, including tactical elements, limited options for a measured, strategic approach. The elevated daytime response was not justified and served to escalate rather than de-escalate the overall situation. (See finding 12 on page 59.)*

**FINDING.** *The overwatch tactic, in which police snipers took positions on top of tactical vehicles and used their rifle sights to monitor the crowd, was inappropriate as a crowd control measure. Further, it served only to exacerbate tensions between the protesters and the police. (See finding 15 on page 60.)*

**FINDING.** *During the first several days of the Ferguson demonstrations, law enforcement staged armored vehicles visibly in a way that was perceived to be threatening to the community and, at times, used them absent danger or peril to citizens or officers. As the protests progressed, law enforcement staged the armored vehicles in a more strategic and less visible manner allowing for quicker and more measured responses to situations including the rescue of officers and civilians in need. (See finding 16 on page 60.)*

5. **Need for preparation.** When violence erupts or threatens a community, it is too late to plan regional responses, purchase necessary equipment, train key personnel, test communication capabilities, and begin to organize for an extended event. These types of situations also need to be responded to with a broader focus than simply bringing crowds under control. Rather than solely implementing a series of reactions to developing events, there must be a proactive approach that anticipates the impact of the community's anger and frustration and of operational decisions. Influencers must be identified and brought to the table. Not only public safety but also faith-based and political leaders and community stakeholders are important in the planning and preparation stages. NIMS in particular requires training key personnel who can be added to the incident command team as expertise is required. Many times, this need is immediate.

**FINDING.** *During the first two days (Saturday, August 9 and Sunday, August 10), the St. Louis County PD and the Ferguson PD did not anticipate that the Ferguson demonstrations would be long-term and focused only on immediate tactical responses; therefore, they did not effectively plan for a long-term operational strategy. (See finding 2 on page 39.)*

**FINDING.** *Limitations and variations in officer training on civil disobedience, de-escalation, and mutual aid negatively impacted the response to events in Ferguson. (See finding 21 on page 68.)*

**FINDING.** *The four core agencies dedicated officer training on operational and tactical skills without an appropriate balance of de-escalation and problem-solving training. (See finding 22 on page 68.)*

**FINDING.** *There was no evidence of comprehensive training or exercises involving all four agencies related to the National Incident Management System (NIMS). While agencies conducted some joint training and exercises, they often focused on a narrowly defined collective response. This training borrowed some NIMS principles but was not a wholesale application of NIMS. (See finding 23 on page 68.)*

6. **Social media.** Social media was the key global driver of the Ferguson demonstrations. It provided the virtually simultaneous communication channels that facilitated crowd building and crowd movement. It also was the primary provider of information and opinion, which shaped all aspects of the demonstrations. Essentially, in real time, a location or event can draw attention from regional or national audiences. Law enforcement may not immediately realize the need to increase resources to contain civil disorder, which is highly likely to occur. Failure to recognize and react in a timely and appropriate manner will relegate the responding agencies into a reactive posture that is difficult to overcome. A better and more immediate grasp on the use of social media during emergency situations is necessary if law enforcement is to cope effectively with similar future events. A law enforcement agency should develop a social media strategy and capacity, as well as policies and procedures that align with the agency's mission and culture. Critical response policies and procedures should be included.

   **FINDING.** *The four core law enforcement agencies underestimated the impact social media had on the demonstrations and the speed at which both facts and rumors were spread and failed to have a social media strategy. (See finding 39 on page 103.)*

7. **Protection of constitutional rights.** Law enforcement has the responsibility to protect persons and groups exercising their right to assemble peacefully, all while ensuring public safety and the protection of privacy and the associated rights of individuals. Ensuring these protections starts at the planning and training stage, during the event, and after the event.

   A significant constitutional legal issue arising out of the mass demonstrations in Ferguson was law enforcement's use of an ad hoc "keep moving" strategy, commonly referred to as the "five-second rule," applied to protesters. However, as the "keep moving" order was put into effect, protected First Amendment activity was swept up by prohibition of such activity and threat of (or actual) arrest. Discretionary application of sanctions by law enforcement is always a concern. The exposure to potential arrest for exercising one's right to peacefully assemble and protest was problematic.

**FINDING.** *Unified command created a vague and arbitrary derivative of the Missouri failure to disperse statute—the "keep moving" order, or "five-second rule," which violated citizens' right to assembly and free speech, as determined by a U.S. federal court injunction. (See finding 18 on page 64.)*

**FINDING.** *Unified command failed to establish a clearly marked First Amendment free speech zone until August 19, 2014. This delay, coupled with the "keep moving" order, had an overall effect of discouraging protesters from exercising their First Amendment rights. (See finding 20 on page 64.)*

8. **Accountability and transparency.** Law enforcement accountability and transparency are critical to building and maintaining trust within a community. Law enforcement officers have accepted a position of visible authority within their communities and must be held to a tremendously high standard of honesty, integrity, equity, and professionalism. The public has a right to expect accountability during an encounter with law enforcement, and accountability includes having a means for citizens to identify officers (e.g., nameplates and badge numbers). While all four agencies included in the assessment have policies regarding the proper display of a nameplate as part of the standard uniform dress code, there were numerous reports of responding law enforcement officers not wearing name tags or badges during the Ferguson demonstrations. In addition, the citizen complaint process and the ability of persons to identify officers who are subjects of complaints are important to maintain accountability and transparency within the community.

   **FINDING.** *During the law enforcement response to the protests, some officers removed their nameplates. This behavior defeated an essential level of on-scene accountability that is fundamental to the perception of procedural justice and legitimacy. (See finding 29 on page 80.)*

   **FINDING.** *The St. Louis County PD and the St. Louis Metropolitan PD each reported one officer complaint during the assessment period. Neither the Ferguson PD nor the Missouri State Highway Patrol reported receiving a complaint against any officer*

or trooper during the assessment period. However, given the size and scope of the protest and the findings outlined within this report, the limited number of filed complaints is misleading. Other factors that made it difficult or impossible to lodge complaints—or a lack of confidence in the complaint process—likely deterred citizens from filing complaints about police behavior. (See finding 28 on page 80.)

9. **Officer resilience.** Officers involved in crowd control in Ferguson faced unprecedented levels of abuse not only on the front line but also through threats to their families, doxing[2] their personal information, and cyber-attacks that included breaches of some home wireless systems. In particular, minority officers, both men and women, were subjected to extreme verbal abuse. Advance trainings and briefings in future events must prepare these officers for this type of treatment. In addition, under similar circumstances, a transition from traditional nameplates to identity numbers on badges would preserve accountability and offer the individual officer some protection against personal and family attacks.

Furthermore, the immediate establishment of a more formalized NIMS-based ICS would aid the individual officer through the assignment of a safety officer tasked with responsibility for overall safety issues. In addition, a logistics section must be implemented and tasked with meeting officer needs and, based on current intelligence information, scheduling adequate and timely relief personnel.

**FINDING.** *The intensity of the circumstances and the length of the demonstrations led to officers exhibiting fatigue and stress, which impacted health, well-being, judgment, and performance. Law enforcement officers were required to work long shifts with minimal breaks and with limited days off in intense and stressful conditions. This took both a physical and an emotional toll on the officers. While efforts were made to provide breaks and to keep officers hydrated and fed, the stressful conditions officers faced during the long deployments impacted both physical and emotional endurance. (See finding 43 on page 112.)*

**FINDING.** *Officers and civilian personnel were not prepared for the volume and severity of personal threats on themselves and their families, which created additional emotional stress for those involved in the Ferguson response. This includes threats of violence against family members and fraud associated with technology-based attacks. (See finding 44 on page 112.)*

10. **The role and impact of protesters intent on exploiting the demonstrations.** Within 48 hours of the shooting, the demonstrations evolved from a mostly peaceful daytime protest to nighttime violence, arson, and looting. This evolution was exacerbated by individuals who joined the protests, including self-described anarchists, who sought to take advantage of the circumstances. Some local protesters were afraid of individuals intent on violence and lamented that certain groups of protesters had hijacked the meaning of their efforts. Law enforcement must be keenly aware of the potential involvement of these groups—which may arrive from outside the area—and must stay in close contact with intelligence providers who can help identify their movements and involvement if they are involved in criminal activity.

**FINDING.** *Community members repeatedly expressed their belief that there was a difference in the nature of the activities between day and night, with daytime protests being peaceful and nighttime protests often becoming violent. (See finding 48 on page 116.)*

The agencies that responded to the protests and demonstrations in Ferguson encountered an event unprecedented in recent times; Ferguson became a defining moment in policing history. As described throughout this report, there were circumstances that made this event challenging, including the sheer numbers of demonstrators and the prevalent use of social media. The unprecedented length of the protests and demonstrations (which continued on a daily basis long after the assessment period) seriously taxed the physical and mental well-being of the responding officers. Nevertheless, the lessons learned from their response have informed and will continue to inform the development and

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2.    According to techopedia.com, "doxing is the process of retrieving, hacking and publishing other people's information such as names, addresses, phone numbers, social security numbers and credit card details," usually for malicious intent. Published personal information can be used for identity theft or harassment of the individual. The word can also be spelled *doxxing.*

implementation of best practices on protest response, and in fact, the law enforcement profession is already learning and transforming itself.

While any objective after-action assessment of an event this complex will necessarily include critical findings, the criticism does not extend to the willingness of the agencies included in this assessment to understand how they can improve their own practices, to understand there is an obligation to learn from the experiences, and ultimately to influence the profession they serve. For that, the leadership of the four agencies should be applauded for opening up their agencies to the U.S. Department of Justice and the assessment team.

History informs us that a critical incident can happen anywhere and at any time. With this knowledge, law enforcement must always remember that the ability to respond to an incident effectively is formulated long before an incident occurs through investments in leadership, community engagement, training, and communication. Ferguson is a vivid reminder that law enforcement agencies must continually analyze their policing practices in relation to the communities they serve.

# INTRODUCTION

**On Saturday, August 9, 2014, at approximately 12:02 p.m., CDT**, in the street near 2947 Canfield Drive in Ferguson, Missouri, Officer Darren Wilson shot and killed 18-year-old Michael Brown following a law enforcement encounter. The multiagency police response to the events reverberated far beyond Ferguson and the surrounding metropolitan county. The ensuing days brought mass demonstrations,[3] which sometimes included violence and rioting that challenged law enforcement and thrust the community onto the world stage.

## U.S. Department of Justice announces after-action review of police response to demonstrations

During a September 4, 2014 press conference, then U.S. Attorney General Eric H. Holder, Jr., accompanied by Office of Community Oriented Policing Services (COPS Office) Director Ronald L. Davis and Acting Assistant Attoney General for the Civil Rights Division Molly Moran, announced several U.S. Department of Justice (DOJ) initiatives in St. Louis County, Missouri, to address a range of concerns about the police.[4] As part of these initiatives and at the request of the St. Louis County police chief, the COPS Office agreed to conduct an after-action review of the police response to the mass demonstrations in Ferguson.

## Assessment goal and scope

The goal of the assessment was to examine the Ferguson police response[5] and to identify findings that law enforcement agencies throughout the country can use to help build trust, improve relationships, and protect civil rights in the communities they serve. Lessons learned may be of great value for other communities to assess their own preparation for and responses to similar challenges in the future.

Although more than 50 law enforcement agencies responded to Ferguson, the scope of this assessment is dedicated to the four core responding agencies: the Ferguson Police Department, the St. Louis County Police Department, the St. Louis Metropolitan Police Department, and the Missouri State Highway Patrol. The timeframe of the assessment begins immediately after the shooting on Saturday, August 9, 2014, and extends through midnight on Monday, August 25, 2014, the day of Mr. Brown's funeral.[6] This 17-day period represents the beginning of

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3.    Mass demonstrations are also known as public demonstrations and are defined as lawful gatherings intended to exercise First Amendment rights to express sentiments about an issue or protest the action of an individual, an organization, or the government. The goal of a demonstration is typically to make some type of change. To read the full definition, see the glossary of operational definitions.

4.    Civil Rights Division, "Attorney General Holder Announces Next Steps to Address Concerns Regarding the City of Ferguson and St. Louis County Police Departments," U.S. Department of Justice, Office of Public Affairs, last updated September 15, 2014, http://www.justice.gov/opa/pr/attorney-general-holder-announces-next-steps-address-concerns-regarding-city-ferguson-and-st.

5.    See the glossary of operational definitions.

6.    Emily Brown, "Timeline: Michael Brown Shooting in Ferguson, Mo.," *USA Today*, December 2, 2014, http://www.usatoday.com/story/news/nation/2014/08/14/michael-brown-ferguson-missouri-timeline/14051827/.

the mass gatherings[7] and protests through periods of both peaceful demonstrations and violence, which dissipated with an uneasy return to normalcy.

This assessment addresses issues of police policy, training, communications, deployment, and practices as they relate to preparation, implementation, and management of the police response to the mass demonstrations.

It is important to note that this assessment is not an investigation and is separate and distinct from other DOJ efforts related to Ferguson. It is also important to note that although this assessment focuses on the four core responding agencies, responses and actions viewed in the news and on social media may not always be captured in this report given that more than 50 agencies were on the scene.

An after-action assessment is, by its nature, critical. In particular, the focus in any after-action assessment is to learn what did not work, why it did not work, and the lessons that are derived from that experience. Law enforcement decisions were made in an ever-changing environment that was complicated by many factors ranging from the multiplicity of law enforcement agencies involved to political factors. Readers must recognize that this assessment has the benefit of hindsight and contemplation not afforded to police decision makers on the ground in Ferguson. The end result is not to judge police decisions in Ferguson but to learn from them.

## National implications

History informs that a critical incident can happen anywhere and at any time. With this knowledge, law enforcement must always remember that the ability to respond to an incident effectively is formulated long before an incident occurs through investments in leadership, community engagement, training, and communication. Ferguson is a vivid reminder that law enforcement agencies must continually analyze their policing practices in relation to the communities they serve.

## Organization of this report

Chapter 1 of this report describes the assessment team's methods used to conduct this assessment. Chapter 2 provides a factual description of the circumstances, incidents, and law enforcement decisions made throughout the 17-day assessment period, beginning immediately after the shooting of Mr. Brown in Ferguson on August 9 and the aftermath. This description establishes a foundation for the events that occurred to provide context for issues discussed in this report. Chapters 3–16 delve into specific topic areas that the assessment team found to be the most necessary to address. Each of these chapters provides an overview of the topic, followed by findings and lessons learned. The conclusion of the report is a reflection of the dynamics involved in the police response to the shooting of Mr. Brown as well as the meaningful change that is beginning to take place in Ferguson and across the nation.

Several appendices and resources are included in this report to provide the reader with contextual data. Appendix A lists all of the findings and lessons learned. Appendix B provides geographical and jurisdictional information about Ferguson. Appendix C describes the demography of the Ferguson community. Appendix D summarizes the National Incident Management System and appropriate definitions. Appendix E lists the documents that were reviewed in the course of researching and writing the assessment. Appendix F contains the mission statements and images of the official patches for the four core law enforcement agencies discussed throughout this report. A list of abbreviations, a glossary for operational definitions, and biographical information about the assessment team are also included.

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7. See the glossary of operational definitions.

# METHODOLOGY

**Over a period of seven months,** the assessment team—with cooperation from the Ferguson Police Department, the St. Louis County Police Department, the St. Louis Metropolitan Police Department, the Missouri State Highway Patrol, and the community—gathered, reviewed, and analyzed documentation from many sources to gain a deeper understanding of what happened subsequent to the death of Michael Brown. Policies and procedures related to law enforcement activity during the assessment period were reviewed for proper application and adherence to national standards and to widely accepted policing practices.

To support this assessment, the team collected information through the following sources:

- Confidential interviews with law enforcement, the community, and key stakeholders

- Document review, including content analysis of policies, procedures, logs, arrest records, and other relevant documents from each of the four core law enforcement agencies being assessed

- Content analysis of news stories, videos, and social media

- Literature review of relevant court documents, U.S. Department of Justice (DOJ) reports, special-interest publications, and related research

The following four sections describe the team's methods during the data- and information-gathering portion of the assessment:

## Confidential interviews

Between November 2014 and May 2015, the assessment team conducted more than 160 interviews encompassing more than 680 hours with personnel (including representatives of all ranks) from the Ferguson PD, St. Louis County PD, St. Louis Metropolitan PD, and Missouri State Highway Patrol; the Missouri Information Analysis Center; community members; clergy; Ferguson business owners; protesters; local criminal justice / law enforcement associations; criminology researchers; union leaders; and advocacy group representatives. The U.S. Department of Justice's Community Relations Service, Civil Rights Division, and Office of Community Oriented Policing Services (COPS Office) assisted in identifying the community members interviewed.

In addition, the assessment team visited the headquarters of all law enforcement agencies involved in the assessment, including the Missouri State Highway Patrol's general

headquarters in Jefferson City and the Troop C headquarters serving the St. Louis metropolitan area. The assessment team also met with representatives of the St. Louis County and Municipal Police Academy and the St. Louis Police Academy.

An essential component of the assessment is the information revealed through the interviews. Unless interviewees waived confidentiality, the interviews were confidential in nature so that individuals felt encouraged to be open and honest in their responses. Discussion with those making decisions, implementing decisions, and experiencing the results of those decisions provides the greatest insights into understanding what worked and what did not in the police response. Assessment team members also met with and interviewed local residents, protesters, clergy, and business leaders to ascertain their recollections and impressions of the demonstrations.

The stakeholders interviewed included the following:

- Chief executives and command personnel of the St. Louis County PD, St. Louis Metropolitan PD, Missouri State Highway Patrol, and Ferguson PD

- Officers from the four core law enforcement agencies who were deployed during mass gatherings

- Police field supervisors from the four core law enforcement agencies

- St. Louis County PD investigators familiar with the officer-involved shooting investigation and environment at the scene

- Commanders responsible for acquiring tactical equipment

- Commanders responsible for deploying tactical equipment

- Public information officers

- Intelligence personnel from the St. Louis County PD, St. Louis Metropolitan PD, and Missouri State Highway Patrol

- Staff with responsibility for community relations and communications

- Staff with responsibility for budget and finance

- Leaders of local police officers' associations

- Academic researchers with experience in Ferguson or the St. Louis area

- Community members

- Protesters

- Clergy

- Advocacy group representatives

- Ferguson business owners

## Document review

The assessment team reviewed policies, procedures, and general orders from the St. Louis County PD, the St. Louis Metropolitan PD, the Missouri State Highway Patrol, and the Ferguson PD, including the following:

- Citizen complaint procedures

- The Code 1000 Plan[8]

- Community-based initiatives

- Critical incident response procedures

- Crowd control

- Deployment of riot gear, materiel, and vehicles

- Incident command processes, procedures, and training

- Intelligence unit (including use of the Missouri Information Analysis Center)

- Interagency communications processes and procedures

- Internal affairs and professional responsibility procedures

- Mutual aid

- Officer-involved shooting investigation and review processes and procedures

- Officer safety and resilience

- Organizational charts

- Public information processes, procedures, and practices

- Reports and records related to the police response to mass gatherings

- Social media use and monitoring in the department

- Training documentation and records (plans, schedules, and records of the various types of single-agency and joint-agency training, including who was trained)

- Use of force

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8.    Code 1000 is a mutual aid plan used in the county of St. Louis for calling for immediate police backup assistance from multiple agencies during a critical incident. The Code 1000 Plan is discussed in detail in chapter 3. More information is available at "Code 1000 Document Downloads," Saint Louis County Government, http://www.stlouisco.com/Lawand PublicSafety/EmergencyManagement/Code1000.

## Media content analysis

The community's reaction to the police response in Ferguson is at the core of the need to conduct this after-action assessment. Many of the concerns of the public were shared through social media and were captured by media sources with reporters proactively seeking information from community members. While the media can be a good source to identify trends of public concern, use of the media must be conducted with care when it is used for research because of issues of validity and reliability of the information.

The media assessment includes more than 90 hours of content analysis of videos depicting aspects of the police response. The assessment team reviewed media from local, national, and international media outlets to provide illustrations of issues. Care has been taken to focus on valid issues in the police response—issues based on fact, not rumor or assumption. Informational media content is used as a guide to community concern. Media content analysis helps evaluate what the community perspective was and how it came about.

## Literature review

The assessment team reviewed relevant court documents, DOJ reports, special-interest publications, and related research to glean additional information related to the protests, national standards, and widely accepted practices.[9] Documents related to the court ruling against the "keep moving"[10] order as well as media reports alleging violations of freedom of press to human rights reports all provided context for the basis of this report, the findings, and the lessons learned.

## Critical issues

The assessment team, in consultation with the COPS Office, began the assessment with a look at critical issues. As with any event, it is important to start at the beginning and assess the level of planning and preparation by the four core agencies, from crowd control to response and deployment plans.

The impact of the police response at the homicide scene[11] is one of the initial triggering factors for the mass demonstrations, so understanding the environment, tactics, and decisions is critical. Then the command and control, types of equipment and materiel (military-type equipment) deployed, and the communication strategies used, including social media, all contribute to the critical incident once the protests ramped up.

Overlaying all of these critical issues is allowing the community to have a voice while balancing and understanding the officers' perspectives. Although difficult, creating that balance allows for a fair, neutral, and objective report.

When assessing a complex, multifaceted incident, new issues emerge, and the assessment team included those facts and discussions in the subsequent chapters where appropriate. Throughout the report, the team also mentioned a few issues outside the scope of this assessment when appropriate.

## Development of findings and lessons learned

The assessment team worked on developing 48 findings and 113 lessons learned[12] based on analysis, interviews with all levels of law enforcement personnel and with community members, and review of the policies and procedures of each of the four core responding agencies. The team also discussed in depth each aspect of the assessment. All interviews and materials are distilled into core areas of consistent concerns about the police response.

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9.    Widely accepted practices are those tasks performed by an organization that reflect the spirit of current research and ideology of the discipline. Widely accepted practices and best practices are used interchangeably throughout this report. See the glossary of operational definitions.

10.    The "keep moving" order, also known as the five-second rule, was implemented to keep demonstrators moving. For more detail, see chapter 6.

11.    See the glossary of operational definitions.

12.    This assessment specifically developed lessons learned instead of recommendations. In general, a lesson learned is a generalization for a group of situations while a recommendation is a prescribed statement that should be followed in a specific circumstance.

The team also consulted with other subject matter experts and legal counsel and compared trends to best practices, law, and widely accepted police procedures and practices. Based on analysis and validation, the assessment team developed a basis of information that provided for the development of numerous findings and lessons learned to share with other agencies.

The purpose of this assessment was to objectively catalogue observations and findings. Therefore, the purpose of this report is not to criticize or condemn specific agency approaches in detail or to recommend certain actions; rather, the intent is to provide information that will allow other agencies to examine their local policies and practices and to respond to the lessons learned in a way that best fits their communities.

> *The purpose of this assessment was to objectively catalogue observations and findings, not to place blame or levy accusations against the agencies assessed and their personnel.*

# THE FIRST 17 DAYS IN FERGUSON

**This chapter sets forth** a description of the circumstances, incidents, and law enforcement decisions made during the 17 days immediately following the death of Michael Brown. The primary focus of this report is law enforcement's response to the demonstrations that took place starting on the evening of August 9, 2014. The chronology of events that took place earlier in the day at the homicide scene is provided mainly to give context for the protests and demonstrations that followed.

This foundation provides context for the events and issues discussed in this report. The narrative for this chapter is shaped by law enforcement, community, and key stakeholder interviews; media content analysis; and relevant documentation review; the assessment team exercised due diligence to verify everything in this chapter through multiple sources. Although the specific topics, findings, and lessons learned begin in chapter 3, it is critical to understand this narrative for the rest of the report.

## August 9, 2014

**Table 1.** Initial police response timeline to Canfield Green, August 9, 2014, CDT ▶

Source: Except where indicated by *, these times are from the St. Louis County computer-aided dispatch (CAD) logs and a timeline provided by the St. Louis County PD. These times may be inconsistent with other reports, but this table uses only the CAD and St. Louis County PD times to maintain consistency.

* This time is from U.S. Department of Justice, Shooting Death of Michael Brown (see note 16).

† Code 2000 is part of the Code 1000 mutual aid plan (see note 8).

| Time | Response |
|---|---|
| 12:02 p.m. | Shooting of Michael Brown by Ferguson Police Officer Darren Wilson |
| 12:04 p.m. | Second Ferguson PD officer responds |
| 12:08 p.m. | Ferguson PD requests a car from the St. Louis County PD to assist with crowd control |
| 12:23 p.m.* | The Ferguson police chief requests the St. Louis County PD to investigate the homicide and assist with crowd control |
| 12:48 p.m. | A St. Louis County PD sergeant requests canine officers to assist with the growing crowd |
| 12:57 p.m. | Reports of shots fired in the area |
| 1:15 p.m. | Reports of shots fired in the area |
| 1:30 p.m. | Detectives from the St. Louis County PD Bureau of Criminal Identification arrive |
| 1:44 p.m. | St. Louis County PD onsite officers request the department's Tactical Operations Unit |
| 1:55 p.m. | Reports of shots fired in the area; the St. Louis County PD captain calls for mutual aid under Code 1000 |
| 2:00 p.m. | Riot A Channel is activated for law enforcement |
| 2:03 p.m. | Staging is established at Original Red's BBQ |
| 2:15 p.m. | Report of shots fired behind the apartments; the St. Louis County PD sergeant calls Code 2000† |
| 2:20 p.m. | St. Louis Livery, the transit service for the St. Louis County Medical Examiner's Office, arrives |
| 2:30 p.m. | The medicolegal death investigator from the St. Louis County Medical Examiner's Office arrives |
| 2:45 pm | Approximate time the St. Louis County PD Bearcat and Tactical Operations Unit respond |
| 4:00 p.m. | Michael Brown's body is removed from the scene |
| 6:33 p.m. | St. Louis County PD homicide investigators cleared the scene |
| 9:03 p.m. | All law enforcement vehicles are cleared from the scene |

On Saturday, August 9, at 12:02 p.m., CDT,[13] in the street in the Canfield Green Apartments (see the sidebar "Details about Canfield Green Apartments") complex in Ferguson, Missouri, Officer Darren Wilson shot and killed 18-year-old Michael Brown following a law enforcement encounter.[14] The reactions of both residents and police are tied not only to the shooting itself but also to a range of factors in both the police-community relationship and the police response to public demonstrations.[15]

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**DETAILS ABOUT CANFIELD GREEN APARTMENTS**

Canfield Green Apartments is a densely populated, 450-unit apartment complex on 38 acres with primarily low-income residents of the city of Ferguson. The area where Canfield Green Apartments is located is shaped somewhat like an appendage of the city limits with the municipality of Dellwood on the north, Jennings to the south, and unincorporated areas of the county to the east and northeast. (In figure 1 on page 7, the bold line indicates Ferguson city limits.)

Some of the academic researchers interviewed indicated that because of the geographic and socioeconomic characteristics in the area of Canfield Green Apartments, many residents felt they were not a part of the city of Ferguson but more closely aligned with the residents of adjoining Jennings, Missouri.* This factor became significant because Ferguson PD was perceived to have limited engagement with the apartment complex residents. As one community member stated, "The police just stay in their cars. They don't get out and talk to you unless they have to."

* From interviews with the faculty at the Department of Criminology and Criminal Justice at the University of Missouri–St. Louis.

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Immediately following the shooting, Officer Wilson notified his department and additional assistance was dispatched. Within minutes, Ferguson Police Department officers responded to the scene.[16] Witnesses and observers from the community began to crowd around the crime scene, as many people were outside that sunny Saturday afternoon. Because of the growing crowd and because the Ferguson PD had only four officers and a supervisor on duty, the department requested assistance from the St. Louis County Police Department at 12:08 p.m. (for more information on incident command throughout the assessment period, see chapter 3). Based on officer interviews,[17] one officer reported that the crowd was "chaotic but not out of control" and that some members of the crowd were reported to be chanting insults and threats at the officers. The crowd began to get increasingly hostile with the police on scene.[18] In addition, some officers disclosed that they heard threats to kill the police throughout the day.

By 12:15 p.m., Ferguson Police Chief Thomas Jackson was apprised of the situation and made aware that this was an officer-involved shooting. Within eight minutes, the homicide investigation was turned over to the St. Louis County PD following a phone call to its chief, Jon M. Belmar.[19, 20] Within 20 minutes of Mr. Brown's death, paramedics on the scene covered his body with several white sheets.[21]

According to the officers at the scene that were interviewed by the assessment team, they "observed a growing and hostile crowd" that had begun "to push against the crime scene tape and into the actual crime scene." As such, a St. Louis County PD sergeant requested assistance from canine

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13. These times are from the St. Louis County PD's computer-aided dispatch (CAD) logs. These times may be inconsistent with other reports of events, but this report uses only the CAD times to maintain consistency.

14. See appendix B for geographic information and appendix C for demography.

15. See the glossary of operational definitions.

16. U.S. Department of Justice, *Department of Justice Report Regarding the Criminal Investigation Into the Shooting Death of Michael Brown by Ferguson, Missouri, Police Officer Darren Wilson,* memorandum of understanding, March 2015, http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/doj_report_on_shooting_of_michael_brown.pdf.

17. All interviews conducted as part of this assessment were conducted after the Ferguson incident.

18. U.S. Department of Justice, *Shooting Death of Michael Brown* (see note 16).

19. Ibid.

20. The Ferguson PD had determined that the situation called for an external investigation. There is a multiagency Major Case Squad in St. Louis County that could have investigated the homicide; however, the Major Case Squad commander at the time was a Ferguson PD captain. As a result, the Ferguson PD asked the St. Louis County PD to conduct the investigation.

21. U.S. Department of Justice, *Shooting Death of Michael Brown* (see note 16).
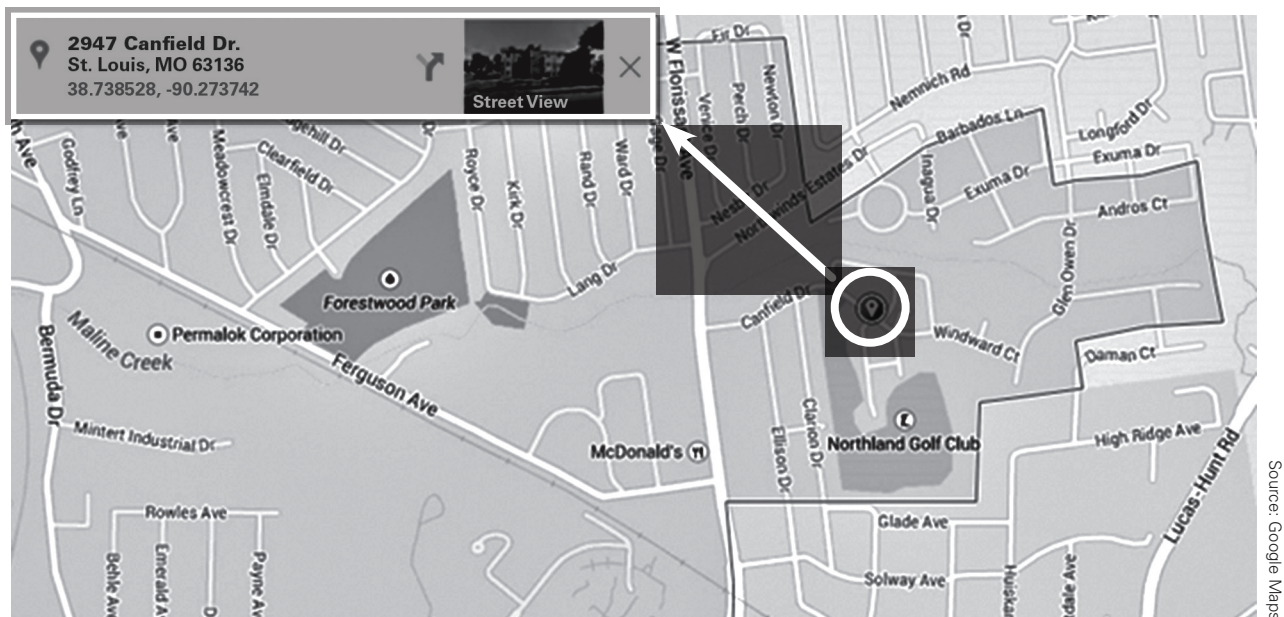
**Figure 1.** Map of Ferguson city limits with location of Canfield Green Apartments

officers to preserve the crime scene. As additional officers including the canine units arrived, St. Louis County PD officers expanded the perimeter of the crime scene tape to ensure preservation of the homicide scene.[22] Figure 2 (on page 8) indicates the location of the shooting—Mr. Brown's body, the police vehicle involved in Mr. Brown's stop, and the area cordoned off to protect the evidence were all located in the street near 2947 Canfield Drive.

By 1:17 p.m., two St. Louis County PD captains assessed the scene and the resources present to determine whether a request for assistance was needed from the surrounding law enforcement agencies. In St. Louis County, this type of request for assistance from other agencies is based on an agreement among the county law enforcement agencies referred to as the Code 1000 Plan (see chapter 3 for more information on the Code 1000 Plan).[23]

The on-duty detectives from the Bureau of Crimes Against Persons of the St. Louis County PD's Division of Criminal Investigation arrived on scene at 1:30 p.m.[24] Orange

privacy screens were placed around the body,[25] and the St. Louis County Medical Examiner's Office was notified. Uniformed officers actively protected the scene while the investigators and crime scene technicians began the investigation.

The assessment team's interviews with police officers and reviews of relevant photographs and videos showed crowds in the range of approximately 200 people at the homicide scene (the number varied at times throughout the day). The assessment team visited the scene on multiple occasions and viewed satellite photographs of the buildings and topography at the scene. The grassy areas, sidewalks, and drives around the scene are relatively small; therefore, a crowd of 200 people would be located in a fairly compact area and would stretch out along the homicide scene area that was barricaded by police crime scene tape.

According to statements from several St. Louis County PD and Ferguson PD officers, the response of the crowd at the homicide scene was unprecedented in St. Louis County, as were the mass gatherings that occurred during the following days. One police supervisor stated, "I honestly don't know how all of this happened—I'm at a loss to explain. The pulse of the situation was different." Referring to the size of the crowd and how quickly it had assembled, one

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22.   Ibid.

23.   Code 1000 is a mutual aid plan used in the county of St. Louis (see note 8; see also chapter 3).

24.   The on-duty homicide investigators were completing a call in South St. Louis County when they received the call to Ferguson. After finishing the call and driving to North County, they arrived at the scene at 1:30 p.m. Once they saw the scene, additional investigators were called in, some from off-duty status.

25.   *Saint Louis County Police Department Investigative Report 14-43984* (St. Louis, MO: St. Louis County PD, n.d.), 6.

**Figure 2.** Satellite image of area near 2947 Canfield Drive in Ferguson, Missouri

law enforcement supervisor emphatically stated, "In over 20 years of working here, this crowd was unlike anything I had ever seen."

The presence of Mr. Brown's body,[26] along with the growing number of emergency vehicles, appeared to fuel the angst of the crowd. Based on interviews with law enforcement, as more bystanders arrived at the scene, the crowd grew increasingly abusive toward law enforcement with some bystanders stating that officers should be killed.

At times, the crowd continued to encroach into the cordoned area and had to be moved back to permit the forensic processing of the evidence. Another officer who was on the scene said that day was the first time the local police had experienced that many hostile people at a crime scene. Officers reported hearing three instances of gunfire "volleys" in the crowd and each time had to

briefly suspend the homicide scene processing. A review of St. Louis County PD computer-aided dispatch (CAD) logs document reports of shots fired at 12:57 p.m., 1:15 p.m., 1:55 p.m., and 2:15 p.m. all while the police were processing the scene.

According to law enforcement interviews, the scene increasingly became chaotic, and the officers arriving on scene were trying to "protect the scene"—that is, make certain that evidence was not disturbed, contaminated, or lost. Technicians took detailed photographs of the scene. Investigators began canvassing the crowd for witnesses, and the scene was searched to identify and collect evidence. While the technicians and investigators were attempting to accomplish these tasks, the officers were trying to maintain crowd control.

Investigators focused on methodically searching for, identifying, and collecting evidence throughout the homicide scene, an estimated 767 square feet.[27] Investigative procedures for this type of an event prescribe leaving the

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26.    As an example, see David Hunn and Kim Bell, "Why Was Michael Brown's Body Left There for Hours?" *St. Louis Post-Dispatch,* September 14, 2014, http://www.stltoday.com/news/local/crime-and-courts/why-was-michael-brown-s-body-left-there-for-hours/article_0b73ec58-c6a1-516e-882f-74d18a4246e0.html; Yvette Carnell, "Ferguson Police Defend Decision to Leave Michael Brown's Body in the Street for 4 Hours," *Breaking Brown,* August 25, 2014, http://breakingbrown.com/2014/08/ferguson-police-de-fend-decision-to-leave-michael-browns-body-in-the-street-for-4-hours/.

27.    According to the *St. Louis County Police Department Investigative Report 14-43984*, the homicide scene covered the area from approximately 2964 Canfield Drive to the intersection of Canfield Drive at Coppercreek Court, which is approximately 59 feet long. The road width of the homicide scene at this location is approximately 13 feet.

scene untouched until evidence is collected;[28] however, this process left Mr. Brown's body unmoved for four hours. Statements heard on cell phone videos posted online from people at the scene as well as interviews with community members indicated that the anger was growing, with some community members believing the delay in moving Mr. Brown's body was indicative of police disrespect of minorities. Many members of the crowd interpreted the police actions as "sending a message" to intimidate the African-American community.[29] Members of the crowd began asking each other why the police were taking so long, why the police left Mr. Brown in the street, and what the police were trying to tell the community.[30]

When community residents were interviewed about the police response on Canfield Drive, some stated, "It was heartbreaking they needed to respond to us in that manner. Law enforcement was not communicating; that has become the norm," and "They were taking dogs out of their cars like we [residents] were going to attack."

The initial officers at the scene from both the Ferguson PD and St. Louis County PD recognized that even more officers were needed to protect the homicide scene and the officers at the scene. As a result, the St. Louis County PD captain called a Code 1000 at 1:55 p.m. for officers to respond to the shooting scene at 2947 Canfield Drive. Shortly after, at 1:58 p.m., the Ferguson PD[31] called the St. Louis County PD's Bureau of Communications and requested additional canines for possible crowd control on Canfield Drive. Over a fairly short time period, more than 50 officers were dispatched or self-deployed (i.e., reported to Canfield Green to assist without being specifically requested) to the

Canfield Green Apartments area from more than 29 different agencies,[32] including 15 troopers from the Missouri State Highway Patrol and the 20 members of its Special Weapons and Tactics (SWAT) team,[33] to aid in crowd control and to protect the homicide scene for forensic processing.

Because of the geography of the area, the most manageable way to access the incident scene was on Canfield Drive from West Florissant Avenue. The Original Red's BBQ[34] restaurant was located at that intersection, approximately 0.3 miles west of the homicide scene, and became a staging area for police vehicles. A second staging area was on Glen Owen Drive, approximately 0.2 miles east of the homicide scene.[35]

Because of the large numbers of people gathered, ongoing texting, social media posts, and the police activity, the size of the crowd near Original Red's BBQ grew to 150 to 200 people. With police resources from the Code 1000 being engaged with the crowd at the homicide scene, a St. Louis County PD sergeant requested a Code 2000 at 2:15 p.m. for 25 additional officers to be dispatched to the scene.[36] (The Code 2000 is part of the Code 1000 Plan that allows for additional officers to assist.)

Shortly afterward, officers reportedly heard gunfire behind the apartments at 2:15 p.m. and described the sound as like a fully automatic weapon. Each time gunfire was reported,

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28.   "Processing a homicide scene with the decedent's body present allows detectives, for example, to accurately measure distances, precisely document body position, and note injury and other markings relative to other aspects of the crime scene that photographs may not capture." U.S. Department of Justice, *Shooting Death of Michael Brown*, 9 (see note 16).

29.   Julie Bosman and Joseph Goldstein, "Timeline for a Body: 4 Hours in the Middle of a Ferguson Street," *The New York Times*, August 23, 2014, http://www.nytimes.com/2014/08/24/us/michael-brown-a-bodys-timeline-4-hours-on-a-ferguson-street.html?_r=1.

30.   Hunn and Bell, "Why Was Michael Brown's Body Left" (see note 26).

31.   Although the St. Louis County PD had command of the homicide investigation, given that Code 1000 was called by St. Louis County PD at 1:55 p.m. in the Ferguson PD's jurisdiction and coupled with the dynamics of the situation, it is not inconceivable that the Ferguson PD called for resources three minutes later. However, there is no documentation on who provided tactical direction for the St. Louis County PD K-9s.

32.   These officers were deployed using a procedure known as Code 1000. None of those interviewed by the assessment team were aware of the exact number of agencies that responded to the homicide scene. Beyond the officers dispatched to the scene through Code 1000, other officers heard the call and self-deployed.

33.   The Missouri State Highway Patrol does not participate in the Code 1000 Plan with the county of St. Louis; however, the agency did respond on a volunteer basis to the mutual aid request.

34.   Original Red's BBQ was a popular restaurant and became iconic as a staging area for both law enforcement and protesters throughout the assessment period because of its location on the corner of West Florissant Avenue and Canfield Drive. Original Red's BBQ was burned down by rioters on November 24, 2014, after the grand jury decision.

35.   Canfield Drive goes west about 200 yards and turns into Windward Court for about another 300 yards to the west. At that point, Windward Court intersects with Glen Owen Drive—the second staging area—where the only route out of the area is northbound. While it is possible to drive into Canfield Green Apartments via this route, it is far from ideal because the roads are narrow and wind through apartment buildings and residential areas.

36.   It is believed that more officers than the 25 dispatched for the Code 2000 arrived because of self-deployment; however, exact numbers are not known. When there is self-deployment, there will typically not be a record of those officers unless they contact their agency communications center. Officers responding operated on a cross-jurisdictional radio channel called RIOT A.

the processing of the scene was halted, and resources were diverted from managing the crowd to seek the source of the gunfire.

The crowd continued to grow and became more vocal both at the homicide scene and near Original Red's BBQ. At 2:30 p.m., the medicolegal death investigator from the St. Louis County Medical Examiner's Office arrived and began his investigation.

According to law enforcement interviews, the St. Louis County PD assessed the situation and, as a result of the reported shots fired and the growing crowds with some community members becoming hostile, a Bearcat armored vehicle was sent to the scene around 2:43 p.m. (for a discussion on armored vehicles, see chapter 5). The St. Louis County PD Tactical Operations Unit arrived with a captain taking command of the scene, and St. Louis County PD tactical officers with riot gear began arriving. By 3:15 p.m., St. Louis County PD tactical officers, with support from the Florissant Police Department (which was not a part of the assessment) and its riot control trailer, began staging for a tactical response near Canfield Drive.

As soon as the crime scene technicians, homicide investigators, and the medical examiner's investigator processed the homicide scene, the medical examiner's investigator authorized Mr. Brown's body[37] to be removed.[38] Mr. Brown's body was removed from the scene at approximately 4:00 p.m. by the St. Louis Livery Service, a private contractor for the St. Louis County Medical Examiner's Office, and arrived at the Medical Examiner's Office at 4:37 p.m.

The St. Louis Livery Services' unmarked black vehicle puzzled some people and added to the tension at the scene. One person stated, "A lot of people didn't know the medical examiner's van when they saw it because it was not marked." Other people commented, "They just threw him

in the back of that SUV." One Twitter post stated, "Michael Brown's body left in street for four hours no ambulance instead SUV picks up his dead body."[39]

After Mr. Brown's body had been removed, investigators and crime scene technicians remained at the scene processing and packaging other evidence, identifying witnesses, taking statements, and continuing the investigation. Hence, the police presence was still at the scene, and Canfield Drive was still blocked.

At 4:49 p.m., a resident reported shots in the area. Within an hour, an officer reported that the crowds were increasing and that more officers were needed. As more calls for assistance went out, more officers responded to the scene. Two and a half hours after Mr. Brown's body was removed, at 6:33 p.m., the investigators and crime scene technicians completed the homicide scene investigation and began leaving the area. When the St. Louis County PD Tactical Operations Unit captain called Chief Belmar about the situation, the captain reported stating, "Boss, we have had a bad afternoon up here. We almost didn't get this crime scene processed. We had a lot of gun shots and people surrounding the body."[40]

Media coverage[41] and Twitter posts[42] continually reiterated the fact that Mr. Brown's body was in the street for nearly four hours, and this continued to fuel tensions even after his body had been removed.[43] Interviews with homicide unit supervisors indicated they realized that members of the crowd were upset but that they did not at the time realize the depth of concern caused by the length of time Mr. Brown's body remained at the scene. Similarly, interviews found that investigators and patrol officers at the scene did not realize that their standard homicide scene protocols were being negatively interpreted by members of the crowd.

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37. Typical forensic procedure would preclude the sheet on Mr. Brown's body because of the possibility of contaminating forensic evidence. However, a patrol supervisor reported that he elected to cover the body because of its impact on the crowd. Statements and photographic and video evidence corroborate that at some point Mr. Brown's body was covered by a sheet until the crime scene technicians arrived to erect screens around the body.

38. The Missouri medical examiner is responsible for determining the cause of death of individuals, examining the deceased at the scene, and authorizing removal of the body. Missouri Revised Statues, chapter 59, Coroners and Inquests, § 58.720.1, "Medical examiner, certain counties, to investigate, when—death certificate issued, when—place of death— two counties involved, how determined—efforts to accommodate organ donation," August 28, 2014, http://www.moga.mo.gov/mostatutes/stathtml/05800007201.html.

39. Gordon Coombes (@surrealintel), "Michael Brown's Body Left in Street for Four Hours No Ambulance Instead SUV Picks Up His Dead Body. #Ferguson #OpKKK," Twitter post, November 24, 2014, 1:28 p.m., https://twitter.com/surrealintel/status/536994812235239424/photo/1.

40. *Defining Moments for Police Chiefs,* Critical Issues in Policing Series (Washington, DC: Police Executive Research Forum, 2015), http://www.policeforum.org/assets/definingmoments.pdf.

41. See Hunn and Bell, "Why Was Michael Brown's Body Left," 15 (see note 26).

42. See Coombes, "Michael Brown's Body Left in Street" (see note 39).

43. The *St. Louis County Police Department Investigation Report 14-43984* shows that the shooting was reported at 12:02 p.m., and the St. Louis County PD homicide investigation after-action timeline shows that the body was removed by the St. Louis Livery Service at 4:00 p.m.

Most officers believed that once the homicide scene was cleared and the street reopened, the crowd would slowly dissipate.[44] However, that did not occur. Crowds grew at both the homicide scene and on West Florissant Avenue near Original Red's BBQ throughout the afternoon and early evening hours. During interviews, some community members stated that the community wanted answers from law enforcement, but at that time, law enforcement was not providing information, and that seemed to fuel the community's anger and tension.

> *Most officers believed that once the homicide scene was cleared and the street reopened, the crowd would slowly dissipate.*

By 7:00 p.m., Canfield Drive from West Florissant Avenue was opened to the public. Officers were still staged in the area around Canfield Green Apartments and to the west at Glen Owen Drive to maintain peace and order. By 8:40 p.m., the crowd had become so large that police vehicles staged on Canfield Drive were surrounded by protesters. Officers interpreted this as threatening behavior and as a result were directed to leave Canfield Drive and report to the staging area on Glen Owen Drive.

Once all officers were accounted for at 9:03 p.m., law enforcement left the staging area while observing more people walking toward the area of the shooting, now being referred to as the vigil area. The evening continued with people congregating and staying on West Florissant Avenue at the vigil area on Canfield Drive and with some gathering outside of Ferguson PD headquarters.

As reported by law enforcement[45] and community members during interviews, it appears that during approximately the first 12 hours after the shooting, crowds primarily consisted of local individuals who had a personal interest in the incident and individuals who had either witnessed the incident or portions of the incident or had been alerted to the incident via texting or social media.

## August 10, 2014

In the early morning hours of Sunday, August 10, the crowds began dissipating, and the Ferguson PD took over responsibility for crowd control from the St. Louis County PD. Based on interviews with law enforcement personnel, there was a belief, based on prior experiences and a lack of understanding for the situation, that there would be some gatherings Sunday afternoon and evening by the vigil area and perhaps on West Florissant Avenue, but most officers believed that as the weekend ended, so would the crowds. However, that was not the case on Sunday, which had increasing crowd sizes and aggressive comments and behavior by some protesters, according to interviews with law enforcement and citizens.

Statements to the media from St. Louis County PD Chief Belmar at a press conference provided some facts known at the time about the officer-involved shooting of Mr. Brown, confirming that St. Louis County PD was conducting the investigation at the request of the Ferguson PD and stating that the results of the investigation would be given to the St. Louis County Prosecuting Attorney's Office; however, Belmar did not identify Officer Wilson as the officer who shot and killed Mr. Brown. Belmar stated that Mr. Brown had physically assaulted an officer and that during a struggle between the two, Mr. Brown reached for the officer's gun. Belmar also stated that one shot was fired in the car and that an officer shot Mr. Brown outside of the car. Ferguson PD Chief Jackson, sitting next to Belmar at the news conference, made no statement.[46]

Meanwhile, increasing crowds amassed at three locations: Canfield Drive by the vigil area; West Florissant Avenue, centered near Original Red's BBQ; and South Florissant Road in front of Ferguson PD headquarters. The crowd dynamics changed from many people being merely observers to becoming demonstrators. When asked how many demonstrators were present, one Missouri State Highway Patrol commander stated, "Hard to say. They probably ranged from 700 to 800 people. The streets [West Florissant Avenue from Canfield Drive to Ferguson Avenue] were packed."

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44.  Even St. Louis County PD Chief Belmar stated five weeks after Michael Brown's death, "But when this happened, you have no idea how bad it can be, and how it can spin out of control unless you have gone through something like this before." *Defining Moments for Police Chiefs* (see note 40).

45.  This includes the St. Louis County PD Intelligence Unit, the St. Louis Metropolitan PD Intelligence Unit, the St. Louis Fusion Center, and the Missouri Information Analysis Center.

46.  Thomas Christopher, "Full Press Conference Ferguson Police Shooting of Michael Brown," YouTube, August 10, 2014, https://www.youtube.com/watch?v=zUXqPDT8hr4.

**Figure 3.** Burned down QuikTrip

Participants and observers began chanting and eventually blocked South Florissant Road (in front of the Ferguson PD) by sitting in the street.[47] As the mass gatherings grew into the evening, most notably on West Florissant Avenue, a Code 2000 was called.[48] In addition, the St. Louis County PD requested assistance from the St. Louis Metropolitan PD tactical unit.[49] The Missouri State Highway Patrol again responded voluntarily by providing mutual aid. Because of the size of the disturbance, a Missouri State Highway Patrol captain and 12 troopers responded, and its SWAT team arrived later that day. When the highway patrol commander arrived tensions were high, and the commander stated, "There was looting and a lot of anti-law enforcement remarks being shouted. Everyone was responding to the incident, and it happened very quickly."

According to interviews with law enforcement personnel, Chief Belmar arrived onsite and was in charge; he and his commanders directed the response at the Canfield Green Apartments and with the growing crowds on West Florissant.

In addition, he and Chief Jackson operated initially as an informal joint command in responding to the growing crowds in front of the Ferguson PD. The St. Louis County PD estimated that the crowds had grown to around 1,000 people at their peak.

On West Florissant Avenue, a QuikTrip convenience store was set on fire and burned down (see figure 3). Looting and property damage were reported at several Ferguson businesses on West Florissant Avenue near Canfield Drive. Among them, Sam's Meat Market was looted (and later set on fire after the grand jury announcement). Video evidence and interviews indicated that there was looting of local businesses with windows being broken and objects being thrown at officers and police vehicles.

The size and intensity of the mass gatherings were significant—broadly estimated by law enforcement to have "several hundreds" of people—as was the property damage. In their attempt to gain control of the situation, several agencies deployed armored vehicles and canines. Armored vehicles from the St. Louis Metropolitan PD, the Missouri State Highway Patrol, and the St. Charles County PD (which was not part of this assessment) were deployed to protect officers from thrown objects and from gunfire as reported by law enforcement.[50]

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47.  Melanie Moon, "Police Keep Watch over Protesters in Ferguson," *FOX 2 Now*, August 10, 2014. http://fox2now.com/2014/08/10/police-keep-watch-over-protesters-in-ferguson/.

48.  For more information about Code 2000, see chapter 3.

49.  The St. Louis Metropolitan PD is not in the County of St. Louis and as such is not part of the county Code 1000 Plan; it responded based on a mutual aid agreement.

50.  Armored vehicles were also used to transport officer protective equipment and crowd-control agents.

**Figure 4.** View of the command post

Police canines from the St. Louis County PD and other unidentified agencies (not part of this assessment) were deployed to back up officers facing protesters. Although law enforcement perceived the presence of the police dogs as a valuable tool, the dogs offended many protesters.[51]

A police command post was set up on August 10 at 8019 West Florissant Avenue, which is a police substation in a strip mall across the parking lot from a Target store in Jennings, Missouri (see figure 4).[52] An Incident Command System (ICS)[53] was being partially implemented, but officers interviewed stated that among the rank and file, there was uncertainty whether the Ferguson PD or the St. Louis County PD was in charge or whether it was a joint command (especially in terms of calling in additional resources, assigning officer duties, etc.). According to interviews with officers, they were receiving mixed messages on arrest procedures as well as the circumstances under which officers could or should appropriately respond.

**Figure 5.** Aerial view of the command post

Officer deployments were focused largely on West Florissant Avenue from Canfield Drive to Ferguson Avenue and on South Florissant Road at the Ferguson PD (see figure 5). One officer said, "We just abandoned Canfield Green Apartments." According to community interviews, information was still not forthcoming from the Ferguson PD on the identity of Officer Wilson or the circumstances of the shooting.

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51. For more information, please see chapter 4 on use of force.

52. This command post was about 0.4 miles south of the intersection of West Florissant Avenue and Canfield Drive and about 1.9 miles east of the Ferguson PD.

53. For a short description of the Incident Command System, see appendix D.

Source: St. Louis County PD

**Figure 6.** Images of various St. Louis County PD vehicles with damage

The lack of information from law enforcement—coupled with speculation that was being spread by word of mouth, texting, news media, and social media—contributed to the development of a narrative that Mr. Brown had been shot while trying to surrender or run away.[54] A St. Louis County PD public information officer stated that on Sunday, August 10, "I was getting calls from news organizations all over the world. Small-town papers and network news all wanted information, and everyone wanted to interview the chief."

According to interviews of officers, the St. Louis County PD did not have enough resources, even with a Code 1000 at 8:25 p.m. and, immediately after, a Code 2000[55] to control the level of violence and civil disobedience that was occurring, including three police vehicles being damaged as noted in the CAD reports (see figure 6). Once again, the St. Louis County PD requested assistance from the St. Louis Metropolitan PD SWAT team, the Missouri State Highway Patrol SWAT team, and the St. Charles County multijurisdictional SWAT team. SWAT and Tactical Operations Unit officers arrived at approximately 10:00 p.m. The St. Louis Metropolitan PD SWAT team left a crime scene it was working in the city of St. Louis and traveled straight to Ferguson to assist. A seasoned St. Louis Metropolitan PD tactical operations commander stated, "This was nothing like I had ever seen before." The St. Louis County PD had no tear gas or other crowd-control agents until the St. Louis Metropolitan PD SWAT team arrived.

Orders to protesters to disperse went unheeded, according to interviews with law enforcement. In an attempt to gain control of the situation, smoke canisters were deployed to disperse the crowd. However, law enforcement reported (1) that the smoke had virtually no effect as the protesters continued to throw objects and (2) that gunfire continued to be heard. The St. Louis Metropolitan PD deployed CS

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54.   For example, see Jim Dalrymple II, "A Witness to the Police Shooting of Michael Brown Live-Tweeted the Entire Event," *BuzzFeed*, August 15, 2014, http://www.buzzfeed.com/jimdalrympleii/a-witness-to-the-police-shooting-of-michael-brown-live-tweet#.itWdoVbQN. In addition, protesters began using the phrase "Hands up, don't shoot" in reference to the shooting of Michael Brown. See Jonathan Capehart, "'Hands Up, Don't Shoot' Was Built on a Lie," *The Washington Post*, March 16, 2015, http://www.washingtonpost.com/blogs/post-partisan/wp/2015/03/16/lesson-learned-from-the-shooting-of-michael-brown/; U.S. Department of Justice, *Shooting Death of Michael Brown* (see note 16).

55.   Code 2000 is a call by St. Louis County PD for an additional 50 officers and five supervisors.

Photo: AP Photo/Jeff Roberson August 11, 2014

**Figure 7.** Officers wearing gas masks as smoke canisters are dispersed

tear gas[56] via launchers both to disperse the crowd and to help the fire department respond to the QuikTrip fire. After the CS tear gas was deployed, many protesters dispersed, although small pockets remained. Based on CAD log reviews, law enforcement began responding to looting calls and burglar alarms, and more than 30 area businesses were looted on August 10.

## August 11, 2014

In the early morning hours of August 11, there were still large groups of protesters and looters who did not dissipate until between 3:00 a.m. and 4:00 a.m.

The U.S. Attorney's Office of the Eastern District of Missouri, the U.S. Department of Justice's (DOJ) Civil Rights Division, and the St. Louis Division of the Federal Bureau of Investigation opened an investigation into the death of Mr. Brown at the request of local authorities and at the direction of then U.S. Attorney General Eric H. Holder, Jr.[57] Community leaders and members welcomed this separate

investigation[58] into whether there were any civil rights violations against Mr. Brown.[59] Nighttime demonstrations, however, continued.

Up until the evening, the protests were peaceful. At 6:00 p.m., community members joined together to pray for justice for Mr. Brown and participated in peaceful demonstrations at a meeting hosted by the National Association for the Advancement of Colored People (NAACP). That evening, roughly 60 hours after the shooting, beyond West Florissant Avenue and South Florissant Road, crowds still gathered at Canfield Green Apartments. These crowds gathered largely without a police presence beside West Florissant Avenue and South Florissant Road. One interviewed officer stated, "Canfield Apartments became a no-police zone. We were told we could not go into Canfield Apartments. We contained the area but did not go into the area, and by default the area became a safe haven for criminals." Interestingly, Ferguson residents also complained that the police had "abandoned" Canfield Green Apartments.

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56.    F.T. Fraunfelder, "Is CS Gas Dangerous? Current Evidence Suggests Not But Unanswered Questions Remain," *British Medical Journal*, February 19, 2000, http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1127513/.

57.    St. Louis Division FBI, "Joint Statement of United States Attorney Richard G. Callahan, Acting Assistant Attorney General for the Civil Rights Division Molly J. Moran, and FBI SAC William P. Woods," news release, August 13, 2014, http://www.fbi.gov/stlouis/press-releases/2014/joint-statement-of-united-states-attorney-richard-g.-callahan-acting-assistant-attorney-general-for-the-civil-rights-division-molly-j.-moran-and-fbi-sac-william-p.-woods.

58.    "FBI Investigating Ferguson Police Shooting of Teen Michael Brown," *NBC News,* August 11, 2014, http://www.nbcnews.com/storyline/michael-brown-shooting/fbi-investigating-ferguson-police-shooting-teen-michael-brown-n177761.

59.    The investigation "concluded that Darren Wilson's actions do not constitute prosecutable violations under the applicable federal criminal civil rights statute." U.S. Department of Justice, *Shooting Death of Michael Brown*, 5 (see note 16).

**Figure 8.** A protester shouting at law enforcement

That night, the group of protesters became even larger than previous nights. Police reported that demonstrators were throwing rocks, bottles, frozen bottles of water, Molotov cocktails, and other objects. The mass gatherings became more vocal and aggressive with burning of businesses and other property damage, including looting and breaking windows. Law enforcement responded with the use of armored vehicles, tear gas, PepperBall projectiles,[60] bean bag rounds,[61] and Stingerballs[62] to disperse the crowds.[63] Some members of the community criticized the police, saying they used excessive force, while at the same time business owners complained that the police waited too long to disperse crowds, resulting in more damage to and looting of their businesses.

While some protesters were still peacefully demonstrating, others grew more aggressive and threw objects, set fires, attempted to overturn a patrol car, and looted businesses. Law enforcement deployed tear gas and continued its use for several nights (see figure 7 on page 15). Law enforcement reported that armored vehicles were deployed to protect officers; the powerful public address system on the vehicle was used to make announcements to protesters, and the vehicles served as a means to carry equipment and supplies in close proximity to deployed officers. Community members cited the use of tear gas and armored vehicles as evidence of police militarization, which fueled further anger (see figure 8). Law enforcement representatives stated that the tear gas and pepper spray were used to disperse demonstrators committing crimes.

Neither a public information release from the Ferguson PD on the circumstances of the shooting nor Officer Wilson's identity had yet been made at this time, which continued to stir the community's emotion. Again, Ferguson PD Chief Jackson requested a Code 2000 although St. Louis

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60.  "Projectiles," PepperBall, accessed May 18, 2015, http://www.pepperball.com/projectiles/.

61.  "12 Gauge Ballistic Bean Bag Round," Keep Shooting, accessed May 18, 2015, http://www.keepshooting.com/12-gauge-ballistic-bean-bag-round.html.

62.  "Stinger 32-Caliber Rubber Balls with Safety Clip," Safariland Group, accessed May 18, 2015, http://www.safariland.com/stinger-rubber-ball/stinger-32-caliber-rubber-balls-w-safety-clip-1152928.html#start=1.

63.  While different forms of less-lethal crowd-control projectiles were used, no law enforcement agency used rubber bullets, despite some reports. More details on use of force are discussed in chapter 4.

County PD Chief Belmar was the primary incident commander for the informal joint command at the time, and the first arrests for failure to disperse[64] occurred.

There was controversy around not only the perceived use of military-style equipment and tactics by the police but also the ways in which the police arrested and treated people post-arrest. Based on which law enforcement agency arrested people, they were treated differently. For example, people arrested by the Ferguson PD had their arrest paperwork completed at the police department and then were transported about 7.5 miles to the St. Ann Police Department's jail, as Ferguson's jail was under construction at the time. At St. Ann's, the arrestees were photographed and booked and could then be released if they posted bail. This process typically took several hours. However, law enforcement agencies who used the St. Louis County jail took arrestees directly to that location, where they were processed much more quickly, sometimes being released on a recognizance bond, and they were back on the street within two hours. While the differing arrest procedures did occur, it was not a matter of police policy but rather jail operations.

A pattern had developed of largely peaceful demonstrations during the day. One community member interviewed said that during the first week, all the demonstrators seemed to get along. During the day, the atmosphere was somewhat festive. One community member interviewed stated, "It was like a parade-type atmosphere mixed with anger. The attitude of the crowd was, 'Police can't tell us nothing.'" Another community member interviewed said, "It was a party." The majority of community members interviewed referenced going home around dark before the violence started. One community member stated, "Once it got dark . . . it turned ugly." Another community member stated, "The police response was over the top."

Interviews with personnel from the four core agencies consistently noted the changes in the size and dynamics of the mass gatherings, particularly from day to night. Moreover, as days passed, the character of the demonstrators in the evening also seemed to change. The size and intensity of the disorder garnered national attention. As a result, more participants arrived from the surrounding St. Louis metropolitan area and beyond.

## August 12–13, 2014

On August 12, the St. Louis County PD was still in charge of incident command. The Missouri State Highway Patrol increased its availability of troopers and continued to provide its SWAT team to support crowd-control efforts.[65]

Based on the tactics occurring under the direction of the St. Louis County PD and the resulting images in the media, St. Louis Metropolitan PD Chief Samuel Dotson decided that his officers would no longer assist in the response.[66] Dotson said in an interview that

> One side, the chiefly side of me, wants to always be there to support law enforcement in the city or in the county . . . . My personal side was concerned about the things I saw transpiring in Ferguson. My gut told me what I was seeing were not tactics that I would use in the city and I would never put officers in situations that I would not do myself.[67]

Dotson made the decision earlier in the week and said that he had concerns about his two responsibilities as chief "to protect [the] community and to keep it safe and to protect [his] officers."[68] However, he did provide four officers to assist with diverting traffic and keeping pedestrians and motorists safe.[69]

With a list of demands relating to the investigation of Mr. Brown's death, peaceful protesters gathered at the St. Louis County PD headquarters in Clayton, Missouri, at 10:00 a.m. Daytime protests remained fairly peaceful.

There was a continued tactical presence by police in Ferguson, notably by the St. Louis County PD and the Missouri State Highway Patrol.[70] Armored vehicles,

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65. On August 12, the Missouri State Highway Patrol deployed 26 day-shift troopers and 20 night-shift troopers as well as Troop C and F SWAT teams. On August 13, the agency deployed 16 day-shift troopers and 15 night-shift troopers plus the SWAT teams. *Missouri State Highway Patrol Ferguson Response August 9–27, 2014* [PPT] (Jefferson City, MO: Missouri State Highway Patrol, 2014).

66. Jeremy Kohler, "St. Louis Police Chief Says He Does Not Support Militarized Tactics in Ferguson," *St. Louis Post-Dispatch*, August 14, 2014, http://www.stltoday.com/news/local/crime-and-courts/st-louis-police-chief-says-he-does-not-support-militarized/article_b401feba-b49e-5b79-8926-19481191726f.html.

67. Ibid.

68. Ibid.

69. Ibid.

70. The St. Charles County multijurisdictional SWAT team had also deployed in Ferguson at the request of the St. Louis County PD; however, this agency was not part of the assessment.

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64. Missouri Revised Statutes, chapter 574, Offenses Against Public Order, §574.060, August 28, 2014 (until 12/31/2016). (L. 1977 S.B. 60) Effective 1-01-79. This section was amended by S.B. 491, 2014, effective 1-01-17.

**Figure 9.** A protester throwing a tear gas canister back at tactical officers

LRAD (the long-range acoustic device),[71] tear gas, and less-lethal weapons were being used for crowd dispersal. There were increasing complaints and reports in the media about the military-style response of the police[72] and some complaints from community members that the tear gas was wafting into their neighborhoods.[73]

At the request of the St. Louis County PD, a no-fly zone was issued by the Federal Aviation Administration for a three-mile radius around the city of Ferguson, restricting flights below 3,000 feet unless the aircraft was approaching or leaving from Lambert-St. Louis International Airport.[74] This restriction was requested after St. Louis County PD reported that a police helicopter was shot at multiple times the day before.[75] Some argued that this restriction was a means to limit aircraft from media outlets.[76] The restriction was lifted on August 22.[77]

According to the interviews, over the next 24 hours, through the evening of August 12 and early morning hours of August 13, protesters from outside the region—including increasing numbers of those intent on exploiting the demonstrations—arrived in Ferguson. In interviews, law enforcement intelligence personnel stated that intelligence suggested some individuals might be attempting to promote aggressive law enforcement responses and actions

71.   "Public Safety/Law Enforcement, Homeland Security, Border Control, and More," LRAD Corporation, accessed May 18, 2015, http://www.lradx.com/site/content/view/254/110.

72.   Nick Wing, "Actual Military Veterans Say Cops in Ferguson Are Excessively Armed, Untrained Wannabes," *The Huffington Post*, August 14, 2014, http://www.huffingtonpost.com/2014/08/14/police-militarization-ferguson_n_5678407.html.

73.   For example, see Kollege Kidd, "Ferguson Police Fire Tear Gas and Rubber Bullets at 'Mike Brown' Protesters," YouTube, August 12, 2014, https://www.youtube.com/watch?v=ocfdfL2j2OU; Colleen Curry, "Ferguson Police Use Tear Gas While Again Clashing With Protesters," *ABC News*, August 13, 2014, "http://abcnews.go.com/US/ferguson-police-tear-gas-clashing-protesters/story?id=24957752. The police defend the use of tear gas at Jim Salter and Jim Suhr, "Police Defend Use of Tear Gas, Smoke at Protest," *WAVY.com*, August 14, 2014, http://wavy.com/2014/08/14/protests-turn-violent-in-st-louis-suburb/.

74.   Denver Nicks, "FAA Implements No-Fly Zone in Ferguson Amid Unrest Over Killed Teen," *Time*, August 12, 2014, http://time.com/3105035/ferguson-faa-no-fly-zone/.

75.   Ibid.

76.   Jack Gillam and Joan Lowy, "FAA Approved No Fly Zone in Ferguson, Missouri, to Keep Media Away," *Northwest Herald*, last updated November 2, 2014, http://www.nwherald.com/2014/11/02/faa-approved-no-fly-zone-in-ferguson-missouri-to-keep-media-away/azabefv/.

77.   Ibid.

with the purpose of focusing public attention away from the action of protesters and more upon the police response to those actions.

Law enforcement reported that offenders integrated themselves with the demonstrations solely with the intent to loot businesses. Law enforcement officers interviewed noted that during the first days of the demonstrations, burglaries and thefts increased in locations away from the protest areas, presumably by offenders taking advantage of the diverted police presence.

A new development also arose on August 12: hackers. Several municipal government websites and telephone lines were targeted by the hacktivist group Anonymous[78] under Operation Ferguson.[79] The Ferguson city hall website[80] was disrupted and forced out of service, and the city telephone lines failed as a result of a hack by Anonymous.[81] In addition, the hacking of the City of Ferguson website as well as the St. Louis County PD website effectively shut down e-mail communications; police officials were targeted for doxing,[82] which led to identity theft and other computer network intrusions, including the home wireless networks of some police employees.

According to interviews, on August 13, the St. Louis County PD Communications Unit was also hacked.[83] A distributed denial of service (DDoS)[84] began on the

St. Louis County PD website at 4:45 p.m., and the department's wide area network (WAN) group worked with the Internet service provider (ISP) to mitigate the attack. By 1:00 a.m. on August 14, internal systems were running, but there was no Internet connection for e-mail or access to the St. Louis County PD web page. Full service, including webmail and smartphone access, was not restored until August 19, seven days later. The cyberattacks resulted in challenges that law enforcement was not adequately equipped to manage. These events occupied the time of the police personnel involved, disrupted communications, and generally complicated the police response. (For more details on the DDoS attack, see chapter 14.)

Because of the violence that had occurred over the previous nights, Ferguson city officials made a request on August 13 that protests and vigils for Mr. Brown be held during the daytime. The city's statement said, in part, "We ask that any groups wishing to assemble in prayer or in protest do so only during daylight hours in an organized and respectful manner. We further ask all those wishing to demonstrate or assemble to disperse well before the evening hours to ensure the safety of the participants and the safety of our community."[85] Some viewed this as an attempt to restrict First Amendment freedoms.

Controversy over police tactics also heightened on August 13, when two news reporters from *The Washington Post* and *The Huffington Post* were arrested in a restaurant near the protests.[86] The visibility of these arrests drew more negative attention toward police practices. Allegations of the police abusing their authority and violating citizens' civil rights were common.

That day, the highway patrol's SWAT team deployed non-lethal munitions toward a vehicle quickly approaching a roadblock on Canfield Drive. The SWAT team also assisted a woman whose vehicle had been shot multiple times by an unidentified man on Canfield Drive; she sustained minor injuries.

Consistent with the pattern that had been occurring, the evening protests grew aggressive (see figure 9 on page 18), according to law enforcement and citizens interviewed.

78.   Alex Rogers, "Why Is Anonymous Involved in the Ferguson Protests?" *Time*, August 21, 2014, http://time.com/3148925/ferguson-michael-brown-anonymous/.

79.   "Anonymous Operation Ferguson," Anonymous, http://www.operationferguson.cf/.

80.   "City of Ferguson," accessed May 19, 2015, http://www.fergusoncity.com/. The city website also hosts the police department's web page at http://www.fergusoncity.com/92/Police-Department.

81.   Rogers, "Why Is Anonymous Involved" (see note 78).

82.   According to techopedia.com, "doxing is the process of retrieving, hacking and publishing other people's information such as names, addresses, phone numbers, social security numbers and credit card details" (see also glossary of operational definitions). The word can also be spelled *doxxing.*

83.   See Louise Boyle and Damien Gayle, "Anonymous-Hacked 911 Tapes Reveal St Louis police 'First Heard About Michael Brown Shooting on the NEWS . . . and the Local Department Knew Nothing About It'," *Daily Mail*, August 13, 2014, http://www.dailymail.co.uk/news/article-2724304/Anonymous-hacks-St-Louis-police-dispatch-tapes-releases-calls-surrounding-cop-shooting-Michael-Brown.html.

84.   A DDoS attack is a malicious attempt to make a server or a network resource unavailable to users, usually by temporarily interrupting or suspending the services of a host connected to the Internet. For more information, see "What is a DDoS Attack?" Digital Attack Map, accessed May 2015, http://www.digitalattackmap.com/understanding-ddos/.

85.   Doug Stanglin, "Ferguson Asks Protests, Vigils Be Held during Day," *KSDK.com*, August 18, 2014, http://www.ksdk.com/story/news/local/2014/08/13/ferguson-asks-protests-vigils-be-held-during-day/14000463/.

86.   "Reporters Arrested at Ferguson McDonald's," *KSDK.com,* August 18, 2014, http://www.ksdk.com/story/news/local/2014/08/13/2-reporters-arrested-at-ferguson-mcdonalds/14037723/.

# August 14, 2014

Concern was mounting among political leaders in the local, county, and state governments because of the property damage, the potential for life-threatening circumstances, the images of disorder in Ferguson, and complaints about the police that were being shared globally through news reports and social media. After five days, it was believed that the circumstances were not improving and there were questions as to whether the St. Louis County PD incident command was effective and making the right decisions. In an August 14 press conference, as authorized by the State of Missouri, Governor Jay Nixon issued an executive order[87] designating the Missouri State Highway Patrol as the formal incident command agency for the Ferguson response and specified the highway patrol's Captain Ronald S. Johnson as the incident commander.[88]

The announcement was made at the University of Missouri–St. Louis (less than 4 miles from West Florissant Avenue and Canfield Drive) where the governor was joined by Captain Johnson, then St. Louis County Executive Charlie Dooley, St. Louis Mayor Francis Slay, and area legislators. No other law enforcement officials, including the Missouri State Highway Patrol's Superintendent Colonel Ronald Replogle, were present at the announcement. And neither the St. Louis County PD chief nor the Ferguson PD chief were consulted or informed about the change in command—they learned of it through media reports. According to interviews, some officers believed it was a questionable decision for the highway patrol to be designated responsible for incident command in an urban area where they had limited operational experience.[89] Perhaps more common, some St. Louis County PD officers thought

the move showed disrespect to them and their capabilities. However, St. Louis County PD Chief Belmar, who had been the former incident commander, publicly committed his support for Johnson and the highway patrol.

While there was now a formal change in incident command, according to interviews with law enforcement officials, there was no formal or written agreement between the law enforcement agencies to document the transition of incident command from the St. Louis County PD to the Missouri State Highway Patrol.[90] There was no documentation for standing orders, the new chain of command, or other command and control responsibilities. According to interviews with law enforcement personnel, the lack of communication caused some tension between the agencies. During this time, the highway patrol also requested that the St. Louis Metropolitan PD return to Ferguson for support and it agreed.

Captain Johnson's command was met with favorable expectations from the community and the media.[91] He proactively reached out to community members and groups. He spoke at a vigil for Mr. Brown[92] and often allowed himself to be photographed with demonstrators.

On August 14, Captain Johnson also contacted a local pastor and asked to march with the protesters down West Florissant Avenue. He stated, "Several hundred people participated in the march. That was the first time there was interaction with the crowd without screaming going on."

Based on community interviews and the media, this seemed to have a positive impact on community relations. One community member interviewed stated, "Things could have been worse if it had not been for the leadership of Captain Johnson." However, based on interviews with officers from the four core agencies, they felt that his statements and actions were not always supportive of the officers involved. Over time, Captain Johnson's public

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87. Office of Missouri Governor Jay Nixon, "Executive Order 14-08," August 16, 2014, https://governor.mo.gov/news/executive-orders/executive-order-14-08.

88. Office of Missouri Governor Jay Nixon, "Gov. Nixon Announces Missouri State Highway Patrol Will Take the Lead on Security Responsibilities in Ferguson," news release, August 14, 2014, http://governor.mo.gov/news/archive/gov-nixon-announces-missouri-state-highway-patrol-will-take-lead-security.

89. This reference by officers was the acknowledgment that the Missouri State Highway Patrol was a state agency that provided law enforcement services predominantly to rural areas of the state as well as predominantly traffic enforcement and accident investigation on freeways in metropolitan areas. For example, see German Lopex, "An Important St. Louis Official is Unhappy with Tonight's Policing Changes," *Vox*, August 14, 2014, http://www.vox.com/2014/8/14/6004631/the-st-louis-county-prosecutor-doesnt-approve-of-the-leadership.

90. For example, see Virginia Young, "Nixon Had Leverage in Taking Ferguson Security from St. Louis County," *St. Louis Post-Dispatch*, August 16, 2014, http://www.stltoday.com/news/local/crime-and-courts/nixon-had-leverage-in-taking-ferguson-security-from-st-louis/article_37b2c679-b2dd-5565-bc14-6c8d2edc287a.html.

91. Wesley Lowery, "With Highway Patrol, Hugs and Kisses Replace Tear Gas in Ferguson," *The Washington Post*, August 15, 2014, http://www.washingtonpost.com/news/post-nation/wp/2014/08/14/with-highway-patrol-hugs-and-kisses-replace-tear-gas-in-ferguson/.

92. Scott Neuman, "Capt. Ron Johnson: 'I Am Sorry' for Brown's Death," *The Two-Way, NPR.org*, August 17, 2014, http://www.npr.org/sections/thetwo-way/2014/08/17/341161117/capt-ron-johnson-i-am-sorry-for-browns-death.

Protesters march in Ferguson, Missouri

appearances and perceived support for the demonstrators lowered morale among officers, including Missouri State Highway Patrol troopers, according to interviews with law enforcement.

## August 15, 2014

On August 15, six days after the shooting, the Ferguson PD identified Darren Wilson as the officer involved in the initial shooting incident. During this same announcement, the Ferguson PD released video footage indicating that Mr. Brown had been involved in a robbery of a convenience store[93] minutes before his encounter with Wilson.[94]

According to Missouri State Highway Patrol Captain Johnson, Ferguson PD Chief Jackson had talked with Johnson and St. Louis County PD Chief Belmar prior to releasing the robbery video, and both urged Jackson not to release

it. Despite this advice, Jackson made the decision to release the convenience store video during the same press conference in which Officer Wilson was identified. Incident Commander Johnson expressed his opinion in the news media, saying, "I would have liked to have been consulted."[95] In looking at the issue, one officer stated, "Ferguson PD was on its own and acted contrary to [our] overall efforts." The calm experienced on August 14 changed with the release of the video. A Missouri State Highway Patrol commander stated, "You could tell by the tenor of the crowd that we [law enforcement] had taken a step back."

Many community members believed the police were trying to take the focus away from Officer Wilson and place it on Mr. Brown. Some saw it as a police conspiracy while others saw it as an attempt to justify the shooting.[96] Rather than ease community tensions, the announcement inflamed

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93.   The store in question is Ferguson Market and Liquor, located at 9101 West Florissant Avenue.

94.   Erin McClam and Patrick Garrity, "Ferguson Chief Names Darren Wilson as Cop Who Shot Michael Brown," *NBC News*, August 15, 2014, http://www.nbcnews.com/storyline/michael-brown-shooting/ferguson-chief-names-darren-wilson-cop-who-shot-michael-brown-n181326; Yamiche Alcindor, Marisol Bello, and Aamer Madhani, "Chief: Officer Noticed Brown Carrying Suspected Stolen Cigars," *USA Today*, August 15, 2014, http://www.usatoday.com/story/news/usanow/2014/08/15/ferguson-missouri-police-michael-brown-shooting/14098369/.

95.   Vega Tanzina, Timothy Williams, and Erik Eckholm, "Emotions Flare in Missouri amid Police Statements," *The New York Times*, August 15, 2014, http://www.nytimes.com/2014/08/16/us/darren-wilson-identified-as-officer-in-fatal-shooting-in-ferguson-missouri.html?_r=0.

96.   For example, see Louise Boyle, Michael Zennie, and Dan Bates, "'The Police Are Inciting Violence all over Again': Michael Brown's Family Attack Character Assassination after Cops Say He Robbed Store but also Admit Officer Did NOT Know That When He Shot Him," *DailyMail*.com, August 15, 2014, http://www.dailymail.co.uk/news/article-2725917/Ferguson-police-Officer-Darren-Wilson-cop-shot-dead-unarmed-teenager-Michael-Brown.html.

Protesters march in Ferguson, Missouri

tensions and actions.[97] Although the statement was solely by Jackson, other law enforcement agencies involved believe that they shared in the bad publicity.

Spurred by the announcement, the daily demonstrations grew larger, and the evening demonstrators grew more enraged. During the day, protesters located primarily across the street from the Ferguson PD headquarters were nonviolent. Officers from the Ferguson PD and the Code 1000 response agencies assigned to protect police head-quarters used the fire department next door to prepare for deployment.

At the same time, the police were receiving complaints from Ferguson business owners and residents about the protesters blocking sidewalks, impeding entries into their businesses, and, in some cases, blocking the street. On the evening of August 15, the number of people not lawfully and peacefully protesting increased, and there were reports of Molotov cocktails and other objects being thrown at officers, including rocks and water bottles filled with urine.

While the tension was increasing in the crowds, Captain Johnson witnessed a crowd gathering in front of the Ferguson Market and Liquor store, and he believed there would be trouble.[98] He talked with the owner, who was allowing people to come into the store, and encouraged the owner to move his merchandise out of the store. Johnson brought in troopers to help move the merchandise and offered to get trucks, but the store owner commented that he had "good insurance." More people began approaching the Ferguson Market and Liquor store after Johnson left.

One trooper stated, "Law enforcement lost the parking lot." A large crowd was trying to get into the market and other stores, and members of the crowd began looting. Law enforcement officers were standing on the opposite side of the street with a large number of lawful protesters

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97.    For example, see Tom McCarthy, "Ferguson Protests: Michael Brown Family Calls for Calm amid Criticism of Video Release—As It Happened," *The Guardian*, August 15, 2014, http://www.theguardian.com/world/live/2014/aug/15/ferguson-police-officer-michael-brown-darren-wilson.

98.    This was the store where Michael Brown allegedly committed the robbery (Missouri Revised Statutes 569.030.1) of the cigarillos. According to some reports, the owner was fearful of some community members who thought he had given the Michael Brown surveillance tape to the police. As a result, Captain Johnson was particularly concerned about this store owner. For reference, also see "Attorney for Ferguson Market: NO ONE from His Store Called 911 to Report Cigar Theft," *Daily Kos*, August 18, 2014, http://www.dailykos.com/story/2014/08/18/1322560/-Ferguson-Store-Owner-Says-NO-ONE-From-His-Store-Called-Cops-To-Report-Cigar-Theft#.

Nighttime protesters in Ferguson, Missouri

in between the police and the looters. A Missouri State Highway Patrol commander stated that to get to the looters and rioters, police would have had to go through the protesters. After assessing the situation, Captain Johnson made the decision to stand down and not respond to the market looting because the risk to the lives of the protesters, rioters, and law enforcement personnel would have increased substantially had law enforcement engaged. One officer stated, "It was difficult for law enforcement officers to stand by and watch the criminal activity taking place and do nothing about it."

Missouri State Highway Patrol troopers at McDonald's became surrounded by 100 to 150 protesters and called for help. The highway patrol SWAT team and County Tactical Team responded, and protesters began throwing numerous bottles. Three troopers were struck.

According to law enforcement, open records requests increased. In addition, protesters became aggressive and looked for and exploited issues to provoke law enforcement to respond. This included the use of racial slurs and challenges against the loyalties of minority law enforcement officers. African-American officers were singled out with protesters calling them "sellouts to Uncle Tom" and even

more graphic insults.[99] The targeting of the officers became so bad that a sergeant reported, "after 20–25 minutes [on the front lines], we pull them off the line for their safety."[100]

Some individuals sought the personal information of law enforcement officers, such as their names, addresses, and social security numbers. Law enforcement reported that some individuals began harassing members of law enforcement on an individual level. This included using their social security numbers for filing false tax claims, placing false liens on their property, taking out credit cards in their names, and parking in front of their homes or on the street where law enforcement officers lived or had family.

According to law enforcement interviews, for a few days, law enforcement also noted increased gang presence in Ferguson associated with the demonstrations. Intelligence

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99.  "Black and in Blue: A Ferguson Police Sergeant Reflects on a Tough Time," *St. Louis Post-Dispatch*, October 3, 2014, http://www.stltoday.com/news/local/crime-and-courts/black-and-in-blue-a-ferguson-police-sergeant-reflects-on/article_b71556de-68b1-5666f-a6ce-cc02c01b8343.html. For a more recent video, see "Video Shows African American Officer Harassed by Protesters in Ferguson," kmov.com, March 24, 2015, http://www.kmov.com/story/28695988/video-shows-african-american-officer-harassed-by-protestors-in-ferguson.

100.  "Video Shows African American Officer Harassed" (see note 99).
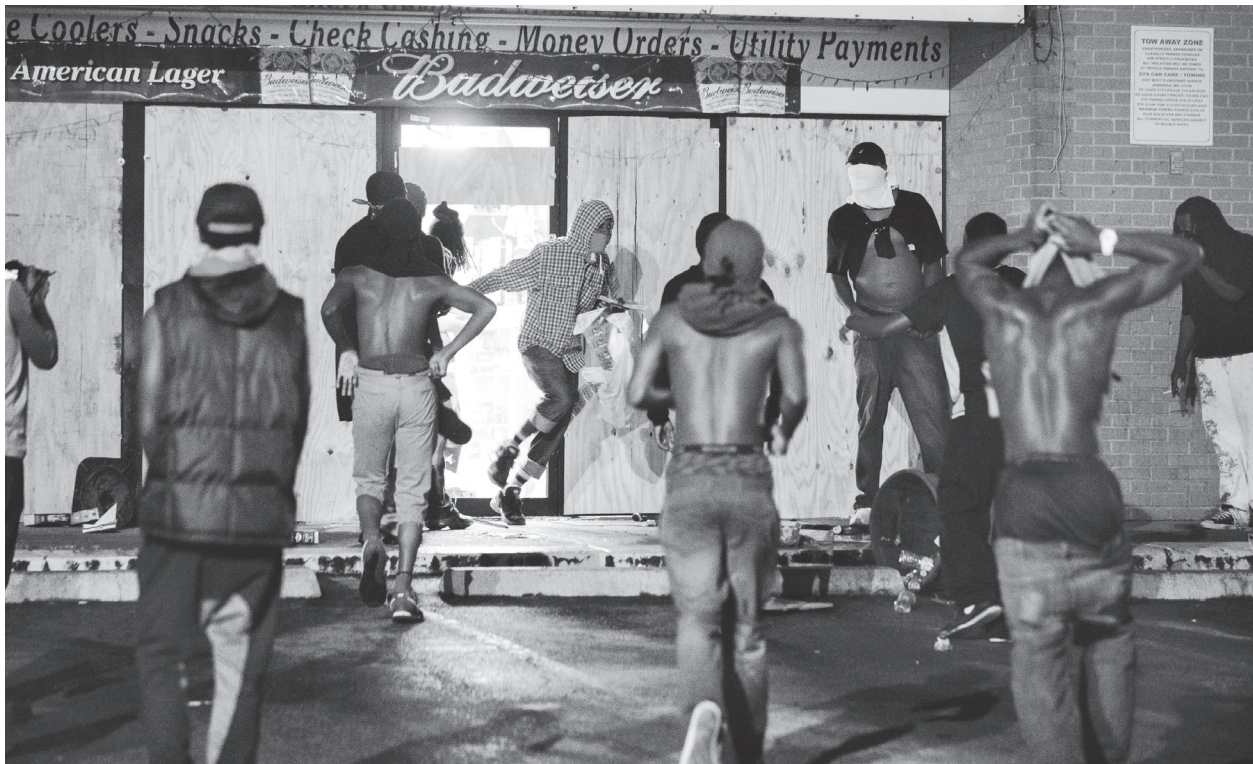
Masked individuals carry items out of a liquor store during looting in Ferguson, Missouri, August 16, 2014

units indicated that at one point, rival gangs called a truce to participate in the demonstrations. However, by around August 15, the gang presence began to dissipate. Throughout all this, the majority of the protesters were St. Louis area community members concerned about their community.

## August 16, 2014

On August 16, Governor Nixon issued an executive order intended to deal with the continued problems arising from the mass gatherings in Ferguson.[101] The Missouri State Highway Patrol, responsible for incident command, was ordered to implement a curfew under the governor's authority to declare a state of emergency. The declaration included an order that all law enforcement agencies deployed for the police response in Ferguson would follow the direction of the Missouri State Highway Patrol for tactics to maintain order. The methods to accomplish this had to be developed by incident command (that is, the highway patrol), which at this point was operating somewhat like an

informal unified command—where incident commanders from various jurisdictions or agencies operating together form a single command structure in the field—among the Missouri State Highway Patrol, the St. Louis County PD, and the St. Louis Metropolitan PD. The Ferguson PD was responsible for providing security for its police headquarters and adjacent city property as well as handling regular calls for service in its jurisdiction.

On August 16, incident command changed its strategy to start integrating uniformed law enforcement officers among the crowd to minimize the appearance of law enforcement officers facing off with protesters. To accomplish this, officers were deployed in teams along West Florissant Avenue. SWAT and tactical officers were not deployed as part of these teams but instead were staged at various locations along West Florissant Avenue. This strategy enabled the SWAT and tactical units to be available, if needed, while minimizing the visual presence of these officers, according to law enforcement. West Florissant Avenue was blocked off to civilian traffic.

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101.  Office of Missouri Governor Jay Nixon, "Executive Order 14-08"
(see note 87).

When interviewed by the assessment team, Missouri State Highway Patrol Captain Johnson stated that he believed these changes helped minimize the problem of officers self-deploying.

By August 16, Captain Johnson had become the public face of the police response while also serving as incident commander. The responsibilities taken on by Captain Johnson were diverse. Frequently he met with different community groups and leaders, provided media interviews, and was on the street among the demonstrators.

> *From the perspective of officers interviewed, the strategy for managing the demonstrations was continually changing.*

According to interviews, when the St. Louis County PD was the incident command agency, regular briefings were held with every agency in attendance. The documentation unit[102] was used, cameras were in place, representatives from the fire department participated, and upper division staff members participated in decision making. During the first two or three days of the Missouri State Highway Patrol's command, the incident command role became less structured. Officers from all agencies interviewed, including the highway patrol, were critical of the incident commander's approaches and some of his public statements.

Based on interviews with law enforcement and community members, the Missouri State Highway Patrol's approach to incident command was to provide more information to the community, to be more engaged with the community, and to lessen the tactical approach and military image of law enforcement. However, this approach was not either effectively communicated to or understood by the officers as a strategy, or officers may have actively resisted this approach. From the perspective of officers interviewed, the strategy for managing the demonstrations was continually changing, and tactical directions for officers often did not clearly follow the changes in strategy.

Further direction relayed from the governor's office on August 16 to incident command resulted in a curfew being put into effect daily from midnight until 5:00 a.m., until

rescinded by the governor. However, the details of how law enforcement should mandate components of the declared state of emergency were unclear.

Police commanders observed that when groups of people began gathering, particularly at night, some individuals in the crowd began throwing objects. To address this problem, the commanders chose to deploy officers near the protesters and have officers tell protesters to keep moving. The commanders imposed the "keep moving" order, colloquially known as the "five-second rule."[103] If demonstrators failed to disperse, they would be arrested.

The Missouri State Highway Patrol SWAT team also observed crowds using vehicles as barricades to block the roadway. That night, August 16, seven people were arrested for failure to disperse after the curfew took effect. Also during this time, a police car had been shot at, and police responded to a shooting near a restaurant on West Florissant Avenue. The victim, shot by an unknown assailant, was transferred to a local hospital.

One officer stated, "The chiefs had planned to walk down the street [that night], but intelligence [officers] received information that there was an ambush waiting for them." Because of the intelligence, the chiefs did not walk the streets.

## August 17, 2014

In the early morning hours of August 17 (12:13 a.m.), St. Louis Metropolitan PD officers reported that about 150 protesters were refusing to disperse. The protesters began walking down West Florissant Avenue toward Original Red's BBQ and by 12:23 a.m. had completely blocked the street. As the crowd grew in both size and hostility, according to law enforcement, tear gas was deployed at 12:48 a.m. A few minutes later, at 12:57 a.m., a person was shot by an unknown assailant in the area of the protests and taken to Christian Northeast Hospital in St. Louis. The streets remained blocked until around 1:30 a.m. There were seven arrests by the Missouri State Highway Patrol for failure to disperse. This pattern of activity would be repeated in the ensuing evenings.

Like previous days, the protests were peaceful in daylight and changed by the nighttime to aggressive crowds, according to law enforcement, citizens, and media

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102. For a full definition, see appendix D.

103. It is thought that this phrase originated when an officer was asked how long people could stand in place before they had to start moving again. The officer extemporaneously uttered "a few seconds" over a loudspeaker.

accounts. That same evening at 7:28 p.m., law enforcement reported that a crowd of approximately 1,000 people had assembled near 9191 West Florissant Avenue (about a half block south of Canfield Drive). The crowd was becoming aggressive, and during the next four hours, several businesses were looted. At 8:57 p.m., several hundred people attempted to overrun the command post. Because of the size and character of the demonstrations, at 9:03 p.m., the incident command post made an emergency mutual aid request for law enforcement agencies in the county to respond to the command post. Minutes later, the Missouri State Highway Patrol Troop C headquarters was requested to dispatch all available zone cars to respond immediately to the command post. A law enforcement helicopter was dispatched to fly over West Florissant Avenue and Ferguson Avenue to monitor the demonstrations. The SWAT unit was deployed and started receiving gunfire.

Between 9:12 p.m. and 9:22 p.m., police teams at West Florissant Avenue and Solway Avenue called for assistance, teams at West Florissant Avenue and Sharondale Circle called for assistance, and the McDonalds on West Florissant Avenue called for assistance with employees reporting that the restaurant was being overrun and that they had locked themselves in the storeroom.

Between 9:40 p.m. and 11:01 p.m., there were reports of several businesses being looted, the Dellwood Market being set on fire, a large fight involving about 150 people occurring and Lorna Lane and Chambers Road (a new location for disturbances, about 300 yards east of West Florissant Avenue), and 12 reports of shots being fired. At 11:47 p.m., the news media were instructed to get out of the "hot zone" and return to the designated media area, near the command post. The SWAT unit was deployed and started receiving gunfire, which resulted in damage to the armored vehicles. The St. Louis County PD reported using the armored vehicle (referred to as the Bear) for Chief Belmar's protection when he rode in the area. In addition, the St. Louis County PD reported that law enforcement deployed tear gas and less-lethal crowd dispersal projectiles in response to the gunfire and that both canines and other armored vehicles were readied for use, largely as backup resources, but were visible to demonstrators.

All teams were instructed to pull back. Law enforcement personnel interviewed stated that they believed Missouri State Highway Patrol Captain Johnson "backed down" from protesters the evening of August 17 in the hope of

pacifying the group. Some personnel believed that this action opened the door for more aggression by those involved in the disorder.

This night had the worst violence, especially before the midnight curfew went into effect. Rather than eliminating violence, the curfew appeared to simply change the time the violence occurred.[104]

## August 18, 2014

Governor Nixon lifted the curfew on August 18, just two days after it had been imposed, and activated the Missouri National Guard to assist law enforcement.[105] The National Guard was sent to protect the incident command post and police vehicles, freeing up law enforcement officers to be deployed to the streets. Members of the National Guard were never involved in crowd control, although they did interact with community members at checkpoints stationed at the entrances and exits to the parking lot where the command post was located. (See figure 10 on page 27.)

Interviews with community members revealed they had mixed emotions about the National Guard's presence. Some community members were glad there was additional assistance to protect people and businesses in Ferguson. Community members who raised the "outsider" issue again, that "outsiders" did not care what happened to the community, were glad the National Guard had arrived because its barracks was down the street. However, other community members viewed the presence of the National Guard as an escalation of the military presence.

The St. Louis Metropolitan PD reported that large crowds started congregating earlier on August 18 at 12:30 p.m. in the QuikTrip parking lot and at 1:10 p.m. in the McDonald's lot. At 2:09 p.m., the Missouri State Highway Patrol indicated that the MIAC had reported Twitter posts stating that officers were not wearing nametags and suggesting that those following the Twitter posts buy police shirts and blend in with law enforcement. Reports such as these continued throughout the afternoon regarding the locations at which protesters were gathering and had refused to disperse.

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104. For example, see Matthew Dolan and Pervaiz Shallwani, "Curfew Lifted in Ferguson as National Guard Arrives," *The Wall Street Journal*, August 18, 2014, http://www.wsj.com/articles/missouri-governor-deploys-national-guard-after-clashes-in-ferguson-1408348954.

105. Office of Missouri Governor Jay Nixon, "Executive Order 14-09," August 18, 2014, https://governor.mo.gov/news/executive-orders/executive-order-14-09.

**Figure 10.** View from the command post area showing the National Guard post and the media area in the parking lot

Several hundred people (the numbers varied throughout the day) were congregating on South Florissant Road across from the Ferguson PD. Many were standing in the parking lot of the Andy Wurm Tire and Wheel store directly across the street from the police department. Others were on the sidewalks, and at times protesters were in the street. Law enforcement again ordered protesters to "keep moving" (see the section "August 16, 2014" on page 24).

Questions among civil society groups and organizations continued to arise about the lawfulness of the "keep moving" order. A court case was filed on August 18 that challenged the tactic as being a violation of the First Amendment free speech guarantee and the Fourteenth Amendment due process protection.[106, 107]

At approximately 4:10 p.m., West Florissant Avenue was again closed to traffic because of the presence of the protesters. Throughout the late afternoon and into the evening, there were ongoing issues of blocked streets and sidewalks, objects being thrown at officers, and some businesses suffering property damage. Threats against officers in the area of Canfield Drive were reported, and a large fight erupted with people in the fight throwing bottles at each other.

At 5:20 p.m., protesters started their march on West Florissant Avenue. Throughout the evening, large numbers of protesters gathered at various locations along West Florissant Avenue. Intelligence officers identified six people who were "part of an anarchist group," shots were being fired from the crowd, and objects were being thrown at police. Law enforcement responded with SWAT and tear gas. Tear gas was dispersed twice, at 10:52 p.m. and 11:38 p.m. At 11:29 p.m., Original Red's BBQ was reported on fire.

## August 19, 2014

In an early morning press conference[108] on August 19, Missouri State Highway Patrol Captain Johnson reported that the evening of August 18 into the early morning hours

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106. *Abdullah* v. *County of St. Louis, Missouri, et al.*, U.S. District Court, Eastern District of Missouri, Eastern Division, Case 4:14CV1436 CDP, http://www.aclu-mo.org/files/1914/1262/7344/Abdullah_Preliminary_ Injunction.pdf.

107. On October 6, 2014, the judge enjoined the police from using the "keep moving" but expressly noted that the decision did not prevent police from making arrests under the Missouri unlawful assembly and failure to disperse statutes when the facts and circumstances met the elements of those statutes.

108. "Transcript: Captain Ron Johnson Press Conference in Ferguson, Missouri, 2:21 a.m. 2014-08-19," *Lincoln Madison*, August 19, 2014, http://lincmad.blogspot.com/2014/08/transcript-capt-ron-johnson- press-conf.html.

of August 19 had an increase in disorderly activities and a corresponding increase in police activity. One police officer was injured from thrown rocks and frozen water bottles. Thirty-one people were arrested, including some who came to Ferguson from as far away as New York and California, reinforcing the observation that persons from outside the St. Louis metropolitan area were participating in the mass gatherings. Police officers on West Florissant Avenue and Canfield Drive came under "heavy gunfire," and two guns were confiscated in a police stop of a vehicle near the media staging area. The St. Louis Metropolitan PD reported shots fired from an unknown direction at 10:01 p.m., 10:36 p.m., 10:44 p.m., 11:05 p.m., and 1:14 a.m. The most serious occurrence was the shooting of two people by unknown assailants in the crowd. Johnson made the point that while law enforcement had been criticized for the use of armored vehicles, one was used to extract one of the gunshot victims to avoid ongoing gunfire and thrown objects.

During the press coference, Captain Johson made comments directly to the media, saying, "I want to address the role of the  media in what is going on here. Tonight, media repeatedly had to be asked to return to the sidewalks and get out of the streets when clashes were going on in the streets."[109] Officers interviewed on several occasions stated that members of the media would insert themselves between the police and a disorderly crowd and then complain about police interference with their reporting. Interviewed officers also stated that on several occasions cameras would be pointed toward the police from the demonstrators' perspective, which at night made it difficult for the officers to see with the camera lights on them.

## August 20–23, 2014

Police were concerned that the beginning of the controversial grand jury inquiry into the death of Mr. Brown on August 20 would bring more violence. However, the dayshift assigned to the Ferguson detail did not encounter as much activity as in previous days. Officers who worked in the protest area interacted with the public and performed escorts for emergency medical services personnel who responded to medical calls and for businesses who requested assistance to travel in and through the protest area.

Despite the fact that three officers were injured, that there were threats to kill police officers, and that 47 people were arrested for various illegal acts, it was a calmer night on August 20, as compared to previous nights. The Missouri State Highway Patrol log reported, "For the second consecutive night, the protest groups continued to decrease in size and exhibited less anger toward officers." The number of protesters was smaller, estimated to be about 150 people, with tensions somewhat diffused by both community leaders and a more relaxed police posture. Some community members believed that the arrival of then U.S. Attorney General Eric H. Holder, Jr. also helped to calm protesters.[110]

> *A major concern was how some members of the media were physically positioning themselves in relation to the police and protesters.*

The FBI issued an officer safety bulletin addressing that the activist group Anonymous was going to post personal information about an officer online to a doxing site.

Law enforcement continued to be concerned about the media presence. As reported by officers, a major concern was how some members of the media were physically positioning themselves in relation to the police and protesters. Captain Johnson "lectured reporters . . . asking them to keep clear of the roads so police could move through. He also asked them to be careful in their reporting."[111]

A sense of calm began to emerge. On August 21, Governor Nixon ordered the Missouri National Guard to begin systematically withdrawing from Ferguson.[112] About 300

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109.  Ibid.

110.  See also Alan Blinder and Campbell Robertson, "As Tension Eases on Ferguson's Streets, Focus Turns to Investigation," *The New York Times*, August 20, 2014, http://www.nytimes.com/2014/08/21/us/ferguson-missouri-protests.html?_r=0.

111.  Lindsey Bever, "Media Making Up the Mob: Journalists amid Protesters in Ferguson, Missouri," *The Washington Post*, August 20, 2014, http://www.washingtonpost.com/news/morning-mix/wp/2014/08/20/media-making-up-the-mob-journalists-amid-protesters-in-ferguson-mo/.

112.  Office of Missouri Governor Jay Nixon, "Governor Nixon Orders the Missouri National Guard to Begin Systematically Withdrawing from the City of Ferguson," news release, August 21, 2014, https://governor.mo.gov/news/archive/gov-nixon-orders-missouri-national-guard-begin-systematically-withdrawing-city-ferguson.

demonstrators were present and largely peaceful at West Florissant Avenue and Canfield Drive. The dayshift assigned to the Ferguson incident continued to patrol, interact with the public, and provide services within the protest area.

Despite the crowds overall being more peaceful, seven officers were reported as injured during the evening. There were reports of armed persons in the area, but no shots were fired, according to law enforcement. St. Louis Metropolitan PD officers observed 12 members of the Outcast Motorcycle Club[113] walking westbound on Ferguson Avenue toward Sharondale Circle from West Florissant Avenue. The stated intent of the motorcycle club was to "help keep the peace." West Florissant Avenue was once again closed because of the presence of protesters.

On August 22, law enforcement reported no protest-related arrests and a sense of normalcy returning to the community.[114] West Florissant Avenue was reopened, and there were fewer protesters at West Florissant Avenue and at the Ferguson PD.

Despite these events, there were still protesters who stated that the "anger is not diminishing."[115] A list of demands to government officials was developed, including a "deescalation of militarized policing."[116] Interviews with law enforcement personnel indicated that they believed this to be a lull in the protests but not an end to the demonstrations.

The NAACP held another peaceful protest in Ferguson on August 23, urging the DOJ to hold the Ferguson PD and Officer Wilson accountable for the death of Mr. Brown.[117]

Also on August 23, officers assisted Crisis Aid International, a nonprofit organization that provides relief to families worldwide, in delivering food door to door to residents of both the Canfield and Northwinds Apartments complexes.

Officers arrested six people, three of whom were from out of state. There were no gunshots, Molotov cocktails, or bottles directed at officers. There was no smoke or tear gas deployed at protesters, and no handguns were seized.

## August 24–25, 2014

Calm continued to become increasingly present in Ferguson, and the numbers of protesters continued to get smaller. A sense of normalcy was returning to West Florissant Avenue, but groups of activists remained. On August 24, six more people were arrested overnight for protest-related activities, most commonly for the failure to disperse. In addition, daily protests continued across the street from the Ferguson PD.

Also on August 24, Michael Brown, Sr., requested that there be no protests during his son's funeral the next day. "Tomorrow, all I want is peace while my son is being laid to rest."[118] Mr. Brown's funeral was held on Monday, August 25, 2014.[119] There were no protests and no arrests.

This was the final day of the assessment team's period of coverage (see figure 11 on page 30). Throughout the assessment period, there had been a total of 236 demonstration-related arrests (36 felonies and 200 misdemeanors). The police response to the demonstrations did not result in any loss of life or serious injury to the protesters.

113. For example, see David McCormack, "All-Black 'Outcast MC' Biker Club Patrolling the Streets of Ferguson in a Bid to Help Keep the Peace after Ten Nights of Unrest," *DailyMail.com*, August 19, 2014, http://www.dailymail.co.uk/news/article-2729449/All-black-Outcast-MC-biker-club-patrolling-streets-Ferguson-bid-help-peace-nine-nights-unrest.html.

114. Yamiche Alcindor, Larry Copeland, and Gary Strauss, "Calm Restored in Ferguson, Support Builds for Officer," *USA Today*, August 22, 2014, http://www.usatoday.com/story/news/nation/2014/08/21/missouri-ferguson-national-guard-withdraw/14395465/.

115. Matt Sledge and Emily Kassie, "Ferguson Protesters Have Some Demands (VIDEO)," *The Huffington Post*, August 22, 2014, http://www.huffingtonpost.com/2014/08/22/ferguson-protest-demands_n_5701847.html.

116. Durrie Bouscaren, "A Group of Ferguson Protesters Releases List of Demands, Calls for National 'Walk Out,'" *St. Louis Public Radio*, August 22, 2014, http://news.stlpublicradio.org/post/group-ferguson-protesters-releases-list-demands-calls-national-walk-out.

117. "NAACP Holds Peaceful Protest in Ferguson," *KSDK.com*, August 23, 2015, http://www.ksdk.com/videos/news/local/2014/08/23/14509145/.

118. Eyder Peralta, "At Michael Brown's Funeral, A Call for a Day of Reckoning," *NPR.org*, August 25, 2014, http://www.npr.org/blogs/thetwo-way/2014/08/25/343082268/on-day-of-funeral-michael-browns-family-calls-for-day-of-silence.

119. Jelani Cobb, "Between the World and Ferguson," *The New Yorker*, August 26, 2014, http://www.newyorker.com/news/news-desk/world-ferguson.

10:00 a.m.
Chief Belmar
holds press
conference

12:02 p.m.
Shooting
of
Michael
Brown

Governor Nixon
orders MSHP
to take charge
of the Ferguson
demonstrations;
command
transfered to
MSHP

Governor
Nixon issues
a state of
emergency
and imposes
a curfew

Governor
Nixon orders
the Missouri
National
Guard into
Ferguson and
the curfew is
lifted

Governor
Nixon orders
the Missouri
National
Guard to
systematically
withdraw
from Ferguson

12:23 p.m.
Chief Jackson
requests
SLCPD to
investigate
the homicide
and assist
with crowd
control

FPD releases
the name of
Darren Wilson
as the officer
who shot
Michael Brown
and the video
of the Ferguson
liquor store
incident

Then U.S.
Attorney General
Eric H. Holder
arrives
in Ferguson

Funeral
for Michael
Brown

| 8/9/2014 | 8/10 | 8/11 | 8/12 | 8/13 | 8/14 | 8/15 | 8/16 | 8/17 | 8/18 | 8/19 | 8/20 | 8/21 | 8/25 |

Ferguson
requests
assistance
with
demonstrators

Protesters
from
outside the
area arrive

Crowd
attemps
to overtake
command post

From 8/19 to 8/25 there was relative calm—
no gunshots or Molotov cocktails directed at
officers and no smoke or tear gas deployed

8:58 p.m.
QuikTrip is looted
and set on fire;
widespread
looting of other
Ferguson
businesses
follows

**Figure 11.** Major events timeline in Ferguson

Source: Institute for Intergovernmental Research

# INCIDENT COMMAND AND INCIDENT MANAGEMENT

**Incident command during the time of the assessment** essentially occurred in three phases. The first occurred at the homicide scene where the crowd grew and evolved into the larger protests. The St. Louis County Police Department took responsibility for incident command as it became apparent this was not a normal homicide scene response. The second phase commenced as the command structure started to take shape at the command post on August 10. Initially, this command post comprised six command vehicles parked in close proximity to one another in the parking lot of the Buzz Westfall Plaza (in Jennings, Missouri) shopping center (see figure 12). A small, empty commercial space located adjacent to the command vehicles was made available and became the common meeting room. During this phase (August 10–14, 2014), the St. Louis County PD was the dominant agency.



Source: St. Louis County PD

**Figure 12.** Aerial view of the command post

Phase three commenced on August 14, 2014, when Governor Jay Nixon, in Executive Order 14-08, declared a state of emergency and designated the Missouri State Highway Patrol to "command all operations necessary to ensure public safety and protect civil rights in the city of Ferguson and, as necessary, surrounding areas during the period of this emergency."[120]

Despite the clear categories, these three phases do not have clear lines of demarcation; rather, they were an evolution.

Although the agency responsible for incident command sets the direction for types of enforcement that will be undertaken, including issues such as the overall direction for dealing with demonstrators, deployment of gas, and more, these decisions are usually agreed to by the unified command.

An inherent part of the police response in Ferguson, including challenges for incident command, was a procedure unique to St. Louis law enforcement known as "Code 1000." As a result, it is important to understand the St. Louis County Code 1000 Plan before a discussion on the incident command can occur.

## Code 1000

The definition, purpose, and applicability of the Code 1000 Plan are as follows:

- **Definition.** The Code 1000 Plan is an administrative and an operational mutual aid contingency plan that coordinates the commitment and deployment of police resources within the geographic limits of St. Louis County, Missouri.

- **Purpose.** Code 1000 provides a preplanned method of coordinating the mobilization and management of law enforcement personnel, equipment, and expertise during a local or countywide emergency situation.

- **Applicability.** Law enforcement authorities may activate this plan anytime they have insufficient personnel, equipment, or special expertise to maintain law and order during an ongoing crisis. Activation may be exercised if a participating jurisdiction believes additional

resources may be needed to respond to an anticipated event that presents the potential for rapidly overwhelming local resources.[121]

The St. Louis Area Police Chiefs Association created the Code 1000 Plan, and legal authority for the procedure is provided for in Missouri state statutes, St. Louis County ordinances, municipal ordinances, and mutual aid agreements. The Code 1000 Plan was updated in 2013. Essentially, when support is needed for a large incident, an on-scene supervisor requests Code 1000. With the Code 1000 activation, the closest 25 police cars within St. Louis County are dispatched to the scene.

A complicating issue that can arise when Code 1000 is called is that additional units often self-deploy to the scene, adding complexity to managing the scene. Essentially, all officers on duty will hear the call and respond, and a number of officers will decide to respond to the scene even if not dispatched. Unless those officers identify themselves to the dispatcher, there is no record of their presence at the scene, and on-site supervisors may be unaware of their presence. If the supervisor is unaware of self-deployed officers, accountability is reduced. Hence, mechanisms need to be explored and implemented that will discourage self-deployment and account for officers who do self-deploy at an incident. However, given the many municipalities and small police departments in St. Louis County, this might be difficult.

While Code 1000 may work well for a natural disaster, in a situation with a crowd or public disorder, Code 1000 has limitations. Officers from different agencies have different levels of training and experience, and they represent agencies with differing policing cultures. This can contribute to tactical inconsistencies and different quality in police services. Moreover, there are organizational control issues. For example, a lieutenant from a small agency may be dispatched and assigned to "work for" a sergeant from the St. Louis County PD. While this can be addressed in incident command decisions, the number of small agencies, of which many officers knew each other, present during the Ferguson demonstrations complicated this factor as a result of the "informal organization." This can become

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120.  State of Missouri Executive Order 14-08, August 16, 2014, https://governor.mo.gov/news/executive-orders/executive-order-14-08.

121.  "The Code 1000 Plan for St. Louis County and Municipal Agencies," 2013, http://www.stlouisco.com/LawandPublicSafety/EmergencyManagement/Code1000. Access granted by the director of the St. Louis County Office of Emergency Management at http://www.stlouisco.com/LawandPublicSafety/PoliceDepartment/MunicipalServicesandContracting/PoliceServicesProvidedAcrossStLouisCounty.

a challenge for command and control. One police official interviewed stated it succinctly: "Code 1000 is a response mechanism, not a plan."

Based on information provided by the St. Louis County PD, the following police departments checked in at the command post from August 9–25, 2014:

- Ballwin
- Bel Nor
- Bel Ridge
- Bellefontaine Neighbors
- Berkeley
- Beverly Hills
- Breckenridge Hills
- Brentwood
- Bridgeton
- Calverton Park
- Charlack
- Chesterfield
- Clayton
- Country Club Hills
- Crestwood
- Creve Coeur
- Des Peres
- Edmundson
- Ellisville
- Elsberry
- Eureka
- Florissant
- Frontenac
- Hazelwood
- Hillsdale
- Kinloch
- Kirkwood
- Ladue
- Manchester
- Maryland Heights
- Missouri State Highway Patrol
- Normandy
- Olivette
- Overland
- Pacific
- Pine Lawn
- Richmond Heights
- Rock Hill
- Shrewsberry
- St. Ann
- St. Charles
- St. John
- St. Louis County
- St. Louis Metropolitan
- Sunset Hills
- Town and Country
- Velda City
- Vinita Park
- Washington University
- Webster Groves
- Woodson Terrace



Source: St. Louis County PD

Officers checking in and receiving their assignments at the command post.

Any Code 1000 response means the officers responding will come to the scene with various levels of training and preparedness for what is to be encountered. While Code 1000 can quickly ensure a greater number of police at a scene, it does not guarantee that all responding officers are ready and prepared to do what may be demanded of them. Based on interviews with law enforcement officers and community members, a small number of officers in the smaller jurisdictions may not be certified.[122] The State of Missouri suing 13 St. Louis County towns for speed-trap profiteering suggests that some municipalities in St. Louis County may not have a focus on officers engaged in non-traffic law enforcement efforts.[123] The culture and expectations of officers in these small towns may be greatly different from officers in larger departments. The training and experience of officers will vary greatly from agency to agency. When Code 1000 is issued, officers' geographic proximity to the stimulus is a primary factor, not their training, experience, and preparedness to deal with the situation. As a result, some officers who respond may not be well prepared to deal with what they encounter. This is

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122. This statement is based on observations by a number of law enforcement personnel interviewed.

123. For example, see "Missouri Sues 13 St. Louis County Towns for Speed-Trap Profiteering," *ConsumerAffairs.com*, December 19, 2014, http://www.consumeraffairs.com/news/missouri-sues-13-st-louis-county-towns-for-speed-trap-profiteering-121914.html.

not the type of staffing needed to police mass gatherings such as that which occurred in Ferguson, yet it is the police staff produced by a Code 1000 response.

It should be clarified that the Code 1000 Plan is for the law enforcement agencies in St. Louis County. St. Louis Metropolitan Police Department and the Missouri State Highway Patrol are not part of the Code 1000 Plan. However, if asked, each agency will send officers to respond to an event, not as a result of the procedure but based on mutual aid.

## Evolution of incident command

The change of incident command had an effect on the police response. Initially, the Ferguson PD was responsible for the homicide scene. However, Ferguson PD Chief Thomas Jackson believed it was more important to have an outside agency investigate the officer-involved shooting. He believed he had two choices—the multijurisdictional Major Case Squad or the St. Louis County PD. Because a Ferguson PD captain was the commander of the Major Case Squad at that time, Jackson opted for the St. Louis County PD.[124] Thus, approximately 20 minutes after the shooting, the agency responsible for the scene changed from the Ferguson PD to the St. Louis County PD. With the St. Louis County PD in charge of the investigation, it also took responsibility for crowd control at the homicide scene because of the large crowd gathering and because the Ferguson PD now only had three officers and a supervisor on duty.

At this point, despite the size of the crowd, the situation was still viewed as crowd control at the scene of an officer-involved shooting that would dissipate after the initial investigation was completed. In the absence of gathering information through social media and established community contacts who may have indicated the probability of a prolonged event, the current scene was not viewed as an "incident" within the context of the National Incident Management System (NIMS), the national standard for handling critical incidents, (see appendix D for more on NIMS and its terminology).

As the crowds grew, the St. Louis County PD requested assistance from local municipal police via the Code 1000 Plan and from the Missouri State Highway Patrol based on a mutual aid agreement.[125] A Missouri State Highway Patrol incident commander responded to Ferguson with troopers on August 10 because of the size of the crowds and the potential for unlawful disorder.

The St. Louis County PD remained in charge of crowd control throughout the evening of August 9 and the early morning hours of August 10. With the on-scene homicide investigation completed and as the crowds dissipated, the Code 1000 response officers returned to their jurisdictions, and officers from both the St. Louis County PD and the Ferguson PD resumed patrol and responded to calls for service. In those early morning hours and going forward to midday, there were no crowds; hence, in the view of law enforcement, there was no incident to command during that time.

As the crowds started to assemble and grow again, the Ferguson PD and the St. Louis County PD jointly conferred on how to best respond to the crowd. They also began to use a *de facto* incident command approach that was similar to NIMS in that, for practical purposes, the two agencies had begun to use a unified command structure to deploy officers and monitor two primary locations. It was initially an informal joint command, but deference was given to the St. Louis County PD because it had more resources involved, including a Tactical Operations Unit. Events were developing quickly, and the command structure and decision making was becoming more refined and formalized as time passed.

There were three locations of concern at this point: West Florissant Avenue and Canfield Drive, Canfield Green Apartments at the vigil area, and South Florissant Road in front of the Ferguson PD. There was growing volatility directed toward the police presence at Canfield Green Apartments. Angry people were surrounding police cars. On-scene St. Louis County PD commanders were directing officers to leave the area, but it was difficult to leave via the natural route—Canfield Drive to West Florissant Avenue. As a result, officers had to leave via a circuitous route to Glen Owen Drive. Some officers reported that they had to cut the lock on a gate at the back of the apartment complex

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124. The Missouri State Highway Patrol was not considered a viable option to investigate because it did not have a sufficient number of investigators in the area and would have required investigators to respond from Jefferson City.

125. Missouri State Highway Patrol troopers were scattered all over the multicounty Troop C Area, so their response times to Ferguson varied.

to leave the area. Because of crowd reactions and chanting, there was fear that a continued police presence at Canfield Green Apartments would further aggravate demonstrators. As a result, St. Louis County PD commanders decided to leave the area completely. Some believed this would provide a haven for protesters to "cool off" without a police presence. Others in law enforcement worried that without a police presence, crime and violence would increase.

As the demonstrations and disorder moved into the week of August 11, the St. Louis County PD essentially assumed incident command, largely because the Ferguson PD did not have the resources and it still had to handle calls for service in the city. There was still a need for outside assistance from Code 1000 agencies, from the Missouri State Highway Patrol, and the St. Louis Metropolitan PD. [126]

A command post was established on August 10 approximately one-half mile from West Florissant Avenue and Canfield Drive at a strip mall at 8019 West Florissant Avenue in Jennings, Missouri. This location was selected because a small police substation was housed in the strip mall, and it provided a large parking lot to serve as a staging area. The mall included a Target store, a grocery store, and many small businesses, including restaurants. Although the police command post and staging area were located there, along with the media staging area, the businesses remained opened, and residents constantly entered and left the area.

A precise reconstruction of the command post organization is not possible because of the constantly evolving nature of the organization of the response of the incident.

Based on interviews with responding officers, traffic control was an issue because of the public businesses that were open. Initially, police officers in the response provided security for the command post. However, the Missouri National Guard took over security of the command post on August 18 in order to reassign police officers to crowd-control duties. While visually this was somewhat of an unusual command post environment, one police commander stated, "It worked pretty well," and "There were really no security problems" that occurred at the command post.

Because of the growing crowds and violence, Governor Nixon, in an unanticipated move, appointed Captain Johnson as the incident commander on August 14. This caused some discontent because it was perceived as the state usurping local authority. Hence, incident command formally changed from the St. Louis County PD to the Missouri State Highway Patrol. At the request of Johnson, the St. Louis Metropolitan PD again provided officers and tactical support on the evening of August 14. The violence subsided somewhat initially and then resumed with greater intensity in ensuing days.

According to NIMS, Captain Johnson as the incident commander was "responsible for all incident activities, including the development of strategies and tactics and the ordering and the release of resources. The [incident commander] has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the

> *The command structure and decision making was becoming more refined and formalized as time passed.*

incident site."[127] However, Johnson was being pulled in many directions by community meetings and media requests and was not able to fully devote his attention to the responsibilities of an incident commander. As a result, an informal unified command evolved among the Missouri State Highway Patrol, the St. Louis County PD, and the St. Louis Metropolitan PD, with the foremost remaining as the formal incident command agency.

The Ferguson PD was not part of the unified command because, as one police commander stated, the department had become a "lightning rod." Off-duty Ferguson PD officers were called in to work 12-hour shifts to answer calls for service in the city and to assist in protecting the Ferguson police and fire headquarters buildings.[128] As

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126. At the request of the St. Louis County PD, the St. Louis Metropolitan PD provided tactical support. But after two nights of protests, the St. Louis Metropolitan PD did not provide officers because of concern about the optics of the St. Louis County PD tactical appearance and procedures, which resulted in increased reliance on other departments, including local municipalities.

127. ICS Resource Center, "Glossary of Related Terms," Federal Emergency Management Administration, accessed May 19, 2015, http://training.fema.gov/emiweb/is/icsresource/glossary.htm. See appendix D for more definitions.

128. The buildings are located next to each other, with the fire department serving as a place to eat and rest.

the crowds grew in front of the Ferguson PD, incident command assumed responsibility for this area as well as the demonstrations on West Florissant Avenue. Based on interviews with law enforcement officials, this occurred following Ferguson PD's press conference on August 15, in which it released the name of Officer Darren Wilson and the convenience store video of Michael Brown just prior to the August 9 shooting.

> *Because the issues and environment were changing quickly, "We were always playing catch up," noted one commander.*

Officers consistently reported that in the initial days, it did not appear that NIMS was used effectively—one supervisor stated that it seemed like "management by the seat of our pants." The exact reasons NIMS was not fully implemented remains elusive. However, it appears to be an interactive product of circumstances rapidly changing in the community, law enforcement agencies being in a reactive "catch up" mode, the changes in incident command, and leadership simply not taking the time to "step back" and fully plan and implement NIMS. The lack of NIMS being fully implemented during the assessment period created a dissonant environment for developing a strategic response vision and consistent response tactics.

Because the issues and environment were changing quickly, "We were always playing catch up," noted one commander.[129] These complaints were heard, often forcefully, from officers of different ranks with the Missouri State Highway Patrol, the St. Louis County PD, and, to a lesser extent, the St. Louis Metropolitan PD.[130] One officer simply said, "We looked lost." Other officer comments included the following:

"We gave up a city; we are unclear who we can arrest; and everybody thinks they're special and the rules don't apply to them."

Although this issue is outside the scope of the assessment, in planning for the grand jury announcement in November, the St. Louis County PD, the Missouri State Highway Patrol, and the St. Louis Metropolitan PD did "step back" and fully plan and implement their response according to NIMS. There was approximately three months from the end of the assessment period until the release of the grand jury decision. Law enforcement leaders expected further demonstrations and potential disorder, depending on the grand jury decision. With the experience of the first 17 days in Ferguson behind them and with time to prepare for the grand jury decision, law enforcement leaders were able to develop a response strategy. Hence, they were able to "plan" rather than "react."

During the early days of the Ferguson demonstrations, law enforcement believed that the demonstrations and disorder would be short-lived. As a result, law enforcement continued to rely on Code 1000 as the response plan. As time passed, that assumption proved false. Repeatedly, law enforcement was required to respond to demonstrations and behavior growing in size and intensity.

Unfortunately, in the eyes of many officers and supervisors, the police response seemed like a rudderless ship because direction for officers on arrests and engaging protesters seemed to change regularly. One officer who expressed frustration about the direction and responsibilities of officers asked, "What should we be doing? How should we be doing it? Citizens became bolder by the third or fourth day—shooting drugs, stealing in front of officers. Police were on their heels because what we could or could not do changed every single day." Reinforcing this last point, a commander from one agency admitted, "We tried different tactics each and every day to try and bring this incident under control."

Related to this, another officer stated, "Canfield Apartments became a no-police zone. We were told [by police commanders] we could not go into Canfield Apartments.

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129. As relative calm returned to Ferguson and the St. Louis County PD, the Missouri State Highway Patrol, and the St. Louis Metropolitan PD looked ahead to the release of the grand jury decision, the agencies anticipated more public demonstrations and possible violence. As a result, they trained police personnel and developed policies, procedures, and plans to fully implement NIMS at that time.

130. Ferguson PD officers were not involved in many of the crowd-control operations other than at the Ferguson PD's headquarters; as a result, they interacted less with incident command.

We contained the area, did not go into the area, and by default the area became a safe haven for criminals." Interestingly, Ferguson residents also complained that the police had "abandoned" Canfield Green Apartments. The only rationale the assessment team could find for this "hands off" approach was the fear that if the police went into the area during the demonstrations, it would create more conflict and violence.

St. Louis Metropolitan PD Chief Samuel Dotson was uncomfortable with the tactics used in the initial response[131] and did not send officers back to Ferguson for three days until requested by the Missouri State Highway Patrol. According to the St. Louis Metropolitan PD, when they were called back by the highway patrol, there was no designated point of contact from which the department could get information. In addition, St. Louis Metropolitan PD officers interviewed felt that the highway patrol was ill equipped to take responsibility for incident command, as "they normally work in rural areas and patrol the highways and therefore are not accustomed or trained to work mass demonstrations in urban environments."

The governor's appointment of the Missouri State Highway Patrol for the incident command placed even more strain on already strained relationships among the four core responding agencies of this assessment. Furthermore, police leaders felt that the public trust of the Ferguson PD was so damaged by the first few days of the demonstrations that there was a conscious decision to exclude the Ferguson PD from the command post and limit its participation in the police response.

The incident commander, Captain Johnson,[132] was involved in extensive community engagement efforts and media interviews. As a result, he was less engaged in day-to-day, hour-to-hour incident command responsibilities and instead became the public face for the police response. As a result, the full responsibilities of incident command were often not executed. This resulted in a diminished ability to spend time monitoring the changes in staffing needs, to provide direction for command, and to engage in effective communications with commanders and deployed personnel.

Consequently, according to interviews with officers and commanders, morale among officers dropped and inconsistent incident management decisions were being made. At the same time, the media was appreciative of his command; one report said Johnson "was specifically praised by many interviewees for his willingness to engage in dialogue, answer questions, and interact with protesters and the press."[133]

There was a sense among the Missouri State Highway Patrol respondents that the reputation, image, and tradition of the highway patrol were damaged by the approach to incident command. One trooper stated, "We are the highway patrol: we ask people, we tell people, and then we make people comply [with lawful orders], and in this incident, we did none of that." Another observed, "Peaceful protesters, residents, and even business owners were asking us, 'Why are you here if you are not going to do anything?'"

After two days with Captain Johnson as incident commander, state officials asked St. Louis County Chief Belmar to join the command structure in a more formalized unified command structure.

A recurring issue brought up by officers was uncertainty about arrest procedures. Commanders consistently stated that officers were told what offenses qualified for arrest and what types of activities protesters were allowed to do. In the minds of the commanders interviewed, these guidelines for arrest were clear. However, statements from St. Louis County PD, St. Louis Metropolitan PD, and Missouri State Highway Patrol officers consistently, and clearly, indicated there was confusion. When asked specifically about arrest guidelines and procedures, the assessment team received statements[134] such as the following from those interviewed:

- "There was no objective or strategy to manage the mass demonstrations, much less arrests, and it appeared that [incident command] was receiving changing direction on how to command, enforce directives, and when the law would not be enforced."

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131. Kohler, "St. Louis Police Chief Says" (see note 66).

132. Based on a discussion with Captain Johnson, he received incident command training under NIMS several years ago. The exact date is unknown.

133. Katy Glenn Bass and Alexander Weaver, *Press Freedom Under Fire in Ferguson* (New York: PEN American Center, 2014), 3, http://www.pen.org/sites/default/files/PEN_Press-Freedom-Under-Fire-In-Ferguson.pdf.

134. This series of quotes is meant to illustrate the discussion in previous paragraphs. These are direct quotes from interviews and are the perceptions of the individuals interviewed.

- "There was no plan in place for arresting people and no standard way to document arrests. When people were arrested, conditions of release varied depending on the agency making the arrest."

- Law enforcement on-scene stated that they were "unclear who they could arrest."

- "Regardless of the criminal acts being perpetrated before our eyes, the orders were essentially to not make arrests as you would during routine police operations."

- "The QuikTrip fire happened, and we told folks to move or get arrested. This changed very quickly. We could not tell people what to do. Was this a police decision or legal advice?"

- "There was no one standing order; the order changed every day."

Despite the issues about arrests, the four core agencies made 236 arrests throughout the assessment period; however, because agencies not part of this assessment also made arrests, the total number of arrests is unknown.

> *Command decision makers involved in the response sought to make the best decisions and take the best approach that would protect the First Amendment rights of protesters, protect lives of all persons in Ferguson, and protect property.*

Moreover, arrestees were taken to different locations for booking, so a census from the St. Louis County jail alone would not show the whole picture. Another issue was that demonstration-related arrests were not always clear. For example, an arrest for a burglary that occurred near the protest area may or may not have been related to the demonstrations.

Similarly, it is unclear whether arrests on firearms charges from a car stopped at the protest area is demonstration-related. Despite these challenges, the assessment team estimated that more than 300 arrests were made during the assessment period; the vast majority were misdemeanor

failure-to-disperse arrests. Others were for burglary (associated with looting businesses), assault and unlawful weapons use, and disturbing the peace. At least 32 of the arrestees lived outside the state of Missouri.

A hindrance to establishing control of the area was the lack of an effective traffic control plan during part of the 17-day period, especially in the evening hours. The fact that vehicles could move freely throughout the operational area was a great aid to the protesters and activists but a tactical disadvantage and safety hazard to the deployed officers. Protesters in vehicles are more flexible in their movements than officers on foot deployed along a static line.

Police leaders interviewed stated that command decision makers involved in the response sought to make the best decisions and take the best approach that would protect the First Amendment rights of protesters, protect lives of all persons in Ferguson, and protect property. Unfortunately, there were voids in the decision makers' understanding of the people and their presence. Having effective relations and communications with the community, recognizing that endemic problems were at the base of the demonstrations, and understanding how the character of the mass gatherings was evolving and spreading beyond the initial officer-involved shooting would have all aided in incident management decisions.

## Findings and lessons learned

**FINDING 1.** *The Code 1000 Plan, along with the mutual aid agreements from the Missouri State Highway Patrol and St. Louis Metropolitan PD, was the only police resource option available at the time to respond to the Ferguson demonstrations; however, it proved to be an ineffective response mechanism for the demonstrations for the following reasons:*

- *There were no effective protocols in place to handle an event like this; if such protocols had been in place, they would have identified the appropriate police resources and procedures for the event to accompany the mutual aid agreements*

- *The inability to effectively provide command and control for the many responding agencies*

- *The inconsistent training among officers in the responding agencies*
- *The different approaches to policing*
- *The tendency toward officer self-deployment by agencies not included in this assessment in the early days of the Ferguson demonstrations, which reduced officer accountability*

**LESSON LEARNED 1.1.** Officers from different agencies designated to respond should train together and share common policing philosophies and professional standards.

**LESSON LEARNED 1.2.** Agencies should have strong policies on self-deployment, and memoranda of understanding and mutual aid agreements should be formalized among the agencies to provide clear and consistent guidelines and procedures. In addition, these guidelines must be practiced at all operational and command levels of the participating agencies.

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**FINDING 2.** *During the first two days (Saturday, August 9 and Sunday, August 10), the St. Louis County PD and the Ferguson PD did not anticipate that the Ferguson demonstrations would be long-term and focused only on immediate tactical responses; therefore, they did not effectively plan for a long-term operational strategy.*

**LESSON LEARNED 2.1.** Agencies should transition from a short-term response plan to a more organized mutual aid response once it is evident that the incident or event may be protracted.

**LESSON LEARNED 2.2.** Law enforcement agencies should develop comprehensive operational plans that include short-term response strategies that directly support long-term operational goals.

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**FINDING 3.** *Incident command sought to make changes in their response and protest management based on their diverse array of experiences, with changes being implemented both during and after the assessment period.*

**LESSON LEARNED 3.1.** Even with the best planning for a police response to a protest, the nature and evolution of a protest, factors collaterally related to the protest, and the effectiveness of tactics and strategies must be constantly monitored and changed to reflect the changing protest management environment.

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**FINDING 4.** *While incident command was established, the National Incident Management System (NIMS) was not fully implemented, which inhibited coordination and response efforts.*

**LESSON LEARNED 4.1.** Law enforcement agencies should use the NIMS model for a critical incident, particularly when there is a multiagency response. Agencies should not only adopt the NIMS operating model and meet certification standards but also regularly train and exercise with participating agencies.

**LESSON LEARNED 4.2.** Law enforcement agencies should draw on the resources of NIMS incident management teams—groups of highly trained individuals who can be requested to deploy to the command center and help the incident commander (IC) set up his or her organization. These teams do not manage the event; they are present to help the IC get organized.[135]

**LESSON LEARNED 4.3.** Law enforcement should implement and provide NIMS awareness training for elected officials and staff to underscore the importance of command and control.

**LESSON LEARNED 4.4.** The IC should remain focused on strategic decisions and allow other duties to be delegated to other members of the incident command team.

**LESSON LEARNED 4.5.** Clear and consistent communication from the IC to supervisors and all officers involved is imperative. As directives change throughout the incident, additional and continued notifications of changes must be made.

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135. An informative reference is "Interstate Mission Ready Package, All-Hazards IMT Type 3," All-Hazards Incident Management Teams Association, August 21, 2014, http://www.ahimta.org/Resources/Documents/AHIMTA%20IMT%20MRP%20August%202014.pdf.

**FINDING 5.** *Incident command, with input from protest leaders, developed traffic management plans for the protest areas that minimally disrupted the traffic flow and provided safe environments for protesters.*

**LESSON LEARNED 5.1.** A traffic management plan involving the area where protests occur should be multifaceted with variation in road closures and detours considering variables to include time of day; nature of the protests; the number of protesters, businesses, and government buildings within the protest area; and traffic factors related to the safety of drivers, protesters, and officers.

**FINDING 6.** *Incident command did not ensure that factors regarding arrest decisions were established and adequately conveyed to operational supervisors or frontline officers.*

**LESSON LEARNED 6.1.** Unified command should clearly convey factors that officers should consider when exercising their authoritative discretion to arrest. Unified command should also provide clear guidelines that minimize individually applied discretionary enforcement decisions by officers.

> *Lesson learned. Unified command should also provide clear guidelines that minimize individually applied discretionary enforcement decisions by officers.*

# USE OF FORCE

One of the biggest controversies surrounding the Ferguson demonstrations was the use of force by law enforcement. A number of media outlets and blogs reported that law enforcement used or threatened to use excessive force in the management of mass gatherings during the Ferguson demonstrations.[136] In addition to documented instances of individual officers threatening excessive force in Ferguson,[137] the use of force, particularly tear gas, to disperse demonstrators was particularly controversial.[138]

## Defining lawful use of force

While there are different definitions of use of force, the recognized legal guideline for police use of force is "whether the police officer *reasonably* believed that such force was *necessary* to accomplish a legitimate police purpose."[139] Any force used beyond this standard would be deemed excessive and warrant an investigation.[140] The variables in any given use of force encounter are dependent on the facts that must be weighed through a law enforcement agency's internal investigation processes. Under the Fourth Amendment, a police officer may use such force only as is "objectively reasonable" under all of the circumstances.[141]

An accepted practice for officers to apply this legal guideline involves the "continuum of force,"[142] which outlines different levels of authorized force in light of the circumstances an officer faces. Often circumstances in a police encounter happen quickly, and an officer may move across the continuum in a matter of seconds.[143] While varying

136. For example, see Sahil Kapur, "Did Police Use Excessive Force against Ferguson Protesters?" *Talking Points Memo*, August 14, 2014, http://talkingpointsmemo.com/dc/did-police-use-excessive-force-ferguson; "Police Used Excessive Force to Quell Ferguson Unrest: Suit," *New York Post*, August 29, 2014, http://nypost.com/2014/08/29/police-used-excessive-force-to-quell-ferguson-unrest-suit/.

137. For example, see Greg Botelho, "Officer Suspended for Pointing Semi-Automatic Rifle at 'Peaceful' Protester," CNN, August 20, 2014, http://www.cnn.com/2014/08/20/us/missouri-police-officer-suspended/.

138. For example, see "Reports: Protesters, Including a Child, Hit by Tear Gas in Ferguson," *The Week*, August 17, 2014, http://theweek.com/speedreads/447988/reports-protesters-including-child-hit-by-tear-gas-ferguson.

139. "Use of Force," Office of Community Oriented Policing Services, accessed May 19, 2015, http://www.cops.usdoj.gov/default.asp?Item=1374.

140. Geoffrey P. Alpert and Roger G. Dunham, *Understanding Police Use of Force: Officers, Suspects, and Reciprocity* (New York: Cambridge University Press, 2004).

141. *Graham v. Connor*, 490 U.S. 386 (1989).

142. For example, see International Association of Chiefs of Police, *Emerging Use of Force Issues: Balancing Public and Officer Safety* (Washington, DC: Office of Community Oriented Policing Services, 2012), http://ric-zai-inc.com/ric.php?page=detail&id=COPS-P232.

143. William Terrill and Eugene A. Paoline, "Examining Less Lethal Force Policy and the Force Continuum: Results From a National Use-of-Force Study," *Police Quarterly* 16, no. 1 (March 2013): 38–65; see also International Association of Chiefs of Police, *Emerging Use of Force Issues* (see note 142).

terminology describes the continuum of force authorized by police policies, conceptually they follow an example model described by the U.S. Department of Justice, National Institute of Justice (NIJ).[144] The following example highlights the NIJ's use of force continuum:

- **Officer presence.** No force is used. Considered the best way to resolve a situation.

- **Verbalization.** Force is not physical.

- **Empty-hand control.** Officers use bodily force to gain control of a situation.

- **Less-lethal methods.** Officers use less-lethal technologies to gain control of a situation.

- **Lethal force.** Officers use lethal weapons to gain control of a situation. Should only be used if a suspect poses a serious threat to the officer or another individual.[145]

In contrast to individual use of force, group-level use of force involves several officers and the judgment of a supervisor on the scene to evaluate the facts and circumstances to determine whether a use of force is required and, if so, the type of force, such as deployment of canines or use of less-lethal projectiles or tear gas.

## Documentation of force during the assessment period

Documentation of the use of force throughout the assessment period consists of materials such as incident command logs, computer-aided dispatch logs, and interviews. There is no single comprehensive source for documenting the use of force, including the deployment of tear gas and crowd-dispersal projectiles. Based on the collective interviews with police command personnel, several factors appear to contribute to this limited availability of information:

- The large number of involved agencies, each with their own policies and chain of command, made universal documentation difficult, particularly in the early days of the demonstrations.

- With the changes in incident command and the evolution of incident command, some details were not addressed or uniformly captured. Despite the

importance of documenting the use of force, the agencies did not fully address this factor during the assessment period.

- Agencies using different communications units were involved in the response; hence, there were multiple police dispatch logs that may (or may not) have recorded the use of force.

- Confusion during periods of aggressive demonstrator activity resulted in incomplete documentation by law enforcement of the incidents when force was used.

Review of agency after-action reports would be particularly useful to better understand the deployment of these less-lethal weapons. The assessment team requested after-action reports from the four core responding agencies. The Ferguson Police Department had no after-action report. The St. Louis County Police Department after-action report was not complete at the time of this assessment. The St. Louis Metropolitan Police Department after-action report was in draft form and not available for the assessment team to review. The Missouri State Highway Patrol had completed an after-action report; however, the assessment team was not provided a copy of the report. Two team members were permitted to look at the report briefly in person during a site visit but were not permitted to copy or take notes on the report contents.

The assessment team reviewed the use of force policies for the Ferguson PD, the St. Louis County PD, and the St. Louis Metropolitan PD and found each policy to be consistent with legal guidelines and accepted practice. The Missouri State Highway Patrol did not disclose its use of force policy, citing exemption from public records disclosure under Missouri Revised Statute 610.100; however, the agency did provide its use of force materials to the assessment team for a limited on-site examination that did not permit copying. Team members interviewed personnel from the highway patrol and found that they used a use of force training curriculum different from the continuum of force model. However, this does not mean that the Missouri State Highway Patrol training was deficient or not in conformance with widely accepted police practices.

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144. "The Use-of-Force Continuum," National Institute of Justice, accessed May 2015, http://www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/Pages/continuum.aspx.

145. Ibid.

## Types of force used in Ferguson

Types of force can vary from police canines to projectiles and tear gas. Each type has its uses and concerns.[146]

### Police canines

Interviews of Ferguson citizens showed concern about law enforcement using canines for crowd control. Citizens told the assessment team, "When the police bring out the dogs, they have no empathy for the people; they were taking dogs out of the cars like we were going to attack; they tried to scare us with the dogs—no one was intimidated." Beyond statements from community members, the assessment team identified photographs, video, and media reports of police dogs at the homicide scene and on West Florissant Avenue and South Florissant Road during demonstrations.[147]

Although statements in interviews indicated that canine use at the homicide scene was limited to backup, news videos showed the canines barking aggressively at crowd members. While the presence of canines is not typically characterized as use of force, their use under these circumstances was viewed as such by most community members and by many in law enforcement.

Canines were used in some capacity throughout the assessment period. Although deployment of canines specifically for crowd control by the four agencies was limited to August 9 at the homicide scene, canines were also deployed as backup in several circumstances and were frequently observable. In a number of cases, the canines were from agencies not part of this assessment and therefore are not described in this report.

In general, police canines provide valuable support to law enforcement operations for tasks such as building searches, tracking, and detecting illegal substances.[148] The assessment team does not characterize the use of canines for crowd control as being aligned with current best policing practices. Law enforcement agencies that have canine units also have explicit policies on the circumstances wherein the dogs may be used, as well as on control, accountability, and training for canine use and behavior. Although an officer or supervisor may request assistance from a canine unit, the actual deployment of a dog is most commonly left up to the decision of the handler based on factors at the scene and the dog's capabilities.

Criticism of canines for crowd control is based on their history of being used against demonstrators during the 1960s civil rights movement,[149] most notably in 1963 when the Southern Christian Leadership Conference was demonstrating against racial inequality in Birmingham, Alabama, a city that was racially segregated. As the 1963 demonstrators, including children, moved forward, Bull Connor, the Birmingham commissioner of public safety, ordered the peaceful demonstration to be dispersed and used fire hoses and dogs against the demonstrators.[150] The images are searing; vicious police dogs were unleashed on citizens.[151]

All four law enforcement agencies in this assessment have canine units[152] and polices for handling those units. The Missouri State Highway Patrol and the St. Louis Metropolitan PD policies permit the use of canines for crowd control; the provision allows for discretion depending on the facts at the incident. The Ferguson PD and the St. Louis County PD policies do not prohibit the use of canines for crowd control. As such, use of the canines for crowd control would be permissible by policy and deployed at the discretion of a supervisor. Although policy may not prohibit the use of canines for crowd control, police leaders must recognize that use of canines may undermine confidence in and trust of the police and may adversely impact the overall mission; hence, canine deployment for this purpose should be carefully considered.

With this background in mind, the use of canines in Ferguson undermined many residents' trust in law enforcement. The use of dogs was provocative, particularly given the

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146. See *Principles for Promoting Police Integrity: Examples of Promising Police Practices and Policies* (Washington, DC: U.S. Department of Justice, 2001), https://www.ncjrs.gov/pdffiles1/ojp/186189.pdf.

147. For example, see Cathy Talbott and Pepper Holder, "Ferguson, MO: 'All We Want Is Justice,'" *People's Tribune*, September 2014, http://peoplestribune.org/pt-news/2014/09/ferguson-mo-want-justice/.

148. For example, see "Large Department K9 Policy & Procedure," Leerburg Enterprises, Inc., accessed May 19, 2015, http://leerburg.com/policy1.htm.

149. Jeremy Gray, "Bull Connor Used Fire Hoses, Police Dogs on Protesters (May 3, 1963) (Videos)," *Alabama Media Group*, May 3, 2013, http://blog.al.com/birmingham-news-stories/2013/05/bull_connor_used_fire_hoses_po.html.

150. "Birmingham 1963," History Learning Site, accessed May 2015, http://www.historylearningsite.co.uk/birmingham_1963.htm.

151. For example, conduct an Internet image search using the phrase "police dogs civil rights movement."

152. A canine unit consists of a trained police dog, the police officer who is the handler, and the police vehicle designed for transporting the police dog.

general environment of conflict fueled by racial tensions. The symbolism of using canines appeared to have a profound effect on community members that law enforcement did not seem to appreciate.

According to interviews with personnel from the four core agencies, only one crowd-control deployment of canines was authorized during the assessment period. On August 9, immediately after the officer-involved shooting and before the homicide scene was secured, a crowd was growing and encroaching on the evidence scene. According to interviews, one Ferguson PD and four St. Louis County PD canine units were deployed to walk between the crowd and evidence field to protect the homicide scene until the area was cordoned with barricade tape and officers were posted to secure the area. Once the area was secured, the dogs were returned to the police vehicles and departed the area. While this was a relatively limited use of the canines, it nonetheless generated a negative public reaction and criticism.

> *Regardless of police intent, when citizens see a police canine deployed near a mass gathering, they often assume the canine is being used to disperse protesters.*

For example, a member of the clergy interviewed stated that the optics of the police dogs bothered him and that he could not believe law enforcement thought it through before using the canines for crowd control. He said it was a "show of intimidation and amounted to civil rights movement optics. It demonstrated that the police were out of touch, escalated the tension, and doesn't work with this generation." Once he saw the police dogs on TV, he said he knew "there was no turning back."

Law enforcement interviewees with knowledge of canine use stated that with the exception of this occasion, canine units were not deployed for crowd control. However, in other instances, canine units were recorded on video and photographed walking behind a line of police officers clearing a street during daylight hours. Police officials

stated that the intent of the canines on this occasion was for backup and that the dogs were not deployed on the front line to confront protesters. There were other photographs of police dogs standing on streets with the handler, sometimes near protesters.[153] These, too, were described as being available for officer backup in critical situations and not for direct contact with the crowd.

Regardless of police intent, when citizens see a police canine deployed near a mass gathering, they often assume the canine is being used to disperse protesters. Although using the canine units in this backup capacity may have had tactical merit in Ferguson, it undermined community trust and was viewed as an attempt to intimidate demonstrators. Tactics must be balanced in consideration of their systemic effect, which, in this case, was the impact on community sensitivities. While not a violation of policy, the assessment team does not believe backup deployment of canines for crowd control exhibited good judgment in light of the nature of the crowd (i.e., citizens peacefully protesting) and the racial sensitivities in the community following the officer-involved shooting.

In Ferguson, use of canine units was also authorized in areas at or near the demonstrators for reasons other than crowd control. On one occasion, two police dogs were used to search a building for a burglary suspect. In another instance, a canine unit was used to track a criminal suspect. Members of the assessment team were also told it was likely that the canines were used for other purposes unrelated to crowd control (e.g., drug detection and backup at a car stop) at or near the mass gatherings. These instances of use, if accurately described, are acceptable law enforcement purposes for canine units. In one instance, it was reported that a St. Louis County PD canine officer self-deployed a dog in an area where a crowd was gathering but was told by a field supervisor to immediately return the dog to the vehicle and leave the scene.

On at least four additional occasions, demonstrators reported observing canines; however, none of these instances involved the four core agencies in this assessment. In three instances, officers from two different municipalities and one different county (again, not the agencies in

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153. For example, see Antonio French, "They've Brought the Dogs Out In #Ferguson," Vine.co, August 10, 2014, https://vine.co/v/MVTjzm2Ditx.

this assessment)[154] were observed in photographs and videos with dogs deployed at or near demonstrators. In the fourth case, a person observed with a dog on video in Ferguson was identified as a "deputy city marshal" from a small village near Ferguson, not a certified Missouri police officer.[155] Command officers from the St. Louis County PD and the Ferguson PD stated that they were not aware of these canine deployments.

Even if these cases were of self-deployed canine officers from other agencies, supervisors should have been aware of whom their own authorized personnel were; hence, the presence of self-deployed officers, particularly with canines, should have been apparent. Explanations that "there was a lot going on" or "we didn't see them" suggest that there were incongruities in the assignments and deployment of field supervisors as well as in communications from the command post to the field personnel on authorized deployments. This could also have been influenced by the fractured Incident Command System, wherein officer assignments were sometimes not made fully clear to field supervisors.

Because of the fluidity of circumstances or the practice of canine officers to self-deploy for backup, the numbers of instances when canines may have directly or peripherally had contact with protesters is simply not known. Although there were complaints about the presence and deployment of the dogs, there were neither reported complaints nor discovered photos or videos of police dog bites or attacks.

In sum, there appears to have been at least three confirmed occasions when canines from the four core agencies assessed were directly or tangentially deployed for crowd control. In addition, some members of the crowd likely came into limited contact with canines being used for other purposes or with canines being used by their self-deployed handlers.

Because policies did not prohibit the use of canines for crowd control, the assessment team found no evidence of policy violations associated with the deployment of police canines by the Ferguson PD or the St. Louis County PD. (The Missouri State Highway Patrol and the St. Louis Metropolitan PD did not deploy canines.) That said, the lack of a specifically defined policy on canine use for crowd control, which the Missouri State Highway Patrol and St. Louis Metropolitan PD failed to have, allows for too much discretion for their deployment, which has implications for both accountability and public trust.

There are some narrowly defined circumstances in which the use of canines in crowd control is justified. These include the protection of individuals, evidence, or property when no other reasonable means are available. Comprehensive and procedurally detailed policies should be developed to addresses these issues and ensure that police canines are used only when absolutely necessary in crowd-control situations. Beyond these narrowly defined areas, the assessment team strongly discourages the use of canine units for crowd control, even as backup. Any value provided by the canines is often outweighed by the dissonance that is generated by the dogs' presence.

## Batons

The police baton is designed to be both a defensive tool used to protect an officer from an assault and an offensive weapon used as less-lethal force when warranted on the use of force continuum. There are photographs and images of officers in Ferguson holding batons, mostly on the front line.[156] However, community members interviewed, including those involved in protests, did not have any complaints or comments about police batons. Similarly, no videos or photographs were discovered of officers using batons in Ferguson.[157] Consequently, the use of batons appeared not to be an issue for this assessment.

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154. This was determined by close examination of the officers' shoulder patches, uniforms, or vehicles.

155. For background, see Chris Hayes, "Police Chief Questions Credentials of Kinloch 'Marshal,'" *FOX 2 News*, December 23, 2014, http://fox2now.com/2014/12/23/police-chief-questions-credentials-of-kinloch-marshal/.

156. For example, see Josh Levs, "Column Defending Cops in Ferguson Sparks Online Fury," *Houston Style Magazine*, August 20, 2014, http://stylemagazine.com/news/2014/aug/20/column-defending-cops-ferguson-sparks-online-fury/.

157. A number of photographs were found online that purported to show batons being used by police in Ferguson. However, close examination of the photos, including the patches on the officers uniforms, the types of uniforms being worn, police vehicles in the photographs, and the background (e.g., stores, topography, and landmarks) clearly showed these photographs were not from Ferguson or the St. Louis metropolitan area.

## Electronic control weapons

The electronic control weapon (ECW), also known as a conductive energy device, is "designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses."[158] The Ferguson PD and the St. Louis County PD issues ECWs to all officers. The Missouri State Highway Patrol outfits its SWAT officers with these devices but not its troopers. The St. Louis Metropolitan PD not only outfits its SWAT officers with ECWs but also gives its line officers the choice to carry them. In Ferguson, there were no complaints or comments from interviewed community members, including those involved in protests, about the use of ECWs.

## Rubber bullets and projectiles

There were media reports about the use of rubber bullets[159] by law enforcement in Ferguson.[160] None of the four agencies in this assessment had obtained or used rubber bullets. However, the police had other types of materiel and projectiles that could have been easily mistaken for rubber bullets. While all of these less-lethal weapons can cause injury, the rubber bullets have the potential to cause more serious injury to an individual. This does not diminish the injury or discomfort that can be caused by other projectiles (see figure 13 on page 47).

With more than 50 law enforcement agencies responding to the mass demonstrations, the assessment team had no way of substantiating what less-lethal projectiles were used by other responding police departments. The St. Louis County PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol[161] had access to and did use different types of less-lethal projectile technologies[162] for crowd control, including the following:

- **PepperBalls.**[163] Similar in design to recreational paintballs, this projectile disperses pepper spray when it is broken. The PepperBall is intended to be shot at a wall or the ground to break the ball so the spray can escape into the air near targeted individuals. Although the PepperBalls are typically considered less lethal, if a person is struck by the projectile, it may cause bruising and soreness. If the content touches the skin, it would likely cause a burning sensation and can potentially cause serious injury or death as seen in October 2004 in Boston when a female was struck by a pepper spray ball and was killed.[164] PepperBalls have been banned by some jurisdictions.

- **Bean bag rounds.**[165] This low-velocity ammunition for a 12-gauge shotgun expands to approximately 1 square inch after being fired. Bean bag rounds are not designed to cause serious injury or death and are therefore considered a less-lethal weapon. However, bean bag rounds are capable of causing serious injury or death if they hit a relatively sensitive area of the body such as the eyes, throat, temple, or groin.[166] For example, a bean bag

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158. Police Executive Research Forum, *2011 Electronic Control Weapon Guidelines* (Washington, DC: Office of Community Oriented Policing Services, 2012), http://ric-zai-inc.com/ric.php?page=detail&id=COPS-P202.

159. On the subject of less-lethal munitions and area versus direct target, it is important to distinguish the difference between the types of less-lethal munitions used during the Ferguson demonstrations. Rubber bullets such as foam baton rounds, bean bag shotgun rounds, and 37-mm or 40-mm projectiles are used to target a specific individual and are not randomly fired into a crowd. Sting ball munitions, which are made of small rubberized round balls, are used for area dispersal and cannot be targeted at a single individual; instead, they are used within a certain targeted radius of approximately five to 10 meters. These munitions are not directly fired from a rifle or shotgun or 37/40-mm launcher but are either thrown by hand or skipped off the ground, targeting an area of impact two to three feet off of the ground in the desired area.

160. For example, see Ryan Deveraux, "A Night in Ferguson: Rubber Bullets, Tear Gas, and a Jail Cell," *First Look Media*, August 19, 2014, https://firstlook.org/theintercept/2014/08/19/ferguson/. No community members made statements about rubber bullets during interviews with the assessment team.

161. The Ferguson PD had none of these technologies and thus is excluded from this discussion.

162. A NIJ study found that out of 782 munitions that impacted subjects, bruising occurred in about 51 percent of the strikes with 31 percent causing abrasions, 6 percent causing laceration of subjects' skin, 4 percent causing fractured bones, 2 percent penetrating the skin, and 1 percent leading to the death of the subject. In addition, 6 percent caused no physical injury. Ken Hubbs and David Klinger, *Impact Munitions Data Base of Use and Effect* (Washington, DC: National Institute of Justice, 2004), https://www.ncjrs.gov/pdffiles1/nij/grants/204433.pdf.

163. "Projectiles," PepperBall (see note 60).

164. *Less Lethal Force: Proposed Standards for Massachusetts Law Enforcement Agencies* (Boston: American Civil Liberties Union of Massachusetts, 2005), http://aclum.org/sites/all/files/education/less_lethal_report.pdf.

165. "12 Gauge Ballistic Bean Bag Round," KeepShooting (see note 61).

166. "Police Kill 95-Year-Old Man with Bean-Bag Rounds," *RT.com*, July 29, 2013, http://rt.com/usa/police-man-killed-bean-bag-755/.

**Figure 13.** Troopers wearing riot gear and armed with less-lethal canisters

round struck a protester in the head, fracturing his skull, in Oakland during the Occupy protests; he has been left with brain damage.[167]

■ **Stingerballs.**[168] This hand-thrown device disburses at low velocity 180 rubber balls of a .32-caliber size with pyrotechnics of fire and sound (similar to loud fire-crackers). The Stingerball is used to disorient people in a crowd to disperse them. Being struck by one of these projectiles will typically produce a sting, although it may cause a bruise if it strikes bare skin directly. Because of the noise discharged from Stingerballs, some media reports mistakenly identified these as stun grenades, or flashbangs. Stingerballs are not as loud as stun grenades and do not emit the same concussion effect.

■ **Wooden baton rounds.**[169] These low-velocity wooden projectiles are typically fired by a specialized launch weapon. The intent is to provide "pain compliance" to disperse people who are resisting dispersal orders. Being struck by a baton-round is intended to sting and can cause bruising if bare skin is impacted. Breaking of the skin is unlikely with these rounds. The St. Louis Metropolitan PD was the only agency in this assessment reported to have used wooden baton rounds. However, grave injury and death can result from these rounds, and some agencies have prohibited these, including Oakland because of a lawsuit in 2004.[170]

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167. Henry K. Lee, "Occupy Protester Wounded by Oakland Police gets $4.5 Million," *SF Gate,* March 21, 2014, http://www.sfgate.com/crime/article/Occupy-protester-wounded-by-Oakland-police-gets-5337743.php; see also "Occupy Oakland Report: Independent Investigation Rips Police for Handling of Occupy Protest," *The Huffington Post,* June 15, 2012, http://www.huffingtonpost.com/2012/06/15/occupy-oakland-report-ind_n_1601022.html.

168. "Stinger 32-Caliber Rubber Balls," Safariland Group (see note 62).

169. "40mm Multiple Wood Baton Round," Safariland Group, accessed May 19, 2015, http://www.safariland.com/baton-bean-bag/40mm-multiple-wood-baton-round-1011855.html.

170. Ben Piven, "Crowd Control: Riot Police Techniques from Ferguson to France," *Al Jazeera America*, August 14, 2014, http://america.aljazeera.com/articles/2014/8/14/crowd-control-techniques.html.

Information received from law enforcement agencies indicated that less-lethal crowd dispersal projectiles—Stingerballs, PepperBalls, bean bag rounds, and baton rounds—were used on August 10–12 and 16–18.

Use of these weapons is guided by the respective agency's use of force policy. For example, section V of the St. Louis County PD use of force policy authorizes these weapons under the defensive resistance and active aggression levels of the continuum of force.[171] There are no explicit national standards for these diverse projectile technologies,

> *The use of force via less-lethal weapons should be a last resort to maintain order and should be used only in a manner consistent with law and agency policy*

although they are all in widespread use. The policies of the St. Louis County PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol allow the use of less-lethal projectiles (e.g., bean bag rounds, Stingerballs, PepperBalls) as crowd-dispersal techniques.

The NIJ acknowledged that less-lethal technologies can save lives,[172] as did the U.S. Department of Justice inspector general.[173] Despite policy guidance and training, the question remains whether the manner in which these weapons were used in Ferguson represented best practices.

For the protection of individuals' safety, businesses, and personal property, use of these weapons would reflect accepted practice, showing restraint that lethal force was not used. Because these weapons still have the capacity to cause injury and death, agencies must carefully decide whether and how to use them.

The assessment team does not have sufficient information on the facts and circumstances of each deployment of these weapons to draw a comprehensive conclusion. Agency

documentation of less-lethal use of force is critical so that agencies have the capacity to conduct comprehensive post-incident reviews to determine whether the force was appropriate for the circumstances.

As a statement of principle to ensure procedural justice, law enforcement should provide all lawful and reasonable accommodation and support to facilitate the First Amendment expressive activity of citizens. Great restraint of police powers should be used to protect the rights of lawful demonstrators, while at the same time protecting the safety

> and rights of citizens whose persons and property are contiguous to the demonstration. In cases when the safety and rights of others are in jeopardy from the demonstration activities, law enforcement should propose alternate accommodations to protesters.

> The use of force via less-lethal weapons should be a last resort to maintain order and should be used only in a manner consistent with law and agency policy,

after alternatives have been reasonably exhausted, after multiple warnings have been given to demonstrators, and in situations when the threat to the safety of persons and protection of property are in imminent jeopardy. When the decision is made to use these weapons, the police should be tactically placed to ensure that demonstrators have clear avenues of escape from the demonstration area. The goal of these technologies is to disperse protesters, not capture them. In addition, the use of force must be documented.

## Long-range acoustic devices

Long-range acoustic devices (LRAD) have several functions.[174] However, they were used two primary ways in Ferguson: for transmitting a high-pitched, acoustically directed noise for crowd dispersal and for making public addresses that warned protesters gas would be deployed. According to interviews with St. Louis County PD tactical personnel, the acoustic dispersal tactic was ineffective; thus, its primary role was for public announcements. The reason the LRAD was deemed ineffective is not completely known; however, one tactical commander stated that the portable public safety LRAD was a smaller device compared to the military version or the commercial version used on ships, and it did not emit a sound loud enough beyond a half block to be an effective crowd dispersal tool.

171. St. Louis County PD General Order 10-29, Use of Force, section V (2010), 3, 9.

172. "Less-Lethal Technologies," National Institute of Justice, accessed May 19, 2015, http://www.nij.gov/topics/technology/less-lethal/Pages/welcome.aspx.

173. *Review of the Department of Justice's Use of Less-Lethal Weapons* (Washington, DC: Office of the Inspector General, 2009), vi, http://www.justice.gov/oig/reports/plus/e0903/final.pdf.

174. "LRAD for Public Safety Applications Fact Sheet," LRAD Corporation, accessed May 19, 2015, http://www.lradx.com/site/content/view/323.

## Smoke

Inert smoke was used a number of times in an attempt to disperse crowds. Most officers consider smoke a technique that does not use force because it causes no harm, injury, or discomfort to the body. Rather, smoke was used to confuse people so groups would simply disperse; however, the smoke canisters had limited success in dispersing crowds. It was also used to determine wind direction prior to deployment of tear gas.

## Tear gas

The most common, visible, and controversial use of force was the dispersal of CS gas, commonly referred to as tear gas. CS gas is created using an active chemical compound, chlorobenzylidene-malononitrile, and is the most commonly used type of tear gas in North America and Europe. Effects of exposure to CS gas range from an irritation of eyes and mucus membrane to vomiting, which are often over within an hour.[175]

Records on the deployment of tear gas were incomplete. As can best be determined through interviews and media reports, the bulk of the tear gas deployment occurred in an approximate 0.22-mile section of West Florissant Avenue between Canfield Drive and Ferguson Avenue. While businesses line West Florissant Avenue, behind the businesses to the east are single-home residential neighborhoods, and apartment buildings are to the west. With only a slight breeze, tear gas could flow into the residential areas. Several of the community members interviewed stated that they felt tear gas was used too close to residents' homes.[176]

Agency documentation reviewed by the assessment team indicates that tear gas was deployed on August 10–13, 15–17, and 18. In most cases, it appears that tear gas was deployed multiple times each evening. The assessment team was not able to determine the amount of tear gas used in each deployment. In one log entry, it was reported that through August 17, the Missouri State Highway Patrol had deployed 200 cans of tear gas.

A common issue of concern was the use of tear gas to disperse demonstrators.[177] A number of citizens interviewed felt that tear gas was used "aggressively" and as a punishment to demonstrators. Some citizens stated that tear gas was "probably justified" but felt that it was used too close to residential areas and was deployed with inadequate warnings or that "too much" tear gas was used. Other citizens stated that they "understood why tear gas was used" but would have preferred to see alternate approaches to disperse the crowd. One person stated, "It was disturbing to see it [tear gas] used in my city."

Some community members stated that they heard the police announce over loudspeakers for people to disperse or be arrested but did not know that this was also a warning that tear gas would be used. Other community members stated they heard a warning about tear gas, and then it was deployed before they had the opportunity to leave the area. Similarly, a person who was in a demonstration stated, "The notice to disperse and the notice to fire tear gas were nearly simultaneous; because they were simultaneous, [demonstrators] had no way to leave."

Law enforcement commanders stated that multiple warnings were given and allowed for sufficient time for people to leave the area before tear gas was deployed, as required by policy. This was reinforced by a few citizens' statements and on videos reviewed by the assessment team. However, some law enforcement officers interviewed stated that they were unsure whether warnings were given prior to every use of tear gas. Ensuring multiple warnings are always given is a supervisory issue. It would be good practice to video record every deployment of tear gas with a date and time stamp to enhance accountability.

Most persons interviewed, law enforcement and citizens alike, stated that there were sufficient avenues of egress for protesters when tear gas was used. Despite that, a number of demonstrators elected to stay in the area. Some community members stated they were not participating in demonstrations but were simply watching from the sidewalk and were affected by the tear gas. Law enforcement acknowledged that people in the area watching could have been caught in the gas cloud, but staying in the area after an announcement to leave was their decision. Some

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175. Nick Thorp, "Chlorobenzylidene-malononitrile," Toxipedia, last updated February 8, 2010, http://www.toxipedia.org/display/toxipedia/Chloroben-zylidene-malononitrile.

176. In addition, a *Washington Post* article states that a tear gas canister landed in a man's front yard as he was talking with the reporter. Wesley Lowery, "Police Use Tear Gas on Crowd in Ferguson, Mo., Protesting Teen's Death," *Washington Post*, August 12, 2014, http://www.washington-post.com/news/post-nation/wp/2014/08/12/police-use-tear-gas-on-crowd/.

177. For example, see Amanda Terkel and Ryan J. Reilly, "Ferguson Police Fire Tear Gas at Protesters Hours before Curfew," *The Huffington Post*, August 17, 2014, http://www.huffingtonpost.com/2014/08/17/ferguson-protests_n_5686601.html.

accounts suggest that the police used tear gas indiscriminately. One community member stated in an interview that "riot gear, tear gas, five-second rule, tanks were all acts of aggression [by police]." Another community member said the police were "lobbing tear gas canisters over my head so the protesters would run into it." Commanders stated that tear gas was used with specific tactical goals of dispersal—when specific groups of people were posing threats and when there was no other reasonable means to intervene in unlawful disorder. However, some officers stated that the tear gas was intended to disperse people but thought the deployment was intuitive rather than tactical. Some citizens believed tear gas may have been warranted in light of the circumstances, but they simply did not like it. Yet others believed tear gas should not have been used at all.

When asked about the decision-making process for using tear gas, those officers interviewed stated that there was a process in place with defined circumstances consistent with the continuum of force and a chain of command for authorizing the use of tear gas. While agencies could not provide records for each deployment of tear gas that occurred during the assessment period, some of the deployments were warranted based on the review of law enforcement incident logs, dispatch reports, and information received through interviews with both law enforcement and community members.

The policies of the St. Louis County PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol allow the use of tear gas. However, based on interviews with law enforcement and community members and review of video footage, evidence indicates that the deployment of tear gas was not always within policy guidelines, notably with respect to the notification requirement. Even in cases in which the policy was directly followed, the question remains whether its use was the proper decision. The assessment team emphasizes that the use of tear gas is an important decision that has implications for free expressive activity and should not be taken lightly. The propriety of each specific deployment of tear gas is an issue for internal investigations and beyond the scope of this policy assessment.

In dealing with considerations for deployment of less-lethal alternatives, those reviewing the actions of law enforcement should not lose sight of the reality that if law enforcement had not used such methods, the likelihood of personal conflict with officers would have increased. With that increase comes a greater likelihood of the use of batons, physical struggles, use of electronic compliance measures, and even use of deadly force in defense of self or others. Evaluations of decisions to use less-lethal force must reflect upon what the alternative results might have been in the event less-lethal force had not been used.

## The community perspective

Community member interviewees included people who participated in the protests, people who had experienced less-lethal weapons, members of the business community, and people who lived in the residential areas adjacent to the protests. The interviewees were of different ages and races, representing protesters, concerned community members, and observers.

Members of the community interviewed had somewhat different perspectives. During interviews that addressed activities in the assessment period, some citizens stated that the police used excessive force, particularly with the use of PepperBalls and tear gas.[178] An independent research project that interviewed a sample of Ferguson residents who had participated in the protests found that "people did not think that tear gas was justified, particularly when women and children were present."[179] Likewise, some community members interviewed by the assessment team believed armored vehicles, canines, and tear gas should never have been used by the police. There were also complaints from citizens and reports in the media about aggressive police tactics as well as inconsiderate actions by some officers.[180] This criticism included the use of gas around homes.

Conversely, other citizens interviewed stated that they thought officers showed "great restraint." These references were particularly directed toward officers who were

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178. For example, see Kapur, "Did Police Use Excessive Force" (see note 136).

179. Jennifer Cobbina (assistant professor, School of Criminal Justice, Michigan State University), interviewed by David L. Carter (professor, School of Criminal Justice, Michigan State University) on December 18, 2014; Aisha Sultan, "2 Children Treated for Tear Gas Exposure in Ferguson," *St. Louis Post-Dispatch*, August 18, 2014, http://www.stltoday.com/lifestyles/relationships-and-special-occasions/parenting/aisha-sultan/children-treated-for-tear-gas-exposure-in-ferguson/article_3f2653cc-61cd-5754-b9c5-5d327f3accad.html.

180. "Police Used Excessive Force," *New York Post* (see note 136).

standing on protective duty lines facing the crowd and were being cursed and insulted. Others stated that the officers should have used more force when businesses were being looted and burned by demonstrators.

Troopers interviewed said, "Peaceful protesters, residents, and even business owners were asking us, 'Why are you here if you are not going to do anything.'" Another officer stated, "Lack of enforcement early on emboldened looters. They learned they could get away with anything early on."

> *Some interviewees expressed the belief that the police response was inconsistent, which sent mixed messages to the community.*

Some interviewees expressed the belief that the police response was inconsistent, which sent mixed messages to the community. Interestingly, this last community observation reflects the opinions of many officers interviewed.

## Findings and lessons learned

**FINDING 7.** *The use of canines during the Ferguson demonstrations raised many questions and concerns and the assessment team determined the following:*

- *The St. Louis County PD and the Ferguson PD used canine units for crowd control to protect the homicide scene on August 9. While consistent with both agencies' policy, such use is inconsistent with widely accepted policing practices and in fact exacerbated tensions by unnecessarily inciting fear and anger among amassing crowds.*

- *Canines were used within accepted policing practices by St. Louis County PD, Ferguson PD, and St. Louis Metropolitan PD for specific activities as documented by the team including backup, building searches, and tracking suspects. Canines were used for tracking suspects on August 10, 11, and 17.*

- *Agencies outside the scope of this assessment used canines and may have used them for crowd control.*

- *None of the four core agencies that are the focus of this assessment prohibits the use of canine units for crowd control—which is not consistent with widely accepted policing practices.*

**LESSON LEARNED 7.1.** Police policy and procedures guiding the use of canines should prohibit their use for crowd control.[181]

**LESSON LEARNED 7.2.** Law enforcement must balance decisions and tactics by taking into consideration the context of the environment, the systemic effects, and the overall strategic mission. What can be viewed as seemingly benign by law enforcement can be interpreted by the public as a form of intimidation. Canine use should be based on the criterion above.

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**FINDING 8.** *The assessment team identified a lack of thorough documentation of the use of CS gas (tear gas), including justification, deployment strategy, and outcomes. The team also identified instances of tear gas being deployed inappropriately without proper warnings, without sufficient attention paid to safe egress, and without consideration for environmental conditions (e.g. weather, wind direction, proximity to a densely populated area, potential impact on the safety of citizens as well as law enforcement).*

**LESSON LEARNED 8.1.** For the very limited circumstances when tear gas is used, law enforcement must deploy tear gas only when people have a means of safe egress and after appropriate warnings are clearly announced and sufficient time is allowed for individuals to leave the area.

**LESSON LEARNED 8.2.** Law enforcement agencies should develop an accepted audio recording of a warning that less-lethal weapons, such as tear gas, are about to be deployed in advance of a critical incident. This warning can be replayed via the public address system to ensure that correct and consistent information is provided.

**LESSON LEARNED 8.3.** Law enforcement agencies should assess environmental conditions (e.g., weather, wind direction, proximity to densely populated area, potential impact on the safety of citizens as well as law enforcement) prior to deploying gas to minimize collateral impact on innocent parties.

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181. To develop such a policy, see the International Association of Chiefs of Police's model policy on "Crowd Management and Control" at http://www.theiacp.org/Model-Policy-List.

**LESSON LEARNED 8.4.** Law enforcement agencies should ensure documentation of gas dispersal, even when conditions are dynamic and evolving, as it is a critical component of command and control as well as of accountability.

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**FINDING 9.** *Citizens reported use of rubber bullets by law enforcement; however, no evidence was found of the use of rubber bullets by the four agencies in this assessment. But Stingerballs, PepperBalls, bean bag rounds, and baton rounds were used in the first days of the protest response.*

**LESSON LEARNED 9.1.** Members of the public can confuse rubber bullets with other forms of less-lethal projectiles. When law enforcement is made aware of nonfactual reports of weapons or tactics being used, immediate steps should be taken to communicate accurate information and clarify the misreported information with the community.

**LESSON LEARNED 9.2.** Law enforcement agencies should ensure documentation of the use of less-lethal projectiles, as it is a critical component of command and control as well as of accountability.

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**FINDING 10.** *With more than 50 agencies responding to the mass demonstrations and based on interviews and reviews of media content, responding agencies, including those outside the scope of this assessment, used varying levels of force.*

**LESSON LEARNED 10.1.** Guidelines must be in place regarding the types of less-lethal force that will be authorized as well as the criteria, including circumstances, for their use. This must be clearly communicated to all law enforcement agencies participating in a coordinated response and to the community and the public.

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**FINDING 11.** *The deployment of less-lethal weapons in the multiagency response to the demonstrations was not centralized or tracked. The unprecedented nature of this event does not justify the lack of documentation and need to track the use of less-lethal responses.*

**LESSON LEARNED 11.1.** Agencies should establish a system to accurately record and document the deployment of less-lethal weapons. The system should include the date, time, and circumstance for each deployment. All commanders and supervisors should ensure the accurate documentation of all events, facts, and uses of force as soon as practicable after an event or decision.

# MILITARIZATION

**The police response to the mass demonstrations and disorder in Ferguson** prompted a national discussion regarding the growing concern about militarization of police in the United States as evidenced in media reports on police tactics and equipment.[182] Collectively, concern has been expressed about police tactics, weaponry, and resources that appear more closely akin to military operations than domestic law enforcement. This evolution in policing is particularly evident in police tactical units and has been fueled by encounters with heavily armed criminals; enforcement of criminal enterprise laws, particularly drugs; gang enforcement in the 1980s; and, most recently, counterterrorism in the post-9/11 environment. Many of the issues surrounding militarization concerns deal with equipment and tactics.

Any deployment of an elevated, military-type police response may actually prompt unintended consequences such as were apparent in Ferguson, where initial responses appeared to galvanize a negative perspective and aggravate community concerns about police and the justice system in general. A key factor in the Ferguson police response was the perceived "militarization" of the response. As one publication asserted,

> The underlying cause of most of the violations of press freedom documented in Ferguson was the decision by authorities to deploy a heavily militarized police response in Ferguson.[183]

The decisions to deploy tactical officers, to use law enforcement military dress and appearance, to use military tactics (such as overwatch), and to use materiel during the assessment period all contributed to the image of militarization (see figure 14 on page 54).

## Equipment and materiel

Law enforcement uses a great deal of equipment and materiel (military-like supplies) for personal protection and control of mass gatherings. Images of this equipment, ranging from protective helmets to tactical vehicles, were frequently seen in media reports. There are different "grades" of this protective equipment, depending on an officer's assignment. Tactical officers will have the highest grades of protective equipment, which visually has more of a military appearance.

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182.  Stephanie Condon, "What Can Washington Do About Militarized Police Forces?" CBS News, August 15, 2014, http://www.cbsnews.com/news/after-missouri-what-can-washington-do-about-militarized-police-forces/; Paul D. Shinkman, "Ferguson and the Militarization of Police," *U.S. News & World Report*, August 14, 2014, http://www.usnews.com/news/articles/2014/08/14/ferguson-and-the-shocking-nature-of-us-police-militarization.

183.  Bass and Weaver, *Press Freedom Under Fire in Ferguson*, 7 (see note 133).

Figure 14. Tactical officers with an armored vehicle



The Missouri State Highway Patrol used the Bearcat to evacuate a civilian who was injured by something thrown in the crowd of protesters, August 18, 2014

## Armored vehicles

Law enforcement traditionally[184] uses armored vehicles to protect officers in armed and barricaded situations, to protect officers as they move in active-shooter environments, and to remove citizens or officers from harm's way should they be injured or in peril as a result of a dangerous encounter. Indeed, armored vehicles were used in instances in Ferguson in both of these latter types of situations.[185]

The St. Louis County Police Department, the St. Louis Metropolitan Police Department, and the Missouri State Highway Patrol deployed or staged armored vehicles—

184. For example, the University of Texas System Police specifically limits its Emergency Rescue Armored Personnel Vehicle to "exclusive operational purposes" to enhance the physical protection of its occupants. The words "Emergency Rescue" are visible on the vehicle. Furthermore, the policy prohibits the use of the vehicle in response to "any public demonstration or display of police resources," as well as "exercises of the First Amendment right to free speech." Law Enforcement Equipment Working Group, *Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition* (Washington, DC: White House, 2015), https://www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf.

185. "Transcript: Captain Ron Johnson," *Lincoln Madison* (see note 108).

**Figure 15.** Staged tactical officers and armored vehicles

either a Lenco BEAR[186] or a Lenco BearCat[187] but often referred to as "tanks" by community members—each day in Ferguson during the dates covered by this assessment (see figure 15). The St. Charles County Police Department used a different-style armored vehicle during the assessment period, but that agency is not part of this assessment.

The deployment of the armored vehicles contributed to many in the community perceiving the police presence as a military-type response. It was clear the armored vehicles stirred the emotions of demonstrators—they expressed fear, anger,[188] and intimidation by the vehicles' mere presence. Community members stated that the vehicles were "acts of aggression" by the police. One

community member said, "The tanks looked like the police were invading." Another stated that the vehicles were "embarrassing and an incredible overreaction by the police." And another citizen stated, "To see a tank riding down West Florissant was heartbreaking; it was heartbreaking that they had to respond to us that way."

One of St. Louis County PD's armored vehicles was equipped with a long-range acoustic device (LRAD).[189] Considered a technique and not a weapon, these devices are intended to use noise to disperse crowds and to make high-volume public address announcements. A St. Louis County PD commander stated that the LRAD was largely ineffective for crowd dispersal in Ferguson. (See "Types of force used in Ferguson" in chapter 4.)

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186. "BEAR," Lenco Armored Vehicles, accessed May 19, 2015, http://www.lencoarmor.com/law-enforcement/bear-variants/bear/.

187. "BEAR Variants," Lenco Armored Vehicles, accessed May 19, 2015, http://www.lencoarmor.com/law-enforcement/bearcat-variants/.

188. See comments in "Militarized Police in Ferguson Unsettles Some; Pentagon Gives Cities Equipment," *The Washington Post*, August 14, 2014, http://www.washingtonpost.com/politics/militarized-police-in-ferguson-unsettles-some-pentagon-gives-cities-equipment/2014/08/14/4651f670-2401-11e4-86ca-6f03cbd15c1a_story.html as well as a search of Twitter posts at #Ferguson for the dates of the assessment period.

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189. "Public Safety/Law Enforcement, Homeland Security, Border Control," LRAD Corporation (see note 71).

**Figure 16.** St. Louis County PD officer atop a tactical vehicle using overwatch

## Tactics

In Ferguson, one highly controversial tactic borrowed from the military was the use of "overwatch,"[190] a technique intended to provide a layer of security for officers and citizens by having a sniper monitor armed threats from a higher position that provides the sniper a better view. Based on interviews with the St. Louis County PD, the department stated that this was used in mass gatherings as an active-shooter defense tactic, not a crowd-control tactic, when there was gunfire or armed persons.

Essentially, as used in Ferguson, when there was gunfire in the crowd, a police sniper would take a position on top of a tactical vehicle and use the rifle sight to monitor the crowd, looking for the armed person (see figure 16). The St. Louis Metropolitan PD and the Missouri State Highway Patrol did not use the overwatch tactic.

While this tactic may be appropriate to protect officer and citizen lives in certain situations, such as an active shooter threat, it is ineffective and inappropriate for crowd control. By deploying this tactic so visibly, law enforcement helped to further the sentiment that they were reacting in a militaristic manner. From the perspective of those who were protesting peacefully, a police officer was pointing a sniper rifle at the crowd—a particularly alarming behavior, especially if the rifle is pointed at the viewer. In addition, interviews with community members indicate that overwatch was also used to monitor peaceful demonstrators. In later interviews, senior St. Louis County PD officials stated that they recognized the negative impact of overwatch and after the first several days kept the weapon out of sight and monitored the crowd for threats using binoculars.

The St. Louis County PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol deployed tactical officers.[191] The Ferguson PD does not have a tactical unit.

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190. Descriptions of bounding overwatch and traveling overwatch can be found in *ADRP 1-02: Terms and Military Symbols* (Washington, DC: Department of the Army, 2015), http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/adrp1_02.pdf. These terms are also discussed in the police context at Louis Hayes, Jr., *The Illinois Model: Command, Tactical, and Weapons Training Model* (Olympia Fields, IL: Illinois Tactical Officers Association, 2014), http://itoa.org/training_model/ITOA_NEWS_the_illinois_model_series_I_Hayes.pdf.

191. The St. Louis County PD Tactical Operations Unit is what some agencies refer to as a Special Weapons and Tactics unit. The officers are primarily trained for use in special situations such as an active shooter or high-risk entry and arrests. Because of the weapons fire that was occurring, the groups of people involved in property damage and violence, and the uncertainty of actions among the protesters, incident command elected to use the best-protected and best-trained officers (the tactical officers) to deal with many critical situations.

**Figure 17.** Tactical officers wearing BDUs

Interviews of those at the scene and media reports[192] confirm that there was a general perception that the St. Louis County PD responded in a "heavy-handed" manner and maintained that response while they had responsibility for incident command. While the Missouri State Highway Patrol and the St. Louis Metropolitan PD had armored vehicles and tactical officers deployed in Ferguson, there were fewer of these officers, and they were less visible. As a result, the St. Louis County PD received the most attention and criticism.

During the time of the assessment period, St. Louis County PD tactical officers wore camouflage-patterned battle dress uniforms (BDU) that portrayed a military appearance to protesters and onlookers across the United States (see figure 17). (After the assessment period and prior to any review process, St. Louis County PD provided solid blue BDUs to SWAT officers.) The department's deployed tactical officers wore significant personal safety gear, including level-three heavy vests, web gun and utility belts, BDUs, ballistic helmets and goggles, and a weapon dependent on the officer's assignment.

The St. Louis Metropolitan PD and the Missouri State Highway Patrol SWAT officers wore solid blue BDUs with an external protective vest and helmet. Their vests were of a somewhat different design than St. Louis County PD tactical officers and had a less military appearance. Non-tactical officers from the St. Louis County PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol wore their regular-duty uniform.

The protective equipment issued by all responding law enforcement agencies differed by day and assignment. In some instances, officers wore no protective equipment beyond their vest. In other instances, nontactical officers wore a protective helmet and may have had a shield. The most notable difference between equipment used was that by tactical officers (which included heavy-duty defensive equipment and some offensive equipment) versus non-tactical officers (which included moderate-duty defensive equipment).

For persons who would have seen the SWAT teams arrive, the action would have resembled that of "soldiers arriving at a war zone." In fact, one community member interviewed stated, "It feels like we are fighting a war." Because

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192. For example, see Shinkman, "Ferguson and the Militarization of Police," (see note 182).

After "the most widely publicized example of this phenomenon [militarization] occurred during the widespread protests in Ferguson, Missouri, in August 2014," the President ordered a government-wide review of military equipment federally provided to law enforcement agencies.[*] Images and videos in the news have shown "law enforcement officers atop armored vehicles, wearing uniforms often associated with the military, and holding military-type weapons."[†] On January 16, 2015, the President issued Executive Order 13688, "Federal Support for Local Law Enforcement Equipment Acquisition," and in May the federal interagency Law Enforcement Equipment Working Group released the *Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition.* The four agencies in the assessment did not have equipment purchased with U.S. Department of Defense funding; Urban Area Security Initiative funding was used to offset the purchase of armored vehicles. The working group acknowledges that law enforcement agencies

> frequently depend on this equipment for law enforcement operations to prevent crime, ensure officer safety, and protect and serve the public. Yet, in some neighborhoods and communities, incidents of misuse, overuse, and inappropriate use of controlled equipment occur, and the resulting strain placed on the community and its relationship with law enforcement is severe.[‡]

* Law Enforcement Equipment Working Group, *Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition* (Washington, DC: White House, 2015), https://www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf.

† Ibid., 6.

‡ Ibid., 10.

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there was already an undercurrent of dissatisfaction with the role of police in the community, some demonstrators and observers became angered at what they perceived to be a heavy-handed response by the police rather than the police being there to "serve and protect."

By August 12, the tactical presence in Ferguson changed as a result of the increased level of disorder and criminal activity: more widespread looting, setting fires, breaking windows, and throwing Molotov cocktails and other objects. Many people viewed the police response to the mass demonstrations in Ferguson as inappropriate, and the tactical presentation was largely regarded by the members of the affected community as an overreaction by law enforcement, fueling a negative perception. When told of this statement, one police commander stated, "While I understand that, we have to keep our people safe. Sometimes policing is not pretty."

When reviewing the events that occurred during the assessment period, it is clear that some tactical response was necessary as a result of the increased aggression by some of the protesters, including several incidents of shots fired. However, the scale and manner of tactical response should be incremental, not an "all or nothing" proposition. Such responses can begin in a relatively limited manner and can be escalated and de-escalated if and when circumstances warrant. However, when an initial response is at a high level, options for gradual and measured escalation are more difficult. This describes the situation that developed in Ferguson.

Many tactical options are available to police when responding to civil unrest. According to interviews with law enforcement commanders, some tactical techniques, such as the dissemination of smoke and the use of the LRAD,[193] had little effect on the violent protesters, prompting a need for elevated responses, such as less-lethal techniques like tear gas, PepperBalls, and Stingerballs (see

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193. According to an Amnesty International report, "At least one city has been sued for the permanent damage caused by exposure to an LRAD, and a Canadian court limited the use of a sound cannon by the Toronto Police Department prior to that year's G-20 summit in that city due to concerns about the lack of training received by law enforcement on its use and the lack of studies on its effects." *On the Streets of America: Human Rights Abuses in Ferguson* (New York: Amnesty International USA, 2014), 14, http://www.amnestyusa.org/sites/default/files/onthestreetso famericaamnestyinternational.pdf.

"Types of force used in Ferguson" in chapter 4). Usually these elevated techniques prove more effective in dispersing aggressive protesters.

A police chief has a responsibility to ensure that his or her officers can do their work safely. This means that when confronted with civil disturbances, elevated tactical responses are frequently an option. However, any use of elevated tactical responses should be measured and implemented with caution. The presence of aggressive or violent persons who are violating the law and fail to disperse may warrant crowd-dispersal techniques such as tear gas and crowd-dispersal projectiles. However, care must be taken to ensure that these techniques are not applied to protesters who have peacefully gathered to protest or demonstrate under their First Amendment constitutional rights.

Even in cases that warrant tactical techniques, law enforcement must be reasonable and flexible with their choice of tactics. They should determine what, if any, tactics will be deployed, consider the historical context of the community served, and focus not only on what may be authorized pursuant to policy but also on what is right. The assessment team concluded that the use of these military-like tactics, particularly the officers deployed with rifles, was not appropriate for the circumstances.

However, some weapons that tactical officers possessed were PepperBall launchers, which members of the public erroneously believed were rifles. It is important that PepperBall launchers and less-lethal weapons have properly marked or colored barrels such as orange to avoid confusing the public and to ensure officers never accidentally use the wrong weapon. Collectively, the use of fully outfitted tactical officers, some of whom were deployed with rifles and PepperBall launchers, contributed to the public (and media) perception that the police were a militarized force "invading" their neighborhood.

Photographic evidence suggests that overwatch was used both in the day and evening. Photographic evidence also suggests that the police sniper did not always conceal the weapon and use binoculars when the threat dissipated.

From the perspective of many community members, the military-style equipment and tactics that officers used in the Ferguson environment aggravated a tense police-community relationship and drew unprecedented criticism toward the police. In particular, community members viewed tactical teams being staged along the street during peaceful protests, instead of being staged out of sight, as antagonizing.

## Findings and lessons learned

**FINDING 12.** *While a tactical response was warranted at times during the Ferguson demonstrations because of threats to public safety, the highly elevated initial response, including tactical elements, limited options for a measured, strategic approach. The elevated daytime response was not justified and served to escalate rather than de-escalate the overall situation.*

**LESSON LEARNED 12.1.** The use of tactical units should be limited to a specific and deliberate mission because their use can undermine the police's peace-keeping role. Such units can anger and frighten citizens, resulting in greater animosity toward the police, which in turn may fuel more conflict.

**LESSON LEARNED 12.2.** Law enforcement administrators must remain vigilant that tactical responses are appropriate and measured. Simply having the availability of resources does not mean the resources should be used.

**LESSON LEARNED 12.3.** Monitoring crowd behaviors is essential for incident and response planning because the character of the crowd can change depending on the time of day, environmental condition, and who decides to participate in the demonstration.

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**FINDING 13.** *The presence of tactical officers with military-style uniforms, equipment, weapons, and armored vehicles produced a negative public reaction.*

**LESSON LEARNED 13.1.** Use of equipment or weaponry should be restricted to limited situations that clearly justify their use. Policies and procedures should clearly state the limited situations for their deployment.

**LESSON LEARNED 13.2.** Law enforcement agencies should consider options for having tactical teams in place but remaining out of public view until circumstances warrant their deployment.

**LESSON LEARNED 13.3.** Tactical officers train with and drive armored vehicles on a regular basis and may become desensitized to or not understand the military image such vehicles project to the public.

**LESSON LEARNED 13.4.** Less-lethal weapons should have properly marked or colored barrels, when applicable, to avoid confusing the public about excessive force and to ensure officers never accidentally use the wrong weaponry.

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**FINDING 14.** *At times, the deployment of the long-range acoustic device (LRAD)[194] was warranted as a high-volume public address system; however, it should have been deployed using a platform other than an armored vehicle.*

**LESSON LEARNED 14.1.** While the LRAD may be appropriate to disperse crowds, using it in conjunction with an armored vehicle escalates the hostility of the crowd and creates a negative public image.

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**FINDING 15.** *The overwatch tactic, in which police snipers took positions on top of tactical vehicles and used their rifle sights to monitor the crowd, was inappropriate as a crowd control measure. Further, it served only to exacerbate tensions between the protesters and the police.*

**LESSON LEARNED 15.1.** The assessment team realizes that the overwatch tactic can be a valuable tool for law enforcement in this instance, however, it should not have been used. Overwatch is an inappropriate tactic for protest and protest-centric events.

**FINDING 16.** *During the first several days of the Ferguson demonstrations, law enforcement staged armored vehicles visibly in a way that was perceived to be threatening to the community and, at times, used them absent danger or peril to citizens or officers. As the protests progressed, law enforcement staged the armored vehicles in a more strategic and less visible manner allowing for quicker and more measured responses to situations including the rescue of officers and civilians in need.*

**LESSON LEARNED 16.1.** Armored vehicles should not be visible to protesters except in narrowly defined circumstances, for example when shots are fired and in some active shooter situations.

**LESSON LEARNED 16.2.** Community members who are lawfully protesting will likely view the presence of armored vehicles as intimidating or as an attempt to intimidate them.

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**FINDING 17.** *Many community members perceived law enforcement using the standard protective equipment worn by officers, such as helmets, external vests, and shields, for offensive and not defensive measures.*

**LESSON LEARNED 17.1.** Agencies should consider a tiered approach to policing public demonstrations, beginning with standard issue uniforms for peaceful demonstrations and progressing to defensive protective equipment for unruly crowds and ultimately to a tactical approach to protect life and preserve the peace should violence occur. Officers wearing defensive and tactical equipment should be staged out of sight during peaceful demonstrations.

**LESSON LEARNED 17.2.** When officers are deployed with any form of defensive, protective equipment during mass gatherings, law enforcement agencies should communicate to the public via social media and public information officers that officers will be wearing protective equipment for their personal safety.

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194. One example of the LRAD use was on August 13, 2014, when the device can be seen and heard in this video: *The Daily Lede*, "Ferguson Police Deploy LRAD and Tear Gas 8/13/14," YouTube, accessed May 19, 2015, https://www.youtube.com/watch?v=xnSVtW49roE. See also "Transcript: Captain Ron Johnson," *Lincoln Madison* (see note 108).

# THE "KEEP MOVING" ORDER

**A significant constitutional legal issue** arising out of the mass demonstrations in Ferguson was law enforcement's use of an ad hoc "keep moving" strategy, commonly referred to as the "five-second rule," applied to protesters. According to court documents, the incident command structure of the police response in Ferguson, under the lead agency of the Missouri State High-way Patrol, developed this strategy to help reduce the potential for vandalism and violence.[195]

Following the officer-involved shooting on August 9, Ferguson experienced civil disobedience and public disorder for several nights. Law enforcement authorities used many methods to try to control the crowds and prevent further violence, including tear gas and smoke canisters.[196] On August 18, unified command decided to address the potential for a repeat of the previous night's violence but still allow citizens to peacefully protest.[197] In response, unified command implemented the "keep moving" order, purportedly as a derivative of Missouri's refusal to disperse statute.[198] As long as people kept moving, they were allowed to protest. The "keep moving" order was intended to prevent protesters from gathering into crowds, especially in the evening, when unrest was at its highest point.

The failure to disperse statute relates to those who are part of an unlawful assembly or a riot. Missouri Revised Statute 574.040.1 indicates that a person commits the crime of unlawful assembly if he knowingly assembles with six or more other persons and "agrees with such persons to violate any of the criminal laws of the state or of the United States with force or violence."[199] Missouri Revised Statute 574.050 indicates that a person commits the offense of rioting if he or she knowingly assembles with six or more other persons and "agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence, and there-after, while still so assembled, does violate any of said laws with force or violence."[200] Both statutes require six or more persons and at least an agreement to violate the law. An unlawful assembly becomes a riot under the Missouri statutes when the agreement is put into action.

The failure to disperse statute (Missouri Revised Statute 574.060) applies only to one who is "present at the scene of an unlawful assembly, or at the scene of a riot" and

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195.  *Abdullah* v. *County of St. Louis, Missouri, et al.* (see note 106).

196.  Ibid.

197.  Ibid.

198.  Missouri Revised Statutes, chapter 574, Offenses against Public Order, §574.060.1, August 28, 2014 (until 12/31/2016). (L. 1977 S.B. 60) Effective 1-01-79. This section was amended by S.B. 491, 2014, effective 1-01-17. http://www.moga.mo.gov/mostatutes/stathtml/57400000602.html?&me=574.060.

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199.  Missouri Revised Statutes, chapter 574, Offenses against Public Order, §574.040.1, August 28, 2014 (until 12/31/2016) (L. 1977 S.B. 60) Effective 1-01-79. This section was amended by S.B. 491, 2014, effective 1-01-17. http://www.moga.mo.gov/mostatutes/stathtml/57400000401.html.

200.  Missouri Revised Statutes, chapter 574, Offenses against Public Order, §574.050.2, August 28, 2014 (until 12/31/2016) (L. 1977 S.B. 60) Effective 1-01-79. This section was amended by S.B. 491, 2014, effective 1-01-17. http://www.moga.mo.gov/mostatutes/stathtml/57400000502.html.

who knowingly fails or refuses to obey the lawful command of a law enforcement officer to depart from the scene.[201]

The "keep moving" order differs significantly from Missouri's unlawful assembly and riot statutes. Based on interviews with community members, the "keep moving" order was applied to individuals as well as groups of any size rather than groups of six or more. There was no link to the statutory "unlawful assembly" or "riot" factors, as the "keep moving" order was intended to address gatherings that were considered precursors to unlawful assemblies or riots. The motivation for the proactive "keep moving" order was to stop violence before it began.

> *In contrast to the failure to disperse law, the "keep moving" order did not order protesters to disperse but simply to keep moving.*

In contrast to the failure to disperse law, the "keep moving" order did not order protesters to disperse but simply to keep moving. The perceived harm was not that the group was discussing violence or that violence was actually occurring, as is the case with the unlawful assembly or riot statutes, but rather that the group, if allowed to remain and grow, might foster violence. The compelling state interests behind Missouri's unlawful assembly and riot statutes were missing as support for the "keep moving" order.

Based on interviews with personnel from the Missouri State Highway Patrol and the St. Louis County Police Department and on review of court documents and other public documents, law enforcement's intent for the "keep moving" order was multifactored. A captain with the highway patrol indicated that "the new rule was put in place to keep groups of protesters smaller by preventing them from cloistering or congregating in one particular area on West Florissant."[202] He went on to say that the rule could prevent those who were attending in order to commit acts of vandalism and violence from blending in with larger crowds of those who were protesting peacefully should they be standing still.[203] However, the "keep moving" order was also reportedly used to break up crowds for a short while after receiving complaints from businesses that protesters and gathered groups were blocking their sidewalks and driveways, discouraging potential customers from coming into their establishments.

Statements made by Missouri State Highway Patrol personnel included, "At night, peaceful protesters would walk, and the antagonists and anarchists would block streets, and [the "keep moving" order] was done out of necessity. We noticed that whenever and wherever people stopped, a crowd would form, and from the crowds grew the disturbances." However, as the "keep moving" order was put into effect, protected First Amendment activity was swept up by its prohibition and threat of (or actual) arrest. The "keep moving" order applied to any size group, even if the group was peaceful or otherwise was not conspiring to violate the law.

In addition, evidence suggests that not all law enforcement personnel on the scene understood the "keep moving" order while others selectively applied it. More than one officer interviewed during this assessment stated that he had never heard of the rule.[204] A St. Louis County PD officer testified that "officers were just told to use their discretion." He testified that the strategy could be used at any time and "did not require a riot or unlawful assembly."[205] In terms of selective application, one community member interviewed stated, "The five-second rule only applied to those people that the police wanted to apply it to."

Discretionary application of sanctions by law enforcement is always a concern. The exposure to potential arrest for exercising one's right to peacefully assemble and protest was a serious complication. Not surprisingly, legal challenge to the "keep moving" order for its impact upon protesters' First Amendment rights quickly occurred.

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201. Missouri Revised Statutes, chapter 574, Offenses against Public Order, §574.060.1, August 28, 2014 (until 12/31/2016). (L. 1977 S.B. 60) Effective 1-01-79. This section was amended by S.B. 491, 2014, effective 1-01-17. http://www.moga.mo.gov/mostatutes/stathtml/57400000602.html?&me=574.060.

202. *On the Streets of America* (see note 193).

203. Ibid.

204. In addition, an Amnesty International report found the same inconsistencies in the dispersal of protests or arrests of protesters: "During the protests on the night of August 19, Amnesty International inquired with three different police officers throughout the night about why the crowd was being dispersed and was told 'I don't know' or 'I can't answer that question.'" *On the Streets of America*, 15 (see note 193).

205. *Abdullah* v. *County of St. Louis, Missouri, et al.* (see note 106).

Both the Missouri State Highway Patrol and the St. Louis County PD created and enforced the "keep moving" order beginning Monday, August 18. That same day, beginning around 11:00 a.m., the American Civil Liberties Union (ACLU) of Missouri received reports that law enforcement officials were ordering individuals who were violating no law to refrain from gathering or standing for more than five seconds on public sidewalks and threatening arrest for noncompliance.[206] The ACLU immediately challenged the implementation of the "keep moving" order in U.S. District Court on August 18.[207] After several procedural hearings, the court enjoined the arrest tactics of the "keep moving" order, or "five-second rule," and determined that the operational impact of this unwritten ad hoc rule did not meet First Amendment constitutional standards protecting the freedom of assembly and free speech.

In its order granting the injunction,[208] the court summarized testimony it had received about how the "keep moving" order was actually implemented, noting that it was clear that the "keep moving" order was applied in a variety of different ways by officers:

> The evidence from plaintiff's witnesses shows that the police, including those from St. Louis County, told many people who were either peacefully assembling or simply standing on their own that they would be arrested if they did not keep moving. Some law enforcement officers told people that they could stand still for no more than five seconds. Others gave instructions that people were walking too slowly or that they could not walk back and forth in a small area. Some law enforcement officers did not make people keep moving; others did. Some officers applied the strategy to reporters; others did not. Many officers told people who were standing in small groups on the sidewalks during the daytime hours that they would be arrested if they did not keep moving.[209]

The court based its decision on the following findings:

- The "keep moving" order was unwritten, vague, and not clearly defined.

- Unified command policymakers knew the policy was being used against peaceful citizens but did not stop the practice.

- Police officers were not provided any clear instructions as to when to use this policy in arresting citizens.

- Citizens who were peacefully assembling and not involved in criminal activity, especially during the daytime, were not in violation of Missouri's statutes and did not have notice of what law they were violating.

- The rule provided no notice to citizens of what conduct was unlawful, and its enforcement was entirely arbitrary and left to the unfettered discretion of the officers on the street.

- A First Amendment free speech zone set up by authorities as an area where groups could congregate to demonstrate should be clearly established, allowing for reasonable accessibility to the media. Free speech zones such as the "protester assembly zone" (also called the "approved assembly area") established by police in Ferguson pursuant to the *Abdullah* case are designated zones in public areas set aside by authorities in which people may exercise their First Amendment rights. Use of zones requires government to strike an appropriate balance between public safety concerns and First Amendment freedoms, because First Amendment activity is permitted only in the designated zone.

- The court expressly noted that the decision did not prevent police from making lawful arrests under the Missouri unlawful assembly and failure to disperse statutes.[210]

The court recognized the long-standing rule that the state has a valid interest in maintaining order on its streets and sidewalks and in preventing violence by crowds:

> Even in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant

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206. U.S. District Court, Eastern District of Missouri, Eastern Division, "Verified Complaint," http://www.aclu-mo.org/download_file/view_inline/1268/535/.

207. Anthony Rothert, Grant Doty, and Gillian Wilcox, "Michael Brown Shooting in Ferguson, U.S. District Court, Eastern District of Missouri, Eastern Division," American Civil Liberties Union of Missouri Legal Docket, http://www.aclu-mo.org/legal-docket/michael-brown-shooting-in-ferguson/.

208. *Abdullah* v. *County of St. Louis, Missouri, et al.* (see note 106).

209. Ibid., 8.

210. These findings were extracted from the preliminary injunction. See *Abdullah* v. *County of St. Louis, Missouri, et. al.*, No. 4:14CV1436 CDP (E.D. Mo. 2014), http://www.aclu-mo.org/files/1914/1262/7344/Abdullah_Preliminary_Injunction.pdf.

Law enforcement has the responsibility to protect persons and groups exercising their right to assemble peacefully, all while ensuring public safety and the protection of privacy and the associated rights of individuals.[*] Ensuring these protections starts at the planning and training stage, during the event, and after the event.[†] Some agencies provide their officers with laminated cards with the Constitution or relevant rights.[‡]

[*] *Law Enforcement Guidelines for First Amendment-Protected Events* (Washington, DC: Global Justice Information Sharing Initiative, 2011), https://info.publicintelligence.net/DoJ-FirstAmendment.pdf.

[†] Ibid.

[‡] For trainings and resources for law enforcement, see *Resource Guide for Enhancing Community Relationships and Protecting Privacy and Constitutional Rights* (Washington, DC: Bureau of Justice Assistance, 2014), http://ric-zai-inc.com/Publications/cops-w0748-pub.pdf.

*governmental interest, and that they leave open ample alternative channels for communication of the information.*[211]

In this case, a clearly established free speech zone[212] and consistent application of arrest procedures related to dealing with persons not involved in criminal behavior should have been implemented. Officers should have been educated or reminded of the difference between a violation of Missouri's unlawful assembly, riot, and failure to disperse laws versus lawful assembly and the protections of the First Amendment that could make an order to disperse to be in and of itself illegal. Law enforcement should have been more aware of how its response had a chilling effect on the protesters exercising their First Amendment rights.

Between August 11 and 25, there were a total of 166 arrests for refusal or failure to disperse or unlawful assembly according to St. Louis County PD data. Of this, 147 arrests

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211. The court cited the U.S. Supreme Court opinion *McCullen v. Coakley*, 134 S. Ct. 2518 at 2529 (2014), a 2014 case discussing "free speech zones" around an abortion clinic set up for antiabortion protesters.

212. The Missouri State Highway Patrol established a free speech zone on August 19. "New Ferguson Protester Assembly Zone and Media Staging Area," Missouri State Highway Patrol, August 19, 2014, http://notes.mshp.dps.mo.gov/si01/si01p001.nsf/9300de8f24f618a68625729800536892/16ce-c19e6523d58186257d39007926a6.

were made by the St. Louis County PD for refusal to disperse, and 19 arrests were made by Ferguson PD for unlawful assembly or failure to disperse.

## Findings and lessons learned

**FINDING 18.** *Unified command created a vague and arbitrary derivative of the Missouri failure to disperse statute—the "keep moving" order, or "five-second rule," which violated citizens' right to assembly and free speech, as determined by a U.S. federal court injunction.*

**LESSON LEARNED 18.1.** It is essential that law enforcement establish and apply procedures that comply with statutory and constitutional requirements. Legal counsel should be consulted and involved when establishing policies, procedures, and tactics that could infringe on or impact constitutional protections.

**LESSON LEARNED 18.2.** While law enforcement must meet its duty to protect people and property during mass demonstrations and protests, it can never do so at the expense of upholding the Constitution and First Amendment-protected rights.

**FINDING 19.** *Law enforcement applied the "keep moving" order broadly and without guidelines for officers that allowed for its legal application.*

**LESSON LEARNED 19.1.** New operational procedures should not be implemented when responding to an incident without first being vetted for legal sufficiency. The high degree to which operational decisions will be scrutinized for their constitutionality demands that law enforcement make these decisions after receiving legal advice and counsel regarding the effect of their implementation.

**FINDING 20.** *Unified command failed to establish a clearly marked First Amendment free speech zone until August 19, 2014. The delay, coupled with the "keep moving" order, had an overall effect of discouraging protesters from exercising their First Amendment rights.*

**LESSON LEARNED 20.1.** Law enforcement should establish a First Amendment free speech zone that is clearly marked; accessible to the media; and clearly communicated to all officers, the media, and public information officers.

**LESSON LEARNED 20.2.** A First Amendment free speech zone should be created with legal advice and counsel.

# TRAINING

**Training provides both substantive knowledge and the skills** to use that knowledge. Important basic training must occur before a person becomes a law enforcement officer. In addition, field officer training provides new officers with mentoring, and this period communicates and indoctrinates the true practice and culture of an organization. In addition, continuing education and in-service requirements help officers stay abreast of court decisions, new technologies, and other emerging critical issues pertaining to law and order.

Qualified instructors should provide training in blocks of time adequate for teaching the necessary information. As a result of these needs, the states have passed laws to license or certify law enforcement officers and the training they receive.[213]

The Missouri Peace Officer Standards and Training (POST) Program[214] of the Missouri Department of Public Safety[215] is responsible for the licensure of peace officers, reserve peace officers, basic training instructors, curriculum, and training centers as directed by Missouri statutes.[216] In addition, POST requires training to be conducted by subject matter experts (SME), although not

all SMEs have to be licensed specifically in Missouri. A minimum of 470 training hours is required for licensing full-time police officers in Missouri.[217] However, a licensed training center or law enforcement agency may require more hours. The numbers of hours for basic police training varies throughout the state and between agencies that do not have their own academy.

The St. Louis County Police Department,[218] the St. Louis Metropolitan Police Department,[219] and the Missouri State Highway Patrol[220] each operate a state-licensed police academy. Table 2 (on page 66) shows the minimum training hours required for basic peace officer licensing in each academy.

213. See International Association of Directors of Law Enforcement Standards and Training (IADLEST), https://www.iadlest.org/.

214. "Peace Officer Standards and Training," Missouri Department of Public Safety, accessed May 19, 2015, http://dps.mo.gov/dir/programs/post/.

215. Missouri Department of Public Safety, accessed May 19, 2015, http://dps.mo.gov/.

216. Missouri Revised Statutes, chapter 590, Peace Officers, Selection, Training and Discipline, http://www.moga.mo.gov/mostatutes/ChaptersIndex/chaptIndex590.html.

217. Missouri Revised Statutes, chapter 590, Peace Officers, Selection, Training and Discipline, section 590.040.1, Minimum Hours of Basic Training Required, http://www.moga.mo.gov/mostatutes/stathtml/59000000401.html.

218. "St. Louis County and Municipal Police Academy," St. Louis County Government, accessed May 2015, http://www.stlouisco.com/LawandPublicSafety/PoliceAcademy.

219. "St. Louis Police Academy," Metropolitan Police Department, City of St. Louis, accessed May 2015, http://www.slmpd.org/academy.shtml.

220. "Training Division—History," Missouri State Highway Patrol, accessed May 2015, http://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/TND/.

**Table 2.** Minimum training requirements per acedemy

| Agency | Academy | Minimum Training Requirements |
|---|---|---|
| **St. Louis County PD** | St. Louis County and Municipal Police Academy | 916 hours |
| **St. Louis Metropolitan PD** | St. Louis Police Academy | 1,080 hours |
| **Missouri State Highway Patrol** | Law Enforcement Academy | 1,200 hours |

Like all officers in the state, Ferguson Police Department officers are required to meet the minimum training standards required by Missouri POST. Ferguson PD officers most frequently receive training through the St. Louis County PD academy, which requires a minimum of 916 hours; however, some officers have attended other Missouri POST-licensed academies. Thus, Ferguson PD officers who attended an academy other than the St. Louis County PD academy could have more or fewer hours.

Basic officer training typically provides training on constitutional law, the content of which varies somewhat but focuses on constitutional aspects of criminal procedure. Basic training is also required to include the topics of cultural diversity and community problem solving, although the specific curriculum varies. Training requirements also specify instruction on the use of force both in the legal studies block and in the skill development block, which includes firearms training, defensive tactics, and practical exercises.[221]

The state of Missouri also requires every licensed peace officer to complete a minimum of 48 hours of continuing education (in-service training) over a three-year period.[222]

In-service training must include at least four hours of legal studies[223] and four hours on interpersonal perspectives,[224] which must include at least three hours on racial profiling.

Based on state requirements, officers of the four core agencies in this assessment have had basic law enforcement training and in-service training, of which the most recent refresher would have occurred in the past one to three years. Beyond required in-service training blocks, the precise training received by officers can vary widely, even within agencies, depending on officer assignments and training opportunities available to choose from. Civil disobedience training, sometimes also referred to as crowd-control or riot training, varied among officers and agencies.

Law enforcement personnel interviewed consistently stated that the number of police departments from small municipalities made the Ferguson response more difficult. Interviewees perceived that some officers from the small agencies did not appear to have the knowledge and skills generally developed through experience and training beyond the required minimum POST standards.

The assessment team reviewed the curricula, training policies, and training logs for the four core agencies in this assessment.

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221. "Peace Officer Licensing Handbook," State of Missouri Department of Public Safety, last revised November 17, 2014, https://dps.mo.gov/dir/programs/post/documents/peace-officer-licensing-handbook.pdf.

222. "Continuing Law Enforcement Education Requirements," Missouri Department of Public Safety, accessed May 2015, http://dps.mo.gov/dir/programs/post/edrequirements.php.

223. Ibid. This is specified as "training focuses on updates or familiarization concerning federal, state, and local criminal law or legal issues;" however, individual topics of training (e.g., civil rights) are not specified.

224. Ibid. This is specified as "training focuses on communication skills, such as cultural diversity training, ethics, conflict management, victim sensitivity, and stress management."

First, in terms of Ferguson PD training, most of the officers receive basic and required in-service training through the St. Louis County and Municipal Police Academy (CMPA). Ferguson PD officials stated that all Ferguson PD officers were licensed and had received the required basic and in-service training as required by Missouri POST prior to the demonstrations. Most had not received any additional training unless they participated in a special assignment, such as investigations or canines. In early to mid-2014, 33 Ferguson PD officers attended the CMPA's one-day, joint civil disturbance response training (CDRT) and multi-assault counter-terrorism action capabilities (MACTAC) phase III training, the latter of which deals with active shooters and civil disobedience. Following this assessment period, officers also attended the civil disorder and constitutional law training provided by the U.S. Department of Justice (DOJ).

Second, the Missouri State Highway Patrol Law Enforcement Academy trains all troopers. The troopers receive training semiannually on use of force and defensive tactics. Tactical officers have also received training on active shooters and on current tactical practices along with the FBI at Fort Leonard Wood, Missouri. Tactical officers additionally received training on the use of the armored vehicles for rescue and officer insertion.

The Missouri State Highway Patrol conducted crowd-control training in past years, and CDRT was provided after the Ferguson incident (and after the assessment period), including court rulings and constitutional rights. Mobile field force training was also conducted last year in the St. Louis area.

Third, St. Louis County PD officers also receive training through the CMPA. The training staff stated that constant updates of the training programs occur to keep up with current events and tactics. In the spring of 2014, the CMPA hosted the MACTAC training. All training was completed before August 9 with 784 St. Louis County PD officers attending.

Fourth, St. Louis Metropolitan PD officers receive training through the St. Louis Police Academy. The department trained more than 100 officers in CDRT by the spring of 2013, and approximately 25 to 30 continued participation in quarterly training thereafter. Beginning in early August 2014 (prior to the Ferguson demonstrations), the St. Louis Metropolitan PD included CDRT as part of its in-service training for new officers. The department reported that it had provided a "crash course" on CDRT on August 14, 2014, preparing officers for deployment in Ferguson. The St. Louis Metropolitan PD and the St. Louis County PD also held a joint one-day CDRT prior to an international soccer match in Busch Stadium in St. Louis early in 2013. St. Louis Metropolitan PD command staff has received implicit bias training, but the line officers have not. St. Louis Metropolitan PD tactical training is comprehensive, as it receives chemical use and deployment training every two years.

The St. Louis Metropolitan PD teaches the "wheel" option on the use of force. This provides the officers with an array of tools they can use as they deem necessary rather than confining them to the use of force continuum. De-escalation training is provided during in-service training and is interwoven with defensive tactics. There is a section on constitutional law that addresses the First and Fourth Amendments, and the department provides a legal update every two years.

Beyond the training described above, there has been limited training in the county of St. Louis on the Code 1000 Plan. This appears to be true particularly among the many small municipal agencies.

Last, several personnel from different agencies stated that budget and staffing levels required prioritizing training opportunities. As such, CDRT was a low priority compared to other policing problems that agencies encountered on a more consistent basis.

After the Ferguson demonstrations covered in this assessment and in preparation for the grand jury decision, the DOJ encouraged training for all officers likely to be involved in response to any further civil disorder, to include four hours of constitutional law updates. In addition, different tactics such as proper arrest and handcuffing procedures were discussed in the training.

## Findings and lessons learned

**FINDING 21.** *Limitations and variations in officer training on civil disobedience, de-escalation, and mutual aid negatively impacted the response to events in Ferguson.*

**LESSON LEARNED 21.1.** Law enforcement agencies with mutual aid requests must conduct regional response training, to include regular regional tabletop critical incident or event exercises involving mutual aid responders, other first responders, and key community leaders.

**LESSON LEARNED 21.2.** Agencies should employ out-of-classroom methodologies, such as online training or roll call training, for more flexible in-service training delivery options.

**LESSON LEARNED 21.3.** Agencies should train all officers on the nature of the First Amendment and the protections it affords, including what is a lawful protest, how law enforcement should deal with lawful protests, and what are best practices for policing crowds.

**FINDING 22.** *The four core agencies dedicated officer training on operational and tactical skills without an appropriate balance of de-escalation and problem-solving training.*

**LESSON LEARNED 22.1.** Law enforcement agencies must ensure operational and tactical training is balanced with training that provides officers with tools to evaluate and de-escalate law enforcement encounters prior to resorting to use of force.

**FINDING 23.** *There was no evidence of comprehensive training or exercises involving all four agencies related to the National Incident Management System (NIMS). While agencies conducted some joint training and exercises, they often focused on a narrowly defined collective response. This training borrowed some NIMS principles but was not a wholesale application of NIMS.*

**LESSON LEARNED 23.1.** There is tremendous value for all law enforcement agencies, regardless of size, to be fully trained (including exercises) in NIMS guidelines.

# POLICIES AND PROCEDURES

**Maintaining policies and procedures** that reflect widely accepted policing practices and that meet national standards is a critical element of ensuring fairness and consistency of police operations. (The assessment team has incorporated discussions of pertinent policies, as appropriate, in each topical section of this report as well as in the findings and lessons learned.)

By definition, a *policy* is the "course or line of action adopted and pursued by an agency that provides guidance on the department's philosophy on identified issues."[225]

A *procedure* is the "detailed description of how a policy is to be accomplished. It describes the steps to be taken, the frequency of the task, and the persons responsible for completing the tasks."[226] Procedures may also stipulate special supervisory roles and the means to ensure accountability of police responsibilities.

*General orders* are "written directives related to policy, procedures, and rules and regulations involving more than one organizational unit." General orders typically have a broad statement of policy as well as the procedures for implementing the policy.[227]

*Rules* and *regulations* are "procedures that apply each and every time a situation occurs, with specific guidelines for staff to follow." Rules and regulations usually proscribe specific behavior that will result in employees being disciplined for failing to follow the guidelines provided.[228]

Policies provide guidance for decision making; however, in conditions of uncertainty, timely decisions must be made based on a good-faith interpretation of known facts. Leaders must ensure that officers understand their agency policies and how to interpret and execute the procedures in light of the philosophical foundation stipulated. Moreover, supervisors have responsibility to monitor officers' performance to ensure they are following policies and procedures.

The assessment team reviewed policies and procedures from the four agencies in the areas related to the police response in Ferguson. The St. Louis County Police Department, the St. Louis Metropolitan Police Department, and the Missouri State Highway Patrol are accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA),[229] which "provides credentialing services

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225. W. Dwayne Orrick, *Best Practices Guide: Developing a Police Department Policy-Procedure Manual* (Arlington, VA: International Association of Chiefs of Police, n.d.), 1, http://www.theiacp.org/portals/0/pdfs/BP-Policy-Procedures.pdf.

226. Ibid.

227. Ibid., 2.

228. Ibid.

229. CALEA is a national law enforcement agency accreditation organization that was created in 1979 as a credentialing authority through the joint efforts of law enforcement's major executive associations. The purpose of CALEA's accreditation programs is to improve the delivery of public safety services, primarily by maintaining a body of standards, developed by public safety practitioners, covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process; and recognizing professional excellence. See "The Commission," CALEA, accessed May 19, 2015, http://www.calea.org/content/commission.

**Table 3.** Policy review of the four core agencies that responded to the Ferguson demonstrations

| Response | Ferguson PD | Missouri State Highway Patrol | St. Louis County PD | St. Louis Metropolitan PD |
|---|---|---|---|---|
| **Canines** | ◆ | ◆ | ◆ | ◆ |
| **Citizen complaint procedures** | ◆ | ◆ | ◆ | ◆ |
| **Code 1000** | ◆ | ◈ | ◆ | ◈ |
| **Community-based initiatives** | ◆ | ◆ | ◆ | ◆ |
| **Critical incident response procedures** | ◆ | ◆ | ◆ | ◆ |
| **Crowd control** | ◆ | ❖ | ◈ | ◆ |
| **Deployment of riot gear, materiel, and tactical vehicles** | N/A | ❖ | ◻ | ◆ |
| **Incident command processes, procedures, and training** | ◆ | ◆ | ◆ | ◆ |
| **Public information processes, procedures, and practices** | ◆ | ◆ | ◆ | ◆ |
| **Mutual aid** | ◆ | ◆ | ◆ | ◆ |
| **Uniform/equipment (name tags)** | ◆ | ◆ | ◆ | ◆ |
| **Use of force** | ◆ | ◇ | ◆ | ◆ |

◆    Policy provided.

◈    Supports the Code 1000 Plan via Mutual Aid Agreement;
     not an explicit Code 1000 procedure.

❖    Policy provided with sections redacted pursuant of Section 610.100
     Missouri Revised Statutes.

◈    St. Louis County PD utilizes the Incident Command System General Order for crowd control.

◻    This procedure includes the deployment of tactical vehicles. St. Louis County PD
     is developing a general order for the storing and maintenance of riot gear.

◇    Policy reviewed on-site (copy not provided).

for law enforcement agencies, public safety communications for agencies, public safety training academies, and campus security agencies."[230]

The fourth agency, Ferguson Police Department, is not CALEA accredited. It is in the preliminary stages of obtaining certification by the Missouri Police Chiefs Charitable Foundation (MPCCF)—a not-for-profit corporation that provides accreditation to Missouri law enforcement agencies and whose standards are generally comparable to CALEA certification requirements regarding high liability areas and whose standards also address general concerns as well as specific areas of operations impacted by Missouri law and court opinions. The CALEA and the MPCCF do not dictate the content of policies; they outline the elements to be contained in the policies. The International Association of Chiefs of Police (IACP) offers model policies that do not dictate that any agency's policy must contain specific language.

Table 3 (on page 70) summarizes the policies and procedures specific to the Ferguson response that the assessment team received and reviewed.

In terms of the four agencies' policies and procedures, the assessment team noted the following:

- The Ferguson PD provided the agency's entire catalog of general orders for the team's review.

- The Missouri State Highway Patrol provided a portion of the policies and procedures requested. However, some requested directives were either not provided or had portions redacted, citing exemption from public record disclosure under Missouri Revised Statute 610.100; these materials were provided to the assessment team for on-site review, but unredacted copies were not provided.

  — With respect to the highway patrol's policies and procedures, the assessment team infers that they are consistent with national standards. The highway patrol is a CALEA-accredited law enforcement agency, and contemporary policy review is part of the accreditation process. The policies reviewed by the team did not readily demonstrate deviations from national norms.

- The St. Louis County PD provided all of the requested policies and procedures for the team's review; however, the department does not have a policy addressing crowd control.

- The St. Louis Metropolitan PD provided all of the requested policies and procedures for the team's review.

## Findings and lessons learned

**FINDING 24.** *The application of selected policies addressed in this assessment in response to the Ferguson demonstrations and the related operational and tactical decisions did not always align with the intended spirit of the policies and with widely accepted policing practices. Although agencies acted in accordance with their own policies, some of those policies were not in line with widely accepted policing practices.*

> **LESSON LEARNED 24.1.** Model or recommended policies and procedures provide a basic foundation to build upon and to enhance with jurisdiction-specific guidelines tailored to local police and community values and culture.

> **LESSON LEARNED 24.2.** Policies should be reviewed on a systematic basis to ensure they clearly address all applications of policing techniques and tools. For example, deploying canines for crowd control, using tools such as the long-range acoustic device and militarization equipment, and using tactics such as overwatch should be appropriately controlled or restricted.

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**FINDING 25.** *Only the St. Louis County PD makes agency policies publicly available and easily accessible via its website, which is consistent with principles of transparency and accountability. The Ferguson PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol do not make policies publicly available and easily accessible.*

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230. "AccreditationWorks!" CALEA, accessed May 19, 2015, http://www.calea.org/calea-update-magazine/accreditation-works/case-studies.

**LESSON LEARNED 25.1.** The process of public policing should be open and transparent. As such, policies of law enforcement agencies should be publicly available and easily accessible except for those narrowly defined and specifically unique policies, procedures, and general or special orders whose disclosure may jeopardize sensitive police operations.[231]

**FINDING 26.** *Because of the lack of clear direction for unified operational policies, officers from more than 50 law enforcement agencies involved in the response to the mass gatherings typically relied on their parent agency's policies to govern their actions. That lack of consistency in policy led to unclear arrest decisions, ambiguous authority on tactical orders, and a confusing citizen complaint process.*

**LESSON LEARNED 26.1.** Law enforcement agencies should work together in advance of the need for a coordinated response situation to review policies and to ensure any issues or substantial variations of interpretation are resolved. Agencies that do not participate in this advance review process should not be eligible to participate in regional mutual aid requests.

**LESSON LEARNED 26.2.** When entering into mutual aid agreements, participating agencies should form a unified compliance committee to agree upon

the policy content, training curriculum, and joint tactics. These agreements should mandate participation, and any agency that falls out of compliance should be released from the mutual aid agreement. Relevant policies and procedures associated with the agreement should be collaboratively reviewed to ensure they are consistent with remedies developed by the compliance committee should inconsistent practices be identified.

**LESSON LEARNED 26.3.** Law enforcement officers operating under a multiagency incident command structure must be informed of the policies and procedures to be followed during the execution of orders and tactics. A method of resolving questions or conflicts about policies must be readily available to assigned officers and communicated to them before deployment.

**LESSON LEARNED 26.4.** Law enforcement agencies should establish a framework for mutual response that includes not only a general mutual aid agreement but also procedures for implementing and managing the mutual aid response and clear distinction regarding which agency's policies will prevail when an agency is operating outside of its original jurisdiction.

**LESSON LEARNED 26.5.** During extraordinary events, law enforcement agencies should remain flexible to modifying policies or supplemental orders to address contingencies encountered and, if modification occurs, ensure that officers deployed in the operation receive clear direction regarding any changes.

231. President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015), http://ric-zai-inc.com/ Publications/cops-p311-pub.pdf.

# ACCOUNTABILITY AND TRANSPARENCY

**Law enforcement accountability and transparency** are critical to building and maintaining trust within a community. Police legitimacy provides a foundation for community trust. Police legitimacy is defined as "a psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just."[232] If the community perceives that the police are legitimate during enforcement actions such as traffic stops and in day-to-day encounters, the public will be more satisfied and willing to cooperate with the police.[233]

Procedural justice, a concept that focuses on communication and the perception of fairness in the processes and the outcome of those processes, provides another foundation for community trust. Procedural justice is the means by which legitimacy is enhanced. In short, it represents the extent to which those affected by the outcomes believe they have been fairly treated and have been provided a fair opportunity to be a part of the process. Procedural justice also needs to be applied to each individual police interaction with a member of the community.

The concept of procedural justice includes four principles that impact individuals' overall perceptions of the justice system. These principles are based on the perceived fairness of the process and how law enforcement treated individuals rather than the perceived fairness of the outcome they received. The principles include the following:

1. **Fairness.** Law enforcement is fair throughout the process and treats individuals with dignity and respect.

2. **Voice.** Law enforcement provides an opportunity for individuals to have their voice, their side of the story, heard.

3. **Transparency.** Law enforcement is transparent in its actions and explains the way decisions are made.

4. **Impartiality.** Law enforcement is impartial in its decisions, and the decision-making process is unbiased and neutral.[234]

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232. Tom Tyler, "Psychological Perspectives on Legitimacy and Legitimation," *Annual Review of Psychology* 57 (2006): 375–400.

233. Lorraine Mazerolle et al., *Legitimacy in Policing*, no. 10 of Crime Prevention Research Review (Washington, DC: Office of Community Oriented Policing Services, 2013), http://ric-zai-inc.com/Publications/cops-p262-pub.pdf.

234. Charlene Moe and Melissa Bradley, "Organizational Change through Decision Making and Policy: A New Procedural Justice Course for Managers and Supervisors," *Community Policing Dispatch* 8, no. 4 (April 2015), http://cops.usdoj.gov/html/dispatch/04-2015/a_new_procedural_justice_course.asp; Emily Gold, "The Case for Procedural Justice: Fairness as a Crime Prevention Tool," *Community Policing Dispatch* 6, no. 9 (September 2013), http://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp.

Underlying principles to procedural justice are the respect of those impacted and the fairness in the treatment of those who are stakeholders in the outcome.[235] Police-citizen encounters are important for accountability and transparency, especially because procedural justice at the core is changing how authority figures interact with those they police. Without procedural justice and a legitimate agency, transparency and accountability are at risk. The citizen complaint process and the ability of persons to identify officers who are subjects of complaints are important to maintain accountability and transparency within the community.

Having a strong and easily accessible citizen complaint process enables the community a process that provides good checks and balances. In addition, if the process is not transparent and offers no resolution, the community may not feel comfortable using the system. Some larger political jurisdictions have established independent government offices designed to deal with citizen complaints or citizen complaint boards.

For example, Washington, D.C., has the Office of Police Complaints,[236] an independent organization in the District of Columbia government that is authorized to review and resolve complaints against its Metropolitan Police Department officers. Similarly, New York City has an independent civilian complaint review board[237] that also permits citizens to file complaints online against New York City Police Department officers. While this may not be possible for all jurisdictions, the concept of independence from the police agency for the citizen complaint process has value, particularly when there is widespread distrust of the police.

The citizen complaint process typically has three components:

1. **Receiving a complaint.** The process used to receive a citizen complaint should not be confrontational or intimidating. It should be open and objective, permitting citizens to express their concerns without commentary or judgment by the government official taking the complaint. Efforts to dissuade citizens from making complaints should not be tolerated at all. The complaint process should be simple, straightforward, and easily understood. It is important to understand that a robust complaint process will help make the law enforcement agency more effective.

As allowed by an agency's state law and by any restrictions that may be stated against disclosing complaints against officers, the police agency or government office should have a mechanism in place to provide citizens with the current status of the complaint and the timetable for its resolution, when possible. While many citizen complaints are unfounded, the process must nonetheless be open and beyond reproach to ensure substantiated issues are resolved.

2. **Investigating a complaint.** Internal investigations tend to vary depending on the nature of the complaint. In the ideal circumstance, the process should use individual investigators, who report directly to the chief executive. After initial review of an administrative (noncriminal) complaint, the subject officer should be notified in writing and advised of his or her rights (i.e., the officer's bill of rights) and responsibilities with respect to the investigation and provided information regarding the nature of the allegation. All investigations and subjects of the complaints should be treated fairly and equitably. The investigators should be specially trained in conducting internal investigations and be given the authority and autonomy to conduct a comprehensive independent investigation.[238]

3. **Disposition of the complaint.** The process proceeds by considering the evidence associated with a complaint, investigating to determine whether the complaint is to be sustained, and, if so, determining the actions necessary to address the complaint. There are numerous models of complaint disposition, ranging from quasi-judicial proceedings to closed-door adjudication processes. Regardless of the model, it should reflect a fair and equitable process for officers and citizens alike.

235. Moe and Bradley, "Organizational Change through Decision Making" (see note 234).

236. "Office of Police Complaints," DC.gov, accessed May 19, 2015, http://policecomplaints.dc.gov/.

237. "Civilian Complaint Review Board," NYC.gov, accessed May 19, 2015, http://www.nyc.gov/html/ccrb/html/home/home.shtml.

238. International Association of Chiefs of Police, *Building Trust between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* (Washington, DC: Office of Community Oriented Policing Services, 2009), http://ric-zai-inc.com/Publications/cops-p170-pub.pdf.

**Table 4.** Methods of receiving and reviewing complaints

| Agency | In writing | By tele-phone | In mail | In person | Online | Method of review |
|---|---|---|---|---|---|---|
| Ferguson PD | ✕ | ✕ | ✕ | ✕ | | Reviewed by chief of police for assignment |
| Missouri State Highway Patrol | ✕ | ✕ | ✕ | ✕ | | Reviewed by Professional Standards Division |
| St. Louis County PD | ✕ | ✕ | ✕ | ✕ | ✕ | Reviewed by Bureau of Professional Standards* |
| St. Louis Metropolitan PD | ✕ | ✕ | ✕ | ✕ | ✕ | Referred to the Internal Affairs Division |

* General Order 04-05 refers to the Bureau of Professional Responsibility (see note 242 on page 76).

## Complaint processes of the four core agencies

Each of the four agencies in this assessment provided its policy outlining its documented complaint process. Table 4 summarizes each agency's methods for receiving and reviewing complaints. The assessment team did not evaluate to what extent these stated policies were followed during the 17-day assessment period.

### Ferguson Police Department

Individuals may submit complaints by mail, by telephone, or in person. All citizen complaints are investigated. Whenever possible, a complaint is reduced to writing. Written complaints do not have to be signed by the complainant. Signed complaints are recorded on an "Allegation of Employee Misconduct Report" form. Complainants are provided with a completed copy of the *Allegation of Employee Misconduct Report*. Unsigned complaints are recorded on a department memorandum form.

All complaints—written, oral, anonymous, signed, or unsigned—are required to be forwarded to the chief's office when received and reviewed by the chief of police to determine whether sufficient evidence exists to warrant further investigation. The chief of police is responsible for directing which complaints will be assigned for investigation by line supervisors and which will be investigated by the professional standards inspector—a command-level officer designated by the chief of police. The criteria for

the chief assigning the investigation to line supervisors may include improper performance of duty, alleged rudeness on the part of the officer, tardiness, or insubordination. The criteria for assigning the investigation to the professional standards inspector may include allegations of corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct. Internal investigation reports are completed within 15 calendar days of being assigned. The chief of police will forward all internal investigations conducted by line supervisors to the professional standards inspector for review and inclusion in the annual internal affairs report.

The department member against whom a complaint has been filed and any member who has been relieved of duty is required to be notified immediately and will be provided a written statement of the allegations and the employee's rights and responsibilities relative to the investigation. The investigative time limitation may be extended at the approval of the chief of police and is documented in the final report. The complainant is required to be notified of the results of the investigation in writing within 30 days. If the nature and conduct of the investigation take longer than 30 days, the complainant is supposed to receive periodic status reports until the investigation is completed. The chief of police forwards all internal investigations conducted by line supervisors to the professional standards inspector for review and inclusion in the annual internal affairs report; however, the policy does not state what will be done with this information.[239]

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239. Ferguson PD, "Allegations of Employee Misconduct Internal Affairs Investigations," General Order, 300.00, July 2010.

## Missouri State Highway Patrol

Individuals may submit complaints by mail, by telephone, or in person. When a complaint is made in person, the complainant is asked to sign the completed handwritten complaint receipt form and is provided a copy upon request. Complaints received by mail are forwarded to the Professional Standards Division, which prepares a complaint receipt form for the complainant's signature and mails it to the complainant with appropriate correspondence. Telephone complaints are required to be properly documented on a complaint receipt form. Anonymous complaints, regardless of how they are received, are required to be reported on a complaint receipt form.

All complaints are required to be forwarded to the Professional Standards Division for review and investigation. Upon initiating an official investigation, the division's director is required to promptly notify the employee who is the subject of the complaint through or in coordination with the affected commander by providing a copy of the complaint and a statement regarding the employee's rights and responsibilities related to the investigation.

Agency personnel are required to make reasonable efforts to ensure that the investigation of the complaint is normally completed within 30 calendar days. If the investigation exceeds 42 calendar days, the director of the Professional Standards Division is required to review the circumstances and, if warranted, grants an extension of up to 30 days. Any additional extension may be granted only by the superintendent upon the written request of the director of the Professional Standards Division. Extensions are required to be recorded in the case file.

Information in the internal files of the Professional Standards Division is not supposed to be released, neither are copies of any item that is part of a file disseminated except as provided by a governing general order, statute, or court order.[240] Information can be provided to a review board, and the colonel can provide information publicly to dispel allegations.[241]

## St. Louis County Police Department

Individuals cans submit complaints by mail, by telephone, in person, or online. The St. Louis County PD refers all citizen complaints to its Bureau of Professional Standards,[242] which investigates all complaints. The bureau provides complainants with a brief review of the complaint review procedure and explains to them that the police department's goal is to resolve the issue within 90 days. When the bureau investigates a complaint, it is required to notify the accused employee in a confidential manner of the substance and nature of the complaint.

During the course of the investigation, the accused employee can meet with a representative of the Bureau of Professional Standards and personally receive a copy of the complaint and written notification of the specific charge and their rights and responsibilities during the investigation. Complainants are invited to contact the bureau periodically to check on the status of their complaint.

The commander of the Bureau of Professional Standards, at his or her discretion, may extend the investigation period an additional 90 days if warranted. The subject and complainant are notified of any time extensions. After receiving notice of the findings and proposed disposition of formal discipline, the matter will be forwarded to the chief for further action. The subject is not permitted to have legal counsel present. Disciplined employees may file a written appeal to the Board of Police Commissioners within fifteen days, with certain exceptions.[243] St. Louis County PD policy does not address providing the information publicly.[244]

## St. Louis Metropolitan Police Department

Individuals can submit complaints by mail, by telephone, in person, or online. The St. Louis Metropolitan PD refers all citizen complaints to its Internal Affairs Division (IAD). The St. Louis Metropolitan PD maintains complaint/commendation forms in each police facility for citizens

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240. Missouri State Highway Patrol, "Complaint Reporting and Internal Investigations," General Order, 52-01-1197, November 2009.

241. Ibid.

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242. Although General Order 04-05 refers to this bureau as the Bureau of Professional Responsibility, St. Louis County PD leadership has stated that it is the Bureau of Professional Standards.

243. St. Louis County PD, "Complaint Review Procedure," General Order 04-05, April 2004.

244. Ibid.

to record a complaint against a St. Louis Metropolitan PD member. In addition, individuals can contact the IAD by phone to submit a complaint anonymously. For allegations that are serious in nature, arrangements are made for the complainant to appear personally at the IAD, with transportation being provided if needed.

The IAD is responsible for investigating complaints; however, if minor in nature, the complaint may be assigned to other bureau commanders for investigation. Through mediation, St. Louis Metropolitan PD employees and citizens also have the opportunity to clear up misunderstandings, miscommunication or a lack of communication during a particular incident. The mediation is intended to help citizens learn about the basis for the employee's actions in ways that promote an improved understanding of the employee's job, the dangers of police work, and the totality of circumstances that led the employee to take the particular action he or she took. At the same time, mediation can offer an opportunity for department employees to learn more about the effect their words, behaviors, and actions can have on the public and helps demonstrate the importance of effective communication and facilitation.

The IAD coordinates and processes all complaints.[245] The St. Louis Metropolitan PD strives to complete all internal investigations within 60 days and notifies all parties concerned of the disposition upon conclusion of the investigation. Complainants are required to be notified in writing of the result of the investigation. On a monthly basis, the IAD commander is required to forward to the chief of police a report on the number and type of investigations being conducted.

The chief of police is required to submit annual citizen complaint report summaries to the board of police commissioners for annual review, and the information contained in the citizen complaint summary is also published on the St. Louis Metropolitan PD website and included in the department's report to the community. The process has a resolution component that, if properly followed, ensures the complainant is able to quickly discern the classification of the complaint and any action taken to resolve it.[246]

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245. "Internal Affairs," Metropolitan Police Department, City of St. Louis, accessed May 2015, http://www.slmpd.org/internal_affairs.shtml.

246. St. Louis Metropolitan PD, "Complaint/Discipline Procedures," Special Order 6-02, August 2014.

## Issues with the citizen complaint process during the Ferguson demonstrations

Based on information received from the agencies, neither Ferguson PD nor the Missouri State Highway Patrol reported receiving a complaint against an officer or trooper during the assessment period. The St. Louis County PD and the St. Louis Metropolitan PD acknowledged that

> *The Ferguson response demonstrated that many community members took to social media to voice their complaints against law enforcement.*

they each had received one officer complaint during the assessment period. Given the large number of people participating in the Ferguson mass gatherings and the large number of issues about police practices reported in the media and online, the small number of formal complaints made during the assessment period may be misleading. The assessment team has no way of knowing the number of complaints that may have been filed with other law enforcement agencies responding to the Ferguson demonstrations. The Ferguson response demonstrated that many community members took to social media to voice their complaints against law enforcement.

The following issues were noted regarding the citizen complaint process during the Ferguson demonstrations:

- Individuals may have been deterred from filing complaints or found it difficult to file complaints in person with Ferguson PD because of ongoing construction, and, at times, crowds of protesters gathered outside the department.

- With more than 50 law enforcement agencies responding to the incident, it was a challenge for citizens to know where or how to make a complaint. If a citizen wanted to make a complaint about an officer but did not know the officer's jurisdiction of employment, there did not appear to be a mechanism in place to aid the citizen in identifying the officer or making a complaint to the correct agency.

- It was a challenge for agencies to identify whether complaints were about their officers. When multiple officers from many agencies are involved in responding to a large-scale situation, it may be difficult to determine which agency's officer is the source of a citizen complaint. One police manager stated, "When we get a complaint, we check to see if it is one of our officers. If not, we tell the person the officer must be with another agency."

- A distributed denial of service (DDoS) attack on the main St. Louis County website, www.stlouisco.com, resulted in a forced shutdown of the website and its services, such as the online complaint filing system, which were unavailable from August 13, 2014, until services were restored on August 19, 2014. (For more details on the DDoS attack, see chapter 14.)

Another troubling issue for the citizen complaint process, specifically regarding the Ferguson PD, came about in the U.S. Department of Justice (DOJ) Civil Rights Division report, which found a failure to respond to officer misconduct complaints at the Ferguson PD.[247] Evidence shows that Ferguson residents are fearful of retaliation, and even if they do report, "there is a significant likelihood that it will not be treated as a complaint and investigated."[248] Even if a complaint of officer misconduct is sustained, "the discipline it imposes is generally too low to be an effective deterrent."[249]

## Police name tags and accountability

Law enforcement officers have accepted a position of authority within their communities and are appropriately held to a tremendously high standard of honesty, integrity, equity, and professionalism.[250] The public has a right to expect accountability during an encounter with law enforcement, and accountability includes having a means for citizens to identify officers (e.g., name tags and badge numbers).

While all four agencies included in the assessment have policies regarding the proper display of a name tag as part of the standard uniform dress code, there were numerous reports of responding law enforcement officers not wearing name tags or badges during the Ferguson demonstrations. The assessment team identified instances in which police practices were not consistent with written policy. For example, the assessment team reviewed photos taken during the assessment period that indicated that officers from the Ferguson PD, the St. Louis County PD, and the Missouri State Highway Patrol did not wear name tags at all times in accordance with agency policy. As acknowledged by Ferguson PD personnel in interviews and by

> *Officers wearing name plates while in uniform is a basic component of transparency and accountability.*

Missouri State Highway Patrol personnel in the media,[251] there were officers with frontline crowd-management responsibilities who removed their name tags to make themselves more difficult to identify or to protect their personal identity.

One of the issues officers reported regarding the display of name tags was the hacking of police personnel records by the activist group Anonymous[252] in conjunction with members of the crowd taking pictures of officers, identifying who officers were by their name tags, and posting officers' names and addresses on the Internet. "Electronic terrorism" was the phrase used to capture this intrusion on officers' safety and privacy, as well as that of their families. During interviews, multiple officers reported that nonpeaceful protesters threatened to kill them, rape their mothers and wives, and hurt their children. Officers reported that because of the rapid spread of information on social media, officers' families became the target of threats

247. *Investigation of the Ferguson Police Department* (Washington, DC: Civil Rights Division, 2015), http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

248. Ibid.

249. Ibid.

250. International Association of Chiefs of Police, *Building Trust between Police and Citizens* (see note 238).

251. Ryan J. Reilly and Paige Lavender, "Ron Johnson Addresses Ferguson Police Officers' Failure to Identify Themselves," *The Huffington Post*, August 15, 2014, http://www.huffingtonpost.com/2014/08/15/ferguson-police-identities_n_5682645.html.

252. Caitlin Dewey, "Hackers Have the Names and Social Security Numbers of Ferguson Police. But Should They Share Them?" *The Washington Post*, August 14, 2014, http://www.washingtonpost.com/news/the-intersect/wp/2014/08/14/hackers-have-the-names-and-social-security-numbers-of-ferguson-police-but-should-they-share-them/.

and intimidation before officers got off duty. Thus, officers were worried about their families while on duty. One officer interviewed stated that he moved his family out of the city on two different occasions for their protection.

Officers interviewed also stated that they were instructed by their commanding officers to begin wearing their name tags again. Commanders on-scene in Ferguson instructed officers to wear their name tags, and the importance of wearing name tags during the deployment was reinforced during roll calls. When asked whether name tags were monitored while officers were deployed, one supervisor said, "We tried to, but there were lots of things going on, and name tags were not always at the top of the list."

A letter from the DOJ Civil Rights Division to Ferguson PD Chief Jackson explains the importance of wearing name tags:

> Officers wearing name plates while in uniform is a basic component of transparency and accountability. It is a near-universal requirement of sound policing practices and required under some state laws. Allowing officers to remain anonymous when they interact with the public contributes to mistrust and undermines accountability.[253]

The assessment team recognizes the importance of maintaining accountability for the complaint process. Citizens must have a means to identify officers for purposes of making a complaint. Name tag identification can also humanize the officer in the eyes of the public. However, the assessment team also recognizes the importance of privacy for the officers and their families, especially during mass protests and riots. Officers, and their families, should have a modicum of privacy.

An appropriate balance that may be possible through the use of numbers instead of names on badges during responses to group protests warrants consideration. The use of identification numbers placed prominently on sides of helmets and outermost garments including protective gear—rather than a small name tag over a breast pocket—improves identification and therefore provides increased accountability yet gives the officer a degree of privacy in his or her personal life.

## Findings and lessons learned

**FINDING 27.** *The four core law enforcement agencies have policies and procedures for receiving and processing citizen complaints that reflect acceptable national practice. However, these standard and separate processes for complaints appeared not to be able to meet the needs that arose from the unique circumstances of the Ferguson response.*

**LESSON LEARNED 27.1.** Law enforcement agencies should establish multiple methods for submitting complaints/commendations (in person, by phone, online, etc.) that are easily accessible, efficient, effective, and not intimidating to the public to ensure that citizen complaints are received, fairly investigated, and adjudicated. Agencies should review these methods periodically to stay current with technology and generational changes.

**LESSON LEARNED 27.2.** During events involving a multijurisdictional response, agencies should consider creating a formal, centralized complaint intake process for all agencies.

**LESSON LEARNED 27.3.** Law enforcement agencies should consider the option of establishing an off-site or alternate facility to address grievances if the established facility is not easily accessible during a mass gathering.

**LESSON LEARNED 27.4.** During events involving multiple law enforcement agencies, if a citizen seeks to make a complaint against an officer but is at the wrong agency of employment, reasonable efforts should be made to assist the citizen in identifying the proper agency to make the complaint. Also, an on-site, joint internal affairs or complaint intake process should be established.

**LESSON LEARNED 27.5.** Officer complaint/commendation processes should be shared with and accessible to the community and the media.

**LESSON LEARNED 27.6.** Methods for acknowledging good officer behavior, extraordinary efforts, or other accolades should be provided in addition to options for complaints.

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253.  Christy E. Lopez, deputy chief, Special Litigation Section, Civil Rights Division, to Chief Thomas Jackson, police chief, City of Ferguson, September 23, 2014, "Ferguson Police Department Investigation: Officer Name Plates," http://big.assets.huffingtonpost.com/DOJLetterOnNameplates.pdf.

**FINDING 28.** *The St. Louis County PD and the St. Louis Metropolitan PD each reported one officer complaint during the assessment period. Neither the Ferguson PD nor the Missouri State Highway Patrol reported receiving a complaint against any officer or trooper during the assessment period. However, given the size and scope of the protest and the findings outlined within this report, the limited number of filed complaints is misleading. Other factors that made it difficult or impossible to lodge complaints—or a lack of confidence in the complaint process—likely deterred citizens from filing complaints about police behavior.*

**LESSON LEARNED 28.1.** The absence of trust and confidence may negatively influence the community's willingness to engage law enforcement, even when they have significant concerns or complaints.

**FINDING 29.** *During the law enforcement response to the protests, some officers removed their nameplates. This behavior defeated an essential level of on-scene accountability that is fundamental to the perception of procedural justice and legitimacy.*

**LESSON LEARNED 29.1.** Citizens must have a means to identify an officer whom the citizen believes has acted inappropriately. The method of identifying the officer must be readily recognizable but does not necessarily have to be the officer's name, particularly when responding to a critical incident.

**LESSON LEARNED 29.2.** Law enforcement agencies and the communities they serve should discuss the need to protect officers and their families and determine how officers will identify themselves during daily service and volatile mass gatherings.

# USE OF INTELLIGENCE

**The law enforcement intelligence process** collects raw information related to known crimes and criminal threats within a jurisdiction. Raw information or data can come from a variety of sources: open source information; other criminal justice databases, such as records management systems; or criminal history record information systems. Intelligence can also be gathered or collected by line officers during the course of routine police business, documented in a field interview card or report, or gathered in a more deliberate manner at the direction of command staff in response to a public safety event such as a protest or an organized event. Intelligence analysts integrate this raw data and analyze it to identify criminal offenders, public safety needs, and trending threats. This must be a coordinated and ongoing process.

The intelligence function contemplated in this chapter draws conclusions based on knowledge gathered in real time and based on analysis of that information. Current information on crowd character, involved organizations, crowd size, movements, and protest locations is critical to commanders for making strategic decisions about response protocols, the number of officers necessary, staging, etc. It is similarly important to learn about factors external to the mass gatherings, such as entities that may take advantage of civil disobedience for other purposes, to prevent more problems from occurring. To make responsive, reasonable, and effective strategic decisions based on intelligence analysis, it is essential that intelligence analysts receive a range of information that is timely and accurate.

Information forming the basis for strategic decisions is generally called strategic intelligence.[254] The details from strategic intelligence are used by command staff to make strategic decisions about the number of officers required, deployment, deployment patterns, equipment resources, and information sharing with key stakeholders. Strategic intelligence is also disseminated to law enforcement supervisors to provide the background for the decisions being made. It is also used to inform frontline officers of situations that they can expect to encounter and the expected responses likely to occur to enforcement efforts. Tactical intelligence provides information on which law enforcement can base actions such as arrests, seizures, and interdiction.[255] The goal of the intelligence process is to

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254. David L. Carter, *Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies*, 2nd ed. (Washington, DC: Office of Community Oriented Policing Services, 2009), http://ric-zai-inc.com/Publications/cops-p064-pub.pdf.

255. Ibid.

identify threats and changes in the character of the incident and to better prepare strategic and tactical responses for maintaining public safety as well as protecting the safety of the officers on the street.

The Ferguson Police Department did not have an intelligence unit or designated intelligence function. The St. Louis County Police Department, the St. Louis Metropolitan Police Department, the St. Louis Fusion Center,[256] and the Missouri Information Analysis Center[257] (MIAC), which serves the intelligence function of the Missouri State Highway Patrol, each brought in analysts from their respective intelligence units and provided the intelligence function to the response effort. All four intelligence units worked in concert to regularly share information among themselves and with their respective agency commanders and used the network of state and major urban area fusion centers for information sharing throughout the incident. In the assessment team's view, useful information was collected from law enforcement intelligence units across the country. Based on interviews, the assessment team learned the following:

- The St. Louis County PD Intelligence Unit was involved in supporting the police response as the crowds started growing on August 9. Throughout the response, the St. Louis County PD Intelligence Unit focused on local threats, issues, and responses.

  — Two St. Louis County PD intelligence officers were assigned to the command post.

  — One St. Louis County PD intelligence officer was at the Ferguson PD.

  — Various numbers of intelligence personnel were among the crowds, depending on the character of the crowd and time of day.

- The St. Louis Fusion Center focused on broader issues and special-interest groups arriving in Ferguson or giving support to those in Ferguson.

  — St. Louis Metropolitan PD had an intelligence officer assigned to the St. Louis Fusion Center at St. Louis County PD headquarters who was the information sharing link between the agencies.

- The MIAC had personnel assigned to work in Ferguson and regularly shared information with the intelligence units.

  — After Missouri Governor Jay Nixon appointed the Missouri State Highway Patrol on August 14 as the incident command agency, the MIAC took a more prominent role at the command post to support the incident commander.

  — The St. Louis County PD Intelligence Unit remained at the command post, working on local issues "on the street."

- Both the MIAC and the St. Louis Fusion Center reported sharing significant information with the Illinois Statewide Terrorism and Intelligence Center—the Illinois fusion center located just 100 miles away from Ferguson in Springfield.

- While the St. Louis Metropolitan PD Intelligence Unit shared information with the other units throughout the response, it focused on threats occurring within the city, many of which were related in some manner to the Ferguson mass gatherings.

- Once the St. Louis County PD, the St. Louis Fusion Center, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol were all participating in the response, the intelligence capacity strengthened. Although, based on interviews, it was never fully integrated into the incident command structure as outlined in NIMS[258] (at least during the period of the assessment).

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256. The St. Louis Fusion Center includes St. Louis, Missouri; St. Louis County, Missouri; St. Charles County, Missouri; Franklin County, Missouri; Jefferson County, Missouri; Madison County, Illinois; St. Clair County, Illinois; and Monroe County, Illinois. It is co-located with the St. Louis County PD Intelligence Unit.

257. "What Is MIAC and Why Is It Needed?" Missouri Information Analysis Center, accessed May 19, 2015, https://miacx.org/.

258. National Incident Management System: Intelligence/Investigations Function Guidance and Field Operations Guide (Washington, DC: Federal Emergency Management Agency, 2013), http://www.fema.gov/media-library-data/1382093786350-411d33add2602da9c867a4fbcc7ff20e/NIMS_Intel_Invest_Function_Guidance_FINAL.pdf.

- Law enforcement and analysts from around the country were providing information through diverse intelligence information systems; however, they soon realized that some information still had to be vetted once received because it was not being vetted prior to entry. This is an issue that cannot be addressed at the local level.

Based on interviews with intelligence personnel and observations from the assessment team, it was apparent that intelligence personnel had learned a great deal about threats associated with the Ferguson mass gatherings, particularly from some special-interest groups with an intention to create havoc. While specific details are for official use only, the collective intelligence units came to a number of conclusions.

Note that these are not necessarily the same as the conclusions of the assessment team. The intelligence unit conclusions included the following:

- Groups offered training sessions for protesters that focused on how to peacefully protest, how to gain media attention, and understanding constitutionally protected rights. Other groups offered training on how to antagonize law enforcement and how to minimize the impact of tear gas, PepperBalls, and other less-lethal weapons.

- The intent of some individuals was to "burn and loot" to provoke law enforcement to use excessive force and violate the individuals' rights.

- Groups and individuals for which a criminal predicate had been established in other areas of the country, representing both supportive and antagonistic positions to demonstrators, were traveling to Ferguson.

- Cyberthreats were identified, and cyberincursions were documented and investigated. These cyberincursions, identity thefts, and intimidation of officer's families at their residence by groups such as Anonymous were a dangerous new aspect of civil disobedience.

- Known criminal offenders, involved primarily in theft and burglaries, were arriving in the county of St. Louis to take advantage of police engagement with the mass gatherings.

- The area experienced what was described as "protest tourism"—people with no interests in the issues who traveled to Ferguson to watch and participate "for entertainment."

- Crowd composition varied greatly from daytime to nighttime. During the day, primarily peaceful local protesters marched. After dark, the organized and trained activists emerged and more aggressively engaged law enforcement.

- Officers involved reported shots being fired nearly every night with several instances of the Bearcat vehicles being struck by gunfire. Several bullet strikes were evident on the Bearcat vehicles (see figure 18 on page 84). No law enforcement rounds with the exception of less-lethal projectiles were expended during the 17-day period covered by this report.

- Many of the fires started in both structures and vehicles were caused by Molotov cocktails.

- Based on interviews with intelligence personnel, activists were monitoring all three unencrypted police radio channels and were aware of law enforcement monitoring social media. This knowledge permitted them to alter plans to avoid officers and to send out false information.

- Law enforcement became aware that some false calls for service were designed to lure them into ambush sites.

- Intelligence sources identified many different groups that came to Ferguson to participate in the protest activities.

- Sources indicate that a number of activists in Ferguson were being paid or received their expenses covered for their services. One source of funding was crowdsourcing websites.

- Individuals used mirrors in the daytime and flashlights at nighttime to impair the vision of officers on the line.

- Video recording, including live streaming video, was used extensively by protesters to tell the story from their perspective and by law enforcement to document events as they happened.

**Figure 18.** Close-up of damage to a St. Louis County PD armored vehicle

Analysts received raw data from open source information systems that had access to social media and web postings. The analysts were looking for information about calls to join the protests, special-interest groups that were planning events, social media postings to gauge the tenor of the protests, and media reports. In addition, based on interviews with intelligence unit personnel and validated by law enforcement officers assigned to West Florissant Avenue, there was no structured way to collect information from line officers. This created a gap in the analysis because information was not shared or provided to analysts in a timely manner; thus, those observations were not included in the analysis process.

Intelligence personnel stated they were assigned to the incident command post. However, based on interviews, there was not a formal or regular process to share intelligence with incident command staff. One intelligence officer, speaking with clear frustration, stated, "We gave them a lot of good intel that was specific and useful. We would get a 'thanks,' and I think they used very little of it. They were making decisions by the seat of their pants or for politics, not based on the information we had." This disuse of intelligence was particularly true during the time of the Missouri State Highway Patrol incident command, when the agency exhibited a lack of urban experience and a lack of focus on command and control and had to follow specific guidance from the governor.

Generally, the assessment team concludes that incident commanders used limited intelligence for either strategic or tactical decision making. This resulted in strategic decisions being made without consideration of all the available information, which could have altered the public safety approach, particularly in staffing levels, enforcement strategies, and uniform policies regarding arrest and detention.

Based on interviews with law enforcement personnel, many officers felt they were not provided a good understanding of whom and what they were actually dealing with on the front lines of the protest. Statements made included "We had trouble classifying protesters from criminals. Peaceful protesters were afraid to come to the police in fear of the criminals retaliating against them. Gangs united as one in the conduct of criminal behavior, and motorcycle gangs started to show up too."

Having constant information coming from the streets of Ferguson was essential for accurate analysis in order to maintain public safety. It does not appear this was occurring. Three gaps in coverage were identified: (1) whether information gathered by deployed officers in Ferguson was being shared with the intelligence unit, (2) whether the intelligence developed from social media and other sources was getting to incident command decision makers, and (3) whether tactical response decisions were being made based on the intelligence gathered. Because there was wide variance in the responses on these points, the assessment team concluded that the intelligence was not being effectively transmitted and used in the response.

## Findings and lessons learned

**FINDING 30.** *Incident command did not functionally incorporate available intelligence into the strategic decision-making process because NIMS was not fully implemented. The St. Louis County PD, the St. Louis Metropolitan PD, the St. Louis Fusion Center, and the Missouri State Highway Patrol (via the Missouri Information Analysis Center) each developed a significant amount of intelligence about threats and public disorder concerns related to the mass gatherings and protests, though that intelligence did not systematically inform operations or decision making.*

> **LESSON LEARNED 30.1.** Agencies should develop a mechanism to gather raw information and to manage tips and leads, such as videos, from the scenes of mass gatherings so the intelligence can be forwarded to the intelligence units for analysis.

> **LESSON LEARNED 30.2.** Agencies should clearly communicate the protocol for identifying the type of information intelligence units can collect, when they can collect it, how they can collect it, what they will keep, and how long they can keep it.[259]

> **LESSON LEARNED 30.3.** City and county agencies should proactively leverage the resources and expertise of fusion centers in response to a critical incident such as that in Ferguson.

> **LESSON LEARNED 30.4.** Law enforcement agencies involved in a multijurisdictional response to a critical incident must establish a strong incident command structure following the NIMS model and incorporate intelligence into strategic decision-making processes.

**FINDING 31.** *Limited intelligence was shared with incident commanders, despite intelligence personnel being assigned to the command post. This resulted from a lack of a formal information sharing mechanism within the incident command structure.*

> **LESSON LEARNED 31.1.** An intelligence officer should be identified and assigned to the command post to enhance the two-way information flow and to help ensure that valuable strategic and tactical intelligence is being considered and used appropriately to inform tactical decision making.

> **LESSON LEARNED 31.2.** The incident commander must thoroughly understand the importance of the intelligence officers and pay particular attention to their recommendations for staffing, deployment, and operational decisions. The incident commander should be trained through interactive table-top exercises and other training mechanisms on operationalizing intelligence.

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**FINDING 32.** *Officers deployed for incident management received little intelligence about threats and protester strategies, which inhibited their ability to manage public interactions and make informed decisions.*

> **LESSON LEARNED 32.1.** Leadership should ensure line officers receive direction regarding the types of information that they should be cognizant of and that would be useful for them to pass on to intelligence units.

> **LESSON LEARNED 32.2.** Law enforcement agencies responding to a critical incident should develop consistent briefing content that command should use for advising officers, agencies, the public, and other officials.

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259. Criminal Intelligence Coordinating Council, *Recommendations for First-Amendment Protected Events for State and Local Law Enforcement Agencies* (Washington, DC: Global Justice Information Sharing Initiative, 2011), https://it.ojp.gov/documents/First_Amendment_Guidance.pdf.

# INTERNAL AND EXTERNAL COMMUNICATIONS

**Communications are the way** thoughts, ideas, instructions, tactical and strategic information, and ethos are transferred within and between individuals and groups. Command, control, strategy, tactics, direction, goal attainment, and accountability all require effective communications. Informing the community about critical incidents and the police response also requires effective communications. Invariably, in any complex endeavor, such as the police response in Ferguson, there will be communications mistakes. However, if those miscues are not corrected, patterns of miscommunications will occur that will ultimately lead to a loss of efficiency and effectiveness.

## Communications with the community

Forming the message and targeting essential recipients is the focus of this section. Ferguson Police Department recognized that information needed to be given to the community. Ferguson Police Chief Jackson actually spoke to the press on the night of the shooting—a fact that has been overlooked by some in the media.[260] But his attempts appeared to be framed in a manner to justify the shooting, rather than simply providing the facts of the incident. The failure to frame the communications objectively essentially invalidated the attempt at communications with the community.

While law enforcement attempted to meet with community and special-interest groups throughout the assessment period, the Ferguson PD and the St. Louis County Police Department had limited success in reaching the broader community. Interviews with citizens indicated that there was a lack of trust between law enforcement and the community. Even the communications breakthroughs that the Missouri State Highway Patrol incident commander made, for which the community held great hope, were short-lived. Noting the community's deterioration of faith in Incident Commander Ronald S. Johnson, one citizen stated, "He had a good 36 hours." Efforts to communicate, no matter how genuine, will not be effective if there is not a foundation of trust, especially during a period of crisis.

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260. David Carson, "Fatal Shooting by Ferguson Police Draws Angry Crowd," *St. Louis Post-Dispatch*, August 9, 2014, http://www.stltoday.com/news/multimedia/fatal-shooting-by-ferguson-police-draws-angry-crowd/html_31cfb177-97f2-558c-975d-f5c1253bb7b7.html.

## Communications within law enforcement

In the first 48 hours after the shooting and as the demonstrations continued to develop and evolve, incident command was fluid and not firmly established. To some officers, it was unclear whether the Ferguson PD or the St. Louis County PD was in charge. The uncertainty of which agency was in command was, in part, the result of poor communications.

The Code 1000 Plan response, while providing additional resources, complicated communications because of the number of agencies and officers involved in the response. While most agencies communicate via radio through a common channel, known as a RIOT channel, the command and control communications among and between responding personnel can become problematic. When it is unclear who is authorized to give deployment and tactical orders, the response becomes unbalanced, and disarray ensues.

Once the command post is established, the structure for communications should have been in place, but problems remained. Command personnel interviewed stated that clear direction was provided to officers in deployment briefings of their responsibilities and standing orders, such as circumstances and processes for arrests. Line officers interviewed stated that the briefings were typically "administrative in nature." When asked about standing orders for arrests and engagement, there was a wide variety of responses ranging from definitive actions to uncertainty. Given these circumstances, the assessment team concludes that there was a communications breakdown.

Not all communications were ineffective with the community or within and between law enforcement. However, communications inconsistencies were a recurring theme during interviews. The assessment team recognizes that under the circumstances of the mass gatherings and the Code 1000 Plan, effective communications were going to be challenging. However, those circumstances and challenges are why efforts to improve internal and external communications must be emphasized.

## Communications technology

Other forms of communications technology are addressed in chapter 14. As a result, this section will address only one aspect: radio systems' interoperability. NIMS standards address a wide range of communications technology issues; however, interoperability was a fundamental communications issue during the Ferguson response.

Despite the fact that all police radios are supposed to be interoperable, interviewees reported problems. In some instances, one officer received information via radio and then verbally passed the information on to other officers who did not receive the correct message. Interoperability was challenged even more by the Missouri State Highway Patrol's new radio system that had to be adjusted and patched to work during the police response.

The assessment team notes that interoperability issues affect law enforcement agencies nationwide. In terms of the Ferguson response, interoperability issues were aggravated by differing communication technologies and the wide range of law enforcement agencies in the county of St. Louis.

## Findings and lessons learned

**FINDING 33.** *The absence of trust between the police in Ferguson and many in the community negatively impacted the response of all agencies involved and was a barrier to responding agencies' efforts to communicate effectively with the community.*

> **LESSON LEARNED 33.1.** Law enforcement agencies must invest time to establish trusted relationships with all segments of the communities they serve to promote ongoing, effective communications that can be leveraged during challenging times.

> **LESSON LEARNED 33.2.** Law enforcement agencies responding to a mutual aid situation must understand that they inherit the relationships established by the requesting agency.

**FINDING 34.** *After the first several days of the protest, there was a noticeable change to the way in which law enforcement leaders engaged protesters on the protest line; they began meeting with protest leaders and reached out to local clergy in an effort to open the lines of communication.*

> **LESSON LEARNED 34.1.** Law enforcement must reach out to protest leaders to understand the protesters' issues and establish an understanding of police responsibilities for managing the safety and security of protesters and the community.

> **LESSON LEARNED 34.2.** Lines of communication between law enforcement and protest leaders should remain open and consistent not only throughout the protest but also after the protest to ensure effective communications to prepare for future protests and to ensure a relevant ongoing dialogue between the protesters and the police occurs.

**FINDING 35.** *Radio interoperability challenges impeded communications between responding law enforcement agencies in the early days of the response. The St. Louis Metropolitan PD and the Missouri State Highway Patrol operated radio systems that were incompatible with the systems used by the other two agencies involved in this assessment, requiring alternate communication methods until patches could be made to the systems.*

> **LESSON LEARNED 35.1.** Law enforcement communications equipment should provide for seamless interoperability among responding agencies by preparing and testing communication systems in advance of an incident.

**FINDING 36.** *One mutual aid channel was used initially for communications by responding agencies and the volume of radio traffic resulted in people talking over one another. A second radio channel was subsequently added, but it took time to communicate the protocols for use of two channels by responding agencies.*

> **LESSON LEARNED 36.1.** Methods of interagency communications, including radio and electronic messaging, among mutual aid agencies should be established and reviewed on a regular basis to ensure interoperability during emergency situations.

# CHAPTER 12

# PUBLIC INFORMATION AND MEDIA RELATIONS

**Virtually everyone interviewed** as part of this assessment—community members and law enforcement personnel of all ranks—stated that media relations with the police during the demonstrations were poor. Media relations efforts by the law enforcement agencies got off to a slow, difficult start. A story line about Ferguson was emerging that went beyond the shooting of Michael Brown. The unfolding events in Ferguson became a national story that focused on issues of racial inequality, justice for African Americans,[261] police militarization, and police use of force. It also became a story in which journalists were criticizing law enforcement for violating journalists' First Amendment rights.[262] Freedom of the press is a fundamental right of a free society that law enforcement must protect even under the most challenging circumstances.

Police personnel interviewed by the assessment team blamed police leaders and the media alike for the negative picture that was being painted of police officers in the St. Louis metropolitan area. Interviewees indicated that the responding agencies had done a poor job in "telling their story" and that the media grabbed onto an early agenda that was visual and emotional but strayed from the facts. One officer, expressing frustration, stated, "This isn't even our town. We got dragged into this. It doesn't make any difference what uniform we're wearing; everyone seems to think we're prejudiced thugs. We can thank the media for that."

As a result of its significance to the overall events in Ferguson, the assessment team critically examined how this media environment evolved. There appear to be several interactive factors:

- In the initial days of the law enforcement response to the demonstrations, information was not forthcoming from the Ferguson Police Department or the St. Louis County Police Department. That established a tone with the media that the police were withholding information about the shooting of Mr. Brown. The St. Louis County PD held its first press conference almost 24 hours after the event—24 hours for an alternate narrative to develop. Law enforcement lost the narrative to social media.

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261. U.S. Department of Justice, "Justice Department Announces Findings of Two Civil Rights Investigations in Ferguson, Missouri," news release, March 4, 2014, http://www.justice.gov/opa/pr/justice-department-announces-findings-two-civil-rights-investigations-ferguson-missouri.

262. Trevor Timm, "Lessons from Ferguson: Police Militarization Is Now a Press Freedom Issue," Freedom of the Press Foundation, August 14, 2014, https://freedom.press/blog/2014/08/lessons-ferguson-police-militarization-now-press-freedom-issue.

**Figure 19.** Tweet from BBC News US

Source: BBC News US, Twitter post, August 15, 2014, 9:00 a.m., https://twitter.com/BBCNewsUS/status/500311153583853570.

- The public information officer (PIO) from the St. Louis County PD appeared to have received the majority of media requests[263] and was overwhelmed by the demands. As a result of this volume and the response deadlines set by the media, some requests were not responded to at all.

- Multiple law enforcement agencies were involved with varying public information methods used, resulting in inconsistent communications and, in some cases, virtually no communications with the media.

- From the outset, the public information released by law enforcement was more reactive in nature rather than proactive.

- Some news coverage contained errors and misleading images.[264]

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263.  Based on interviews, the command center directed subordinate PIOs not to talk to the media. The result was that all requests went to the command center PIO, who was unable to keep up with the volume of requests.

264.  Ben Shapiro, "Original Witnesses' 'Hands Up' Brown Stories Falling Apart," Breitbart, August 19, 2014, http://www.breitbart.com/big-government/2014/08/19/hands-up-story/; Brendan Keefe, "Fake Stories Fuel Ferguson Anger," KDSK.com, November 23, 2014, http://www.ksdk.com/story/news/local/ferguson/2014/11/20/fake-news-fuel-ferguson-anger/70041764/.

The Ferguson PD initially provided a statement to the media on the day of the shooting. After that and as advised by the city's hired public relations firm, the Ferguson PD provided limited information. The failure to release this information quickly aggravated the community and evoked criticism from the media.

On August 15, when Ferguson Police Chief Thomas Jackson released limited information about the shooting incident during a press conference, some believed that the reason for the delay was to allow the police to develop an alternate explanation for the shooting. At the same conference, Jackson announced that Mr. Brown was the suspect of a robbery that occurred just before the shooting (see figure 19), fueling anger among the demonstrators and deepening public distrust of law enforcement.

## Public information officer overwhelmed

With the media clamoring for information and in the absence of a strong NIMS structure, the police agencies involved were not adequately prepared to respond. According to National Incident Management Systems (NIMS) guidelines, the PIO[265] should report directly to the incident commander (IC), and all media inquiries should be directed to the PIO via a joint information center.[266] While there is clear guidance for the PIO in NIMS guidelines,[267] each agency seemed to handle media responses based on its own agency's determination.

The St. Louis County PD PIO had significant experience in the position, having previously handled the media questions submitted to the department for crime situations or other incidents of media interest. However, despite this experience, the volume of requests related to the Ferguson response was overwhelming.

By having regular press conferences, the PIOs are able to provide factual information and keep control of the narrative. In Ferguson, community members and protesters had a strong presence on social media (see chapter 13 for

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265.  See appendix D for a full definition.

266.  See appendix D for a full definition.

267.  *Basic Guidance for Public Information Officers (PIOs)* (Washington, DC: Federal Emergency Management Agency, 2007), http://www.fema.gov/media-library-data/20130726-1623-20490-0276/basic_guidance_for_pios_final_draft_12_06_07.pdf.

more on social media) and were able to drive the narrative. PIOs did not use social media effectively, preventing instantaneous distribution of information. Getting this information out on social media is critical. Social media can ruin an agency's best efforts. It engulfs everything the agency is trying to do.

The PIOs with the St. Louis Metropolitan Police Department referred many inquiries to the St. Louis County PD or the command post. Because the Ferguson demonstrations was not in the St. Louis Metropolitan PD's jurisdiction, the department determined that the best course of action would be to direct these media requests to other agencies.

Missouri State Highway Patrol Troop PIOs referred media requests to the command post. A highway patrol PIO was assigned to the command post, but the IC directly handled many of the media requests. However, the IC had limited time available for media requests because of his other duties. Thus, this practice may have reduced the number of responses to such requests.[268]

There were so many requests from media outlets, large and small and from all over the world, that the collective PIOs were unable to handle all media requests, even with some working 20-hour days. For example, when the St. Louis County PD PIO went home late, he awoke after a few hours to find that he had more than 80 new messages. When making the return calls, he found that many story deadlines had already passed.

## Press conferences, credentialing, and media

The Missouri State Highway Patrol held press conferences at the incident command post after the mass gatherings had largely dissipated each evening. Sometimes these press conferences would be held as late as 3:00 a.m., depending on the activities of the crowds. Based on interviews with law enforcement officials, credentialing members of the press was nonexistent.

In some instances, the police had difficulty identifying who the journalists were in the ever-changing crowd. Credentialing journalists not only provides law enforcement a degree of access control to press conferences and certain locations at an incident scene but also is likely to aid journalists in obtaining access. Although the provision of credentials to journalists was discussed among the law enforcement agencies in Ferguson, it was not implemented for three reasons:

1. Law enforcement had difficulty in defining who journalists were. For example, did the term include citizen journalists?[269]

2. There was no mechanism in place to implement a credentialing process.

3. Because of the many other demands on police time, there did not seem to be the will to move forward on a credentialing process.

Across the country, some law enforcement agencies have developed guidelines to ensure that journalists receive credentials from the police. For example, the New York City Police Department has an application process and specific guidelines setting forth requirements for journalists to receive credentials.[270] However, this access control is a controversial process among some journalists, particularly those who work for nontraditional online media outlets.[271]

The St. Louis County PD PIO indicated that the St. Louis County PD is in the process of generating a credentialing program. The agency is reviewing the Media and Analyst Pass Requirements model published by the U.S. Press Association as a basis for its own program.[272]

269. According to a PEN American Center report, "The National Press Photographers' Association called citizen journalists 'an integral part of the information network' on Ferguson." However, at the same time, the report acknowledges the new challenges this presents to police, and "many journalists interviewed for this report noted that it was sometimes difficult to distinguish members of the press from protesters in Ferguson, and that this may have made it more difficult for police officers to act in a way that respected press freedoms." Bass and Weaver, *Press Freedom Under Fire in Ferguson*, 3–4 (see note 133).

270. "Press Relations/Credentials," City of New York, accessed June 16, http://www.nyc.gov/html/nypd/html/press_relations/credentials.shtml.

271. Sewell Chan, "N.Y.P.D. is Sued over Denial of Press Credentials," *The New York Times*, November 12, 2008, http://cityroom.blogs.nytimes.com/2008/11/12/nypd-is-sued-over-denial-of-press-credentials/?_r=0.

272. "(USPA) - US Press Association Helps You Comply & Be Verified," U.S. Press Association, accessed June 3, 2015, http://uspressassociation.org/page.php?100.

268. Jon Swaine and Rory Carroll, "Ferguson Cop Who Walked Middle of Road Finds Critics Coming Both Ways," *The Guardian*, August 16, 2014, http://www.theguardian.com/world/2014/aug/17/ron-johnson-ferguson-cop-middle-road-critics.

**Figure 20.** Tweet from *St. Louis Post-Dispatch*'s photojournalist

Source: David Carson (@PDPJ), Twitter post, August 23, 2014, 4:24 p.m., https://twitter.com/pdpj/status/503322032713768962.

There was some criticism that the news coverage lacked perspective and balance. Several citizens and police officers interviewed stated that the image of the response portrayed in the media did not reflect reality. One officer stated, "If you watched the news, it looked like the whole city was on fire, but it was really [only] two blocks." Indeed, one media outlet produced coverage that took a critical look at media coverage of the protests.[273]

Some journalists alleged that they were threatened and intimidated while reporting or taking photos or video, even as they provided officers with their press credentials.[274] Media analysis provides evidence that some members of the press were detained and arrested, and a number

have subsequently filed lawsuits against the St. Louis County PD over civil rights violations and for unjustifiably detaining them.[275]

One reporter who had traveled from Germany to cover the Ferguson story was arrested. He said that after traveling all over the world as a journalist, "to be arrested and yelled at and rudely treated by police, I had to travel to Ferguson and St. Louis in the United States of America."[276] According to the Freedom of the Press Foundation, 19 journalists were arrested during the assessment period.[277]

"We are concerned by the detention and harassment of reporters trying to cover the news in Ferguson," said Robert Mahoney, deputy director of the Committee to Protect Journalists. "Journalists have a right to work freely on the streets of any American city, and authorities in Ferguson have a duty to ensure that they can do so there too."[278] Freedom of the press is just as important as the right to protest, so it is vital that the media's rights be protected as well.

Despite the sometimes contentious relationship there were many instances where helpful information was shared with law enforcement by the media and assistance was provided to journalists by law enforcement. A review of one agency's incident log mentions information shared by a journalist that identified residents making homemade bombs. Media personnel identified a group of protesters who were trying to convince demonstrators to induce officers to act in ways that would make them look bad or get them in trouble. Journalists also advised the command post about a planned ambush. Police also aided journalists who were trapped and needed assistance exiting an area.

Some journalists covered officers helping in the community during the crisis. For example, the local newspaper, *St. Louis Post-Dispatch*, wrote a piece about officers from

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273. For example, see "Ferguson: The Good, the Bad, the Ratings," *Reliable Sources*, CNN, November 30, 2014, http://reliablesources.blogs. cnn.com/2014/11/30/ferguson-the-good-the-bad-the-ratings/; "Fanning Ferguson's Flames; Images of an Execution," Fox News, August 24, 2014, http://www.foxnews.com/on-air/media-buzz/transcript/2014/08/24/ fanning-fergusons-flames-images-execution.

274. Bass and Weaver, Press Freedom Under Fire in Ferguson (see note 133).

275. "Journalists Sue Ferguson Police for Arrests during Protests," Breitbart, March 30, 2015, http://www.breitbart.com/big-journalism/2015/03/30/ journalists-sue-ferguson-police-for-arrests-during-protests/.

276. "German Journalists Arrested in Ferguson," *The Local*, August 19, 2014, http://www.thelocal.de/20140819/german-journalists-held-in-ferguson-unrest.

277. Runa A. Sandvik, "Documenting the Arrests of Journalists in Ferguson," Freedom of the Press Foundation, August 19, 2014, https://freedom. press/blog/2014/08/documenting-arrests-journalists-ferguson.

278. "CPJ Concerned by Arrests, Harassment of Reporters Covering Unrest in Ferguson, Missouri," Committee to Protect Journalists, August 14, 2014, https://cpj.org/2014/08/cpj-concerned-by-arrests-harassment-of-reporters-c-1.php.

three police agencies—the Missouri State Highway Patrol, the St. Louis County PD, and the St. Louis Metropolitan PD—helping church groups distribute food to families in the Canfield, Northwoods, and Oakmont apartment complexes in the neighborhood in which Mr. Brown was killed (see figure 20 on page 94).[279]

## Findings and lessons learned

**FINDING 37.** *Law enforcement agencies initially offered limited public information and did not commit to proactive communications with the public, both of which set a negative tone for media relations for the rest of the demonstrations.*

**LESSON LEARNED 37.1.** Law enforcement should establish a practice to release all information lawfully permitted as soon as possible and on a continuing basis, unless there is a compelling investigatory or public safety reason not to release the information. A "compelling reason" should be narrowly defined and limited in scope. Had law enforcement released information on the officer-involved shooting in a timely manner and continued the information flow as it became available, community distrust and media skepticism would most likely have been lessened. As noted in the *Final Report of the President's Task Force on 21st Century Policing*, "when serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality."[280]

**LESSON LEARNED 37.2.** Law enforcement should establish a media credentialing process and a well-publicized staging area for frequent briefings during times of crisis.

**FINDING 38.** *Incident command did not follow the NIMS public information protocols, including establishing a joint information center (JIC), which could have reduced or eliminated some of the conflict between law enforcement and the media and improved relations with the community.*

**LESSON LEARNED 38.1.** Law enforcement agencies should understand the importance of quickly establishing a JIC and communicate timely and relevant information to the public.

**LESSON LEARNED 38.2.** Law enforcement should have a designated, trained public information officer (PIO), who engages with the public on a routine basis. Established relationships will benefit the department and provide a familiar face to the public during times of crisis.

**LESSON LEARNED 38.3.** Law enforcement should consider establishing a forum for its PIOs and other personnel in media relations so they can discuss issues, learn how to assist in critical situations, and keep apprised of contemporary issues that impact them.

**LESSON LEARNED 38.4.** PIOs should complete the Federal Emergency Management Agency's Emergency Management Institute training courses for PIOs (which comply with NIMS), including the four-day advanced course.[281]

**LESSON LEARNED 38.5.** Agencies jointly involved in a critical incident must defer to the established PIO for the timely release of accurate and relevant information.

**LESSON LEARNED 38.6.** When an agency is overwhelmed with media inquiries in a critical incident, a viable option may be to request a temporary detail of experienced PIOs from other law enforcement agencies to moderate the burden.

**LESSON LEARNED 38.7.** Law enforcement should dedicate sufficient staff to cover public information and media relations needs.

279. Joe Holleman, "Ferguson Notes: Police Join in Food Distribution," *St. Louis Post-Dispatch*, August 24, 2014, http://www.stltoday.com/news/local/crime-and-courts/ferguson-notes-police-join-in-food-distribution/article_a0825e3c-20b0-5e86-b36e-1d65ad54fa46.html.

280. President's Task Force on 21st Century Policing, *Final Report* (see note 231).

281. "Emergency Management Institute Course | IS-29: Public Information Officer Awareness," Federal Emergency Management Agency, accessed June 4, 2015, http://training.fema.gov/is/courseoverview.aspx?code=IS-29.

# SOCIAL MEDIA

**Social media** is a complex and continually changing form of communication. Despite new social media initiatives in law enforcement,[282] many agencies nationwide use it in a limited capacity. Law enforcement agencies can use social media to interact with the public, to warn the public of possible dangers, to ask for the public's help, and to communicate about community events. As such, law enforcement can use social media to be transparent and to foster relationships of trust.

Engaging in social media can benefit law enforcement in several ways:

1. By engaging with each other and building trust and a sense of community

2. By gaining control over the agency's reputation

3. By providing a forum through which people can ask questions and law enforcement can share tips

4. By quickly spreading knowledge that could protect the community, help catch suspects, find missing persons, etc.[283]

## A viral message on militarization

Virtually every individual interviewed for the assessment spoke about the power of social media in Ferguson. The initial crowd that gathered at the homicide scene informed the public's perception of what happened by virtue of sharing photos, videos, and their thoughts as the events were unfolding.[284] Cell phone video clips of police and crowd activity populated various Internet sites that were accessible worldwide. New era Internet journalists were on scene, sometimes streaming live video long before more traditional TV, cable, or print journalists revealed the same

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282. IACP Center for Social Media, accessed May 19, 2015, http://www.iacpsocialmedia.org/.

283. Loraine Burger, "4 Ways Social Media Can Help Police Departments," PoliceOne.com, May 28, 2013, http://www.policeone.com/social-media-for-cops/articles/6250205-4-ways-social-media-can-help-police-departments; see also "Using Social Media to Prevent, Respond to, and Investigate Riots," chap. 4 in *Social Media and Tactical Considerations for Law Enforcement, by Police Executive Research Forum* (Washington, DC: Office of Community Oriented Policing Services, 2013), http://ric-zai-inc.com/Publications/cops-p261-pub.pdf.

284. Capehart, "'Hands Up, Don't Shoot' Was Built on a Lie" (see note 54).
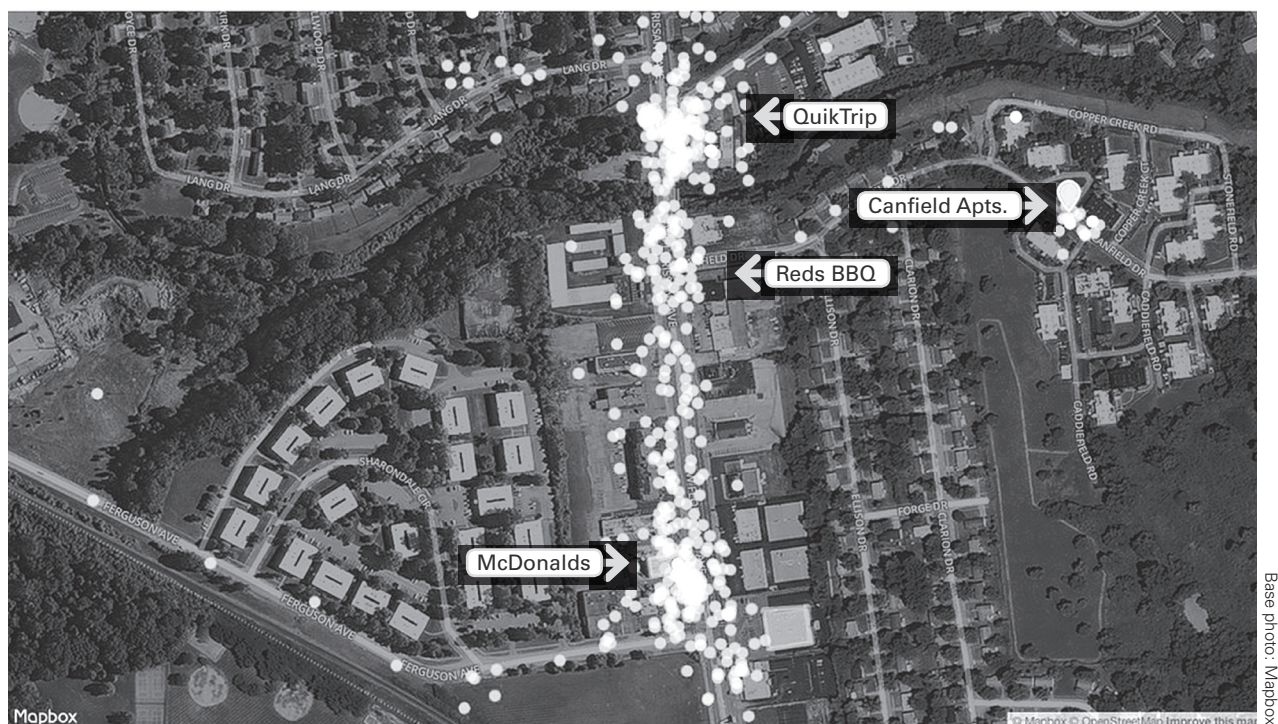
**Figure 21.** Twitter hits along Florissant Avenue in Ferguson, August 9-18, 2014; location of geotagged tweets from Ferguson using the *#Ferguson* hashtag

Source: Eric Fischer, "Mapping #Ferguson" [blog], Mapbox.com, August 20, 2014, https://www.mapbox.com/blog/ferguson/.

information. The police on the scene in Ferguson had no concept of the effect of social media until it was too late, and all they could do was play catch-up with the massive amounts of data being shared. Yet the pictures and videos shared via social media sparked the national conversation about the militarization of the police (see also chapter 5).[285]

## Social media's coverage of Ferguson

There was a staggering amount of information about the Ferguson incident posted on social media platforms. For example, five days after the shooting of Michael Brown, Twitter users had shared 3,648,032 tweets using just one

hashtag, *#Ferguson* (see figure 21).[286] In addition, there were other Twitter feeds on different aspects of Ferguson, including the officer-involved shooting, the police response to the demonstrations, and other derivatives of the shooting (see figure 22 on page 99).

A number of websites and social media initiatives by different special-interest groups focused on Ferguson. Similarly, just one Facebook page on Ferguson has obtained more than 117,000 "likes."[287] While that number is small in comparison to the *#Ferguson* tweets, it is still roughly six times

285. Kurt Eichenwalk, "Why Militarized Police Departments Don't Work," Newsweek, August 18, 2014, http://www.newsweek.com/2014/08/29/why-militarized-police-departments-dont-work-265214.html; Aaron Sankin, "Ferguson Crackdown Makes Politicians Rethink Police Militarization," The Daily Dot, August 16, 2014, http://www.dailydot.com/politics/police-militarization-ferguson-politics.

286. Pew Research Center (@pewresearch), "Twitter Reaction on #Ferguson Developed Much More Quickly Than It Did for #Trayvon Martin Case," Twitter post, August 20, 2014, 1:43 p.m., https://twitter.com/pewresearch/status/502194292329566208.

287. Ferguson Scanner Updates' Facebook page, accessed May 2015, https://www.facebook.com/pages/Ferguson-Scanner-updates/272670539597276.

**Number of minutes Ferguson was featured on cable news networks**

MINUTES

150

122

110

100

89 | MSNBC

61

50

50

64

69 | CNN

21

24

36

68 | FOX News

0

6

23

18

0

| Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday |
|----------|--------|--------|---------|-----------|----------|--------|
| August 9 | August 10 | August 11 | August 12 | August 13 | August 14 | August 15 |

Michael
Brown is
shot and
killed by
Ferguson
police
officer

First
confirmed
reports
of rubber
bullets
used to
disperse
crowd

Police
arrest two
reporters
covering
protests

President
Obama
comments
on events

Police
release
name of
shooting
officer and
surveil-
lance tape

**Number of Ferguson-related post on Twitter**

MILLIONS

4

3,648,032

3

2

1,517,782

1,193,218

590,120

538,590

1

146,183

266,637

0

| Saturday | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday |
|----------|--------|--------|---------|-----------|----------|--------|
| August 9 | August 10 | August 11 | August 12 | August 13 | August 14 | August 15 |
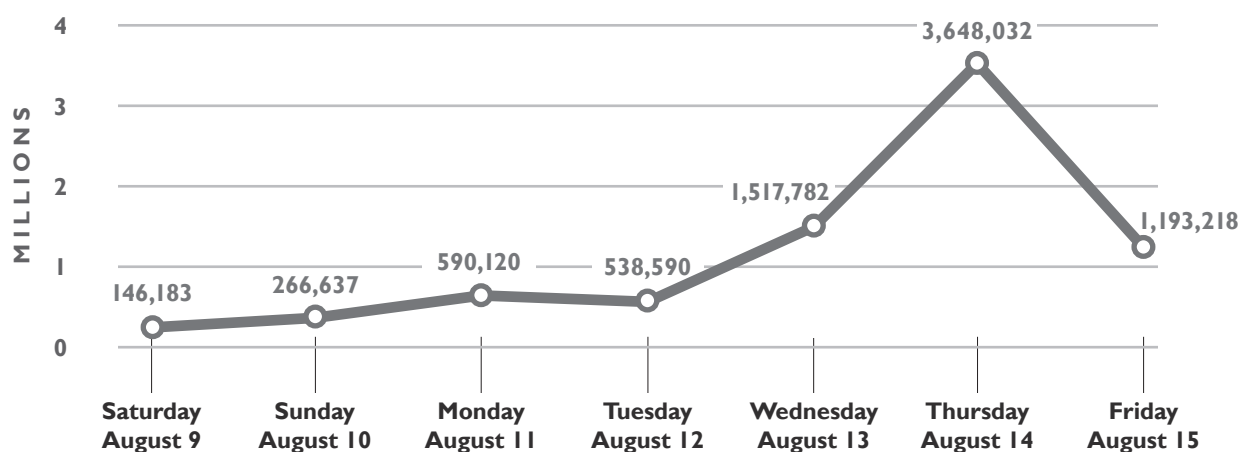
Note: The Pew Research Center examined three hours per day of prime time news programs. For Fox News, the hours examined were 8:00–11:00 p.m., ET. For MSNBC, the hours examined were 7:00–10:00 p.m., ET. For CNN, the hours were 7:00–9:00 p.m. and 10:00–11:00 p.m., ET.

**Figure 22.** News and social media coverage of Ferguson for one week

Source: Pew Research Center
Original source graphic: Jessica Schillinger

**Table 5.** Agency activity on social media during the Ferguson demonstrations

| Agency | Facebook * | Twitter † | Website | Other social media activity |
|---|---|---|---|---|
| **Ferguson PD** | Automatically generated page, ‡ >5,000 likes, no agency activity | Light activity Sept. 15– Nov. 10, 2014, only | Basic informational website: http://www.fergusoncity.com/92/Police-Department | N/A |
| **St. Louis County PD** | Active page with >30,500 likes | Active during assessment period | Interactive website linked to Facebook, Twitter, Instagram, and You Tube: http://www.stlouisco.com/LawandPublicSafety/Police Department | Instagram and YouTube |
| **St. Louis Metropolitan PD** | Active page with >9,500 likes | Active during assessment period | Interactive website linked to several LE sites and to chief's blog/Twitter: http://www.slmpd.org/ | Police Chief's blog: http://stlchiefdotsonblog.blogspot.com |
| **Missouri State Highway Patrol** | Automatically generated page, 13,905 Likes, no agency activity | No activity | Basic informational website: http://www.mshp.dps.missouri.gov/MSHPWeb/Root/index.html | N/A |

* Information derived from St. Louis County PD's and St. Louis Metropolitan PD's official Facebook pages as well as from pages automatically generated based on Facebook users interested in the topics of the Ferguson PD and the Missouri State Highway Patrol.

† Information derived from agency's Twitter pages.

‡ "How Do I Claim an Unmanaged Page That Exists for My Business?" Facebook Help Center, accessed May 2015, https://www.facebook.com/help/168172433243582/?ref=u2u.

the size of the Ferguson population.[288] Because anyone can view a Facebook page without "liking" it, the actual number of viewers has likely exceeded 117,000.

Protesters and observers alike extensively filmed the Ferguson demonstrations. These videos were posted on social media sites and live streaming[289] websites—everything from snippets of the crowd to live streaming the use of tear gas. At times, the media obtained and used these videos to show different perspectives. Live footage allowed people around the country and around the world to view the Ferguson response without having to rely on the media for

information about how it was unfolding. Live streaming is becoming a real-time social media strategy with a number of apps available that permit smart phones to stream live video directly to the Internet.[290]

Social media had a significant impact on the events in Ferguson throughout the entire assessment period. The world watched and commented upon every activity of the police and the protesters, night and day. Almost immediately, the event was no longer a regional, state, or even national issue; it was known and viewed worldwide. Commentary and assessment of the actions of the crowds and police could (and did) come from anyone with access to the Internet. The four core agencies involved in this assessment told the assessment team that social media "drove the protests"

288. "State and County Quick Facts: Ferguson (city), Missouri," U.S. Census Bureau, last updated April 22, 2015, http://quickfacts.census.gov/qfd/states/29/2923986.html.

289. wiseGeek, "What is Live Streaming Media?" Conjecture.com, accessed June 9, 2015, http://www.wisegeek.com/what-is-live-streaming-media.htm.

290. Although outside the assessment period, this site provides an example of protesters and observers posting live feed from Ferguson: http://www.reddit.com/live/tdrph3y49ftn/.

and that the agencies "are behind on social media." The assessment team's review of the departments' social media presence revealed that the core agencies engaged in varying levels of social media activities during the assessment period (see table 5 on page 100).

## Using social media to monitor suspicious activities

According to the International Association of Chiefs of Police, "Social media is increasingly being used to instigate and facilitate criminal activity," and law enforcement personnel need to understand these concepts and how to mitigate the threat.[291] During the assessment period of the Ferguson demonstrations, law enforcement used its ability to monitor posts, tweets, and blogs. For example, the Missouri Information Analysis Center (MIAC) was monitoring social media and providing information to incident command regarding the presence and activities of criminal elements during the protests (see also chapter 10).

There can be great value for law enforcement in monitoring statements and trends on social media; such monitoring can provide insights on movements, motives, and the tenor of public concerns about an issue or an incident. Users should reasonably expect no privacy in what they post on social media, even if they restrict who can view their posts.[292] The police do not need a warrant to view what someone posted publicly on social media. Despite this, law enforcement should establish reasonable guidelines for monitoring and, more important, retaining information from social media posts.[293] Policies and procedures should be consistent with applicable laws and regulations and with law enforcement best practices.

The intelligence units of both the St. Louis County Police Department and the St. Louis Metropolitan Police Department began monitoring social media to learn of conditions and attitudes related to the mass gatherings and the changing

nature of the public response, in particular factors that aggravated an already precarious environment (see also the findings in chapter 10). Based on this information, St. Louis County PD intelligence personnel exchanged information with other law enforcement agencies when possible criminal offenders or incidents were identified in social media posts. The St. Louis Metropolitan PD assigned eight staff members to monitor social media. It also employed a commercially available location-based[294] social media monitoring portal to track trends and threats.[295]

## Using social media to communicate with the community

A solid social media capacity helps law enforcement inform the community without delay. The Boston Police Department's use of social media following the Boston Marathon Bombing in 2013 is an excellent example and best practice from which other law enforcement agencies can learn:

> *The Boston Police Department was outstanding, and it was so simple and effective . . . . They became the news source during the crisis. It was a watershed moment for law enforcement and social media.[296]*

The St. Louis County PD and the St. Louis Metropolitan PD both used social media in positive but different ways during the assessment period. The St. Louis County PD used Twitter to communicate with protesters about activities in and around Ferguson and to advise them of dangerous situations during the Ferguson demonstrations, possibly saving individuals from injury or even death (see figure 23 on page 102). The St. Louis Metropolitan PD used Twitter

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291. International Association of Chiefs of Police and Global Justice Information Sharing Initiative, *Developing a Policy on the Use of Social Media in Intelligence and Investigative Activities: Guidance and Recommendations* (Washington, DC: Bureau of Justice Assistance, 2013), http://www.iacpsocialmedia.org/Portals/1/documents/SMInvestigativeGuidance.pdf.

292. Theodore F. Claypoole, "Privacy and Social Media," *Business Law Today*, American Bar Association, http://www.americanbar.org/publications/blt/2014/01/03a_claypoole.html.

293. International Association of Chiefs of Police and Global Justice Information Sharing Initiative, *Developing a Policy on Use of Social Media* (see note 291).

294. Location-based or "geo-fencing is a feature in a software program that uses the global positioning system (GPS) or radio frequency identification (RFID) to define geographical boundaries. A geofence is a virtual barrier. Programs that incorporate geo-fencing allow an administrator to set up triggers so when a device enters (or exits) the boundaries defined by the administrator, a text message or email alert is sent. Many geo-fencing applications incorporate Google Earth, allowing administrators to define boundaries on top of a satellite view of a specific geographical area." Another example of geo-fencing is an ankle bracelet that can alert law enforcement if an individual leaves the premises. "Geo-Fencing (Geofencing)," whatis.com, accessed May 19, 2015, http://whatis.techtarget.com/definition/geofencing.

295. Geofeedia, accessed May 19, 2015, http://geofeedia.com/.

296. Tod Newcombe, "Social Media: Big Lessons From the Boston Marathon Bombing," *Government Technology*, September 24, 2014, http://www.govtech.com/public-safety/Social-Media-Big-Lessons-from-the-Boston-Marathon-Bombing.html.
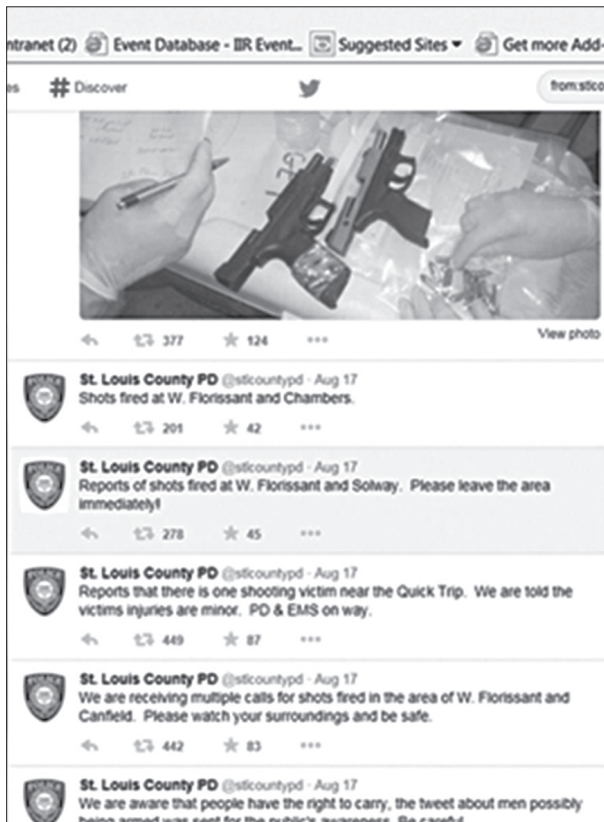
**Figure 23.** St. Louis County PD uses Twitter to warn community members of danger

Source: St. Louis County PD's Twitter page, August 17, 2014.



**Figure 24.** St. Louis Metropolitan PD shares its activities via Twitter

Source: St. Louis Metropolitan PD's Twitter page, August 16, 2014.

in a different way during the Ferguson demonstrations—to share information about agency activities and to foster positive relationships (see figure 24).

Despite these positive examples, other uses of social media could have helped the situation, especially at the scene of the shooting. During the initial response to the shooting, the public was clamoring for information about what exactly had happened but was not receiving any. A more effective social media strategy by law enforcement would have served both the agencies and the community well. Immediate and transparent information might have mitigated the crowd's confusion and anger.

Furthermore, if law enforcement does not provide needed information, others will fill that void with their own version of events, motives, and attitudes. Social media can assist the police in getting information to the community

and help prevent the spread of unfounded rumors and innuendo such as what was experienced in Ferguson. Law enforcement can use social media not only to correct erroneous statements made by others but also to post facts and public advisories, solicit information from the public, and respond to public questions.

Law enforcement agencies can also use social media to boost their reputation by highlighting various events at which they interact with the community (see figure 25 on page 103). And by allowing users to reply to or comment on law enforcement's posts, social media permits an agency to receive direct feedback and response to police statements, which can be valuable for law enforcement decision makers. Police executives can receive virtually instantaneous indications as to whether their messages are having the intended effect.

**Figure 25.** An officer assists children at the National Association for the Advancement of Colored People march

## Social media strategy

For social media strategies to be effective, agencies should designate personnel whose primary responsibility is to monitor and share information proactively through various social media tools. These individuals must exercise good judgment and have the ability to communicate well with the public. The role is surprisingly labor-intensive and will not be effective if it is merely an add-on duty. The key component is to develop timely, consistent, substantive, and interesting social media posts.[297] The goal is to establish a social media platform that builds trust with the community and encourages two-way communication between the police and the communities they serve.

A good social media strategy addresses both the needs of the agency and its community. It is backed by clear policies and procedures that support the mission and values of the agency. However, the assessment team noted limited policies dedicated to social media use by the four core agencies discussed in this report.

Another important aspect of a law enforcement agency's social media strategy is that it should provide officers with guidance on how to use social media appropriately, both when on and off duty. Officers need to understand the potential risks associated with posting personally identifiable information about themselves and their families.[298] The assessment team noted that the St. Louis County PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol provided policy guidance to officers regarding the appropriate use of social media. The St. Louis Metropolitan PD also sent advisories to officers because of the threats officers had received and activities such as doxing and hacking that had occurred during the Ferguson demonstrations (see also chapter 14). The Ferguson PD did not provide a social media policy for the assessment team to review.

The assessment team urges law enforcement agencies across the United States to learn the value of leveraging social media, not only to lend assistance during a critical incident but also to enhance an agency's standing with the community and to foster stronger communications.

## Findings and lessons learned

**FINDING 39.** *The four core law enforcement agencies underestimated the impact social media had on the demonstrations and the speed at which both facts and rumors were spread and failed to have a social media strategy.*

> **LESSON LEARNED 39.1.** Law enforcement agencies should have some capacity to use social media during emergency situations. They should develop a social media strategy along with policies and procedures that align with the agency's mission and culture. Critical response policies and procedures should be included.

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297. For example, some law enforcement agencies use a "Tweet-along" to provide insight into what officers are involved in on a regular basis. Agencies encourage citizens to follow along. For a news story explaining the Kansas City Police Department Tweet-along, see Sarah J. Clark, "Kansas City Police to Hold Tweet-Along Friday Night," fox4kc.com, December 28, 2012, http://fox4kc.com/tag/tweet-along/.

298. Gwendolyn Waters, "Social Media and Law Enforcement: Potential Risks," *FBI Law Enforcement Bulletin*, November 2012, http://leb.fbi.gov/2012/november/social-media-and-law-enforcement-potential-risks.

**LESSON LEARNED 39.2.** Agencies should pro-actively build, develop, and strengthen their social media capacities before an incident occurs, as this is nearly impossible to accomplish in the midst of a major incident. Policies and procedures should be consistent with applicable laws and regulations and with law enforcement best practices.[299] An effective social media capacity requires an investment of resources including funds and personnel. This is sometimes difficult for some agencies to embrace; however, effectively building this capacity requires an investment and a commitment.

**LESSON LEARNED 39.3.** Public information officers and social media specialists should be well versed in integrating social media tools to provide accurate information to the communities they serve[300] and recognize the strength, immediacy, and capacity of social media to both share information and collect intelligence.

**LESSON LEARNED 39.4.** Law enforcement leaders should leverage the skills and aptitude of technologically savvy personnel to use current social media tools.

**FINDING 40.** *Social media was the key global driver of information and opinion, which shaped many aspects of the Ferguson demonstrations.*

**LESSON LEARNED 40.1.** Law enforcement personnel must receive training to understand the concept and practice of effectively using social media. Social media is a vehicle that instantaneously spreads information, both accurate and inaccurate, worldwide.

**LESSON LEARNED 40.2.** Social media—from video streams to cell phone videos to photographs—can be a strong accountability tool when used to document the behavior of not only police officers but also demonstrators.

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299. "Policy," IACP Center for Social Media, accessed May 19, 2015, http://www.iacpsocialmedia.org/Topics/Parent.aspx?termid=129&depth=2.

300. Chris Poirier, "Considerations for the Digital Public Information Officer (PIO)," govloop, April 9, 2013, https://www.govloop.com/community/blog/considerations-for-the-digital-public-information-officer-pio/.

# CHAPTER 14

# TECHNOLOGY

**The reaction of the community** to the Ferguson demonstrations—and the many national and international derivatives of that reaction—was evidence of a facet of sociological and technological evolution at a level not previously seen in mass demonstrations and disorder: the impact of technology. This is a recently heightened arena of policy and practice that policymakers must consider in future public safety responses. The phenomenon is so new that the assessment team found little available research.

Research and practice have long recognized that the character of a large group can change as the size of the group grows. Moreover, a few individuals who are emotive can sometimes significantly change the character of the entire group. This is often referred to as crowd psychology or emotional contagion.

Demonstrations and riots can be compared to forest fires because "the severity of riots is inversely proportional to their frequency."[301] Some researchers have found that there are two phases to rioting: (1) deindividuation—dropping personal identity and adopting a group identity, and (2) rationalization—self-justification for engaging in the behavior.[302] Because of this in-group attitude, it is important to take into account attitudes, conflict, and violence that may escalate in the development of law enforcement strategies and tactics.

Historically, law enforcement would seek to control the crowd by breaking it into smaller groups and removing the individuals intent on exploiting the demonstrations

to avoid a large-scale aggressive response from the crowd. The addition of recent technological advances changes this equation by being *virtually* emotive through the use of social networking and texting.[303] This phenomenon was observed in the 2011 London riots. Thus, the law enforcement crowd-control technique of breaking up a group and dispersing the people to disrupt their communications and diffusing crowd psychology may not be as effective because of the influence of this new technology.[304]

In Ferguson, technology influenced mass demonstrations, protests, and disorder in the following ways:

- **Planning and research.** Protesters can use mapping software and applications such as online mapping systems that use satellite imagery and street-level views to plan their movements and locations. They can actually

301. "How Riots Behave Like Forest Fires," *Discovery News*, August 10, 2011, http://news.discovery.com/human/london-riots-psychology-pattern-wildfires-110810.htm.

302. Ibid.

303. Stephanie Alice Baker,. "From the Criminal Crowd to the 'Mediated Crowd': The Impact of Social Media on the 2011 English Riots," *Safer Communities* 11, no. 1 (2012): 40–49, http://www.emeraldinsight.com/doi/abs/10.1108/17578041211200100.

304. An informative article about myths and realities of mobs and riots can be found at Stephen Reicher and Clifford Stott, "Mad Mobs and Englishmen? Myths and Realities of the 2011 Riots," *The Guardian*, November 18, 2011, http://www.theguardian.com/science/2011/nov/18/mad-mobs-englishmen-2011-riots.

see pictures of buildings, shrubbery, roads, and other physical features in the planned location of a mass gathering. Through other publicly available resources, the protesters can learn about the size and structure of the law enforcement agencies, examine response plans and tactical alternatives of the police, and study processes of the National Incident Management System. On virtually any aspect of planning, protesters can find useful information on the Internet.

■ **Communications.** Old verbal communications technology is still in use (such as telephones and police radios). But by using texting and social media, law enforcement can now communicate with distinct groups or larger numbers of people instantaneously and fairly unobtrusively. However, depending on the technology and means used to communicate, tracking the locations from which these communications are originating can be difficult for law enforcement. For special-interest demonstrations and disorder, inexpensive and easy-to-use technologies are readily available that can help plan, execute, and change instantly the mass movement of people.

■ **Cyberwarfare.** This is defined as Internet-based conflict involving politically motivated attacks on information sources and information systems. Cyberwarfare attacks can disable official websites and networks, disrupt or disable essential services, steal or alter classified data, and interrupt financial systems. For example, on August 10, the activist group Anonymous[305] posted a video under Operation Ferguson[306] that was directed toward law enforcement actions. A meeting with the FBI confirmed suspicions of the attack. The St. Louis County PD suffered a distributed denial of service[307] attack on August 13, and a decision was made on August 14 to cut ingress and egress connections to protect the department's computer operations. The St. Louis County PD also warned its employees of the possibility of cyberattacks on individual persons. While the department was able to communicate via its internal systems, it was

completely cut off externally. The St. Louis County PD's IT department reported to police command that the department could resume normal operations on August 19.

■ **Cyberintrusion.** While cyberwarfare typically disables a network or causes a network to perform in an unintended manner, cyberintrusion is typically for theft or stalking. Police departments involved in the response experienced criminal intrusions on their official digital telephone networks and digital radio communications. The private messaging systems and the personal home wireless networks of some officers were also identified and hacked.[308] These developments represent new tactics and new targets of digital intrusion not widely reported previously in demonstrations and civil disobedience.

■ **Identity distribution and theft.** Many officers from each of the four core agencies reported that their personal information, including addresses, social security numbers, and banking information, had been stolen from their agencies' human resource systems and posted on the Internet (i.e., "doxing"[309]). As a result, many officers had their identity stolen, credit cards were opened in their names, and thousands of dollars were illegally charged to them. Officers reported liens[310] being filed against their homes and having people stalk their homes and families. One police official stated that beyond work, he spent 10 to 15 hours a week for several weeks resolving all credit issues and related ramifications from the identity theft. In response to these attacks on officers' personal information, the St. Louis Metropolitan PD subsequently requested and received assistance from the St. Louis Police Foundation to provide identify theft protection services for all commissioned officers for a six-month period.

305. Mathew J. Schwartz, "Who Is Anonymous: 10 Key Facts," *Dark Reading*, February 6, 2012, http://www.darkreading.com/attacks-and-breaches/who-is-anonymous-10-key-facts/d/d-id/1102672?.

306. "Anonymous - #OpFerguson," YouTube, August 10, 2014, https://www.youtube.com/watch?v=eOSRQ-c1XW0.

307. "What is a DDoS Attack?" Digital Attack Map, accessed May 2015, http://www.digitalattackmap.com/understanding-ddos/.

308. Dallas Franklin, "Ferguson Police Officers Computers Hacked, FBI Investigating," Kfor.com, August 22, 2014, http://kfor.com/2014/08/22/ferguson-police-officers-computers-hacked-fbi-investigating/.

309. According to techopedia.com, "doxing is the process of retrieving, hacking and publishing other people's information such as names, addresses, phone numbers, social security numbers and credit card details" (see also glossary of operational definitions).

310. Doxing is also known as "paper terrorism," which is a false lien placed against one's property. While it can be corrected, it is usually a laborious and expensive process. For example, see Mark Pitcavage, "Paper Terrorism's Forgotten Victims: The Use of Bogus Liens against Private Individuals and Businesses," *The Militia Watchdog*, last updated June 29, 1998, http://archive.adl.org/mwd/privlien.html.

## Findings and lessons learned

**FINDING 41.** *Law enforcement and local government agencies were not prepared for the tremendous use of technology for various purposes, including social media, distributed denial of service attacks, and hacking into personal computers.*

**LESSON LEARNED 41.1.** Agencies should be aware of the broad range of technology available to facilitate and coordinate mass gatherings and protests, and understand the beneficial and malicious impact such technology can have.

**LESSON LEARNED 41.2.** Agencies and local governments should ensure their IT staff is aware of potential cyberwarfare attacks and has prepared for them as much as possible by exploring mirrored websites, data backup, and state-of-the-art security.

**LESSON LEARNED 41.3.** Agencies and local governments should develop technologically based preventive strategies as part of both policy and training to ensure the security of all personnel records containing personally identifiable information to prevent theft and to monitor attempts to access the information.

**LESSON LEARNED 41.4.** Agencies should consider using available commercial web applications and services for enhanced planning, research, and communications during protests.

**FINDING 42.** *Hackers successfully executed doxing attacks among several law enforcement personnel from all four core agencies, resulting in cases of identity theft.*

**LESSON LEARNED 42.1.** Law enforcement officials should ensure officers and their families are informed about the potential risks they take by participating on social media sites, educate them on how to protect themselves and their data, and encourage them to take proactive steps to protect their assets from potential intrusions.[311]

**LESSON LEARNED 42.2.** Law enforcement personnel should strongly consider subscribing to an identity and credit monitoring service to minimize the impact of identity theft.

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311.  The Federal Trade Commission in partnership with 15 other federal agencies developed www.OnGuardOnline.gov, a Federal Government website to help stay safe and secure online.

# CHAPTER 15

# OFFICER RESILIENCE

**Law enforcement officers expect** they will have to deal with stress and anxiety while on the job, but the chaotic conditions they experienced in Ferguson went well beyond ordinary day-to-day pressures. While there have been many reports about the militarized equipment and police use of force in Ferguson, little has been said about the stress and pressure the officers were under for this extended period of time. Officers were taunted and pelted with rocks, bottles, and Molotov cocktails. Orders they received were often confusing. Crowds, sometimes swelling to numbers in the upper hundreds, were expressing anger and frustration toward law enforcement. Officers were spit upon and insulted. Throughout the entire assessment period, 39 officers reported injuries (see table 6 on page 110).

Shots were being fired, and bomb threats were called in. The temperature rose to over 100 degrees during some of the days of the unrest, exacerbating fatigue and discomfort. During the period of the assessment, officers were occasionally unable to respond to calls for service because doing so would further endanger not only the citizens but also their fellow officers. This experience was incredibly frustrating to many officers. In addition, civilian employees experienced extended working hours, stress, and intimidation. Dispatch personnel often experienced tremendous stress managing the calls for service and hearing the stressful and often dangerous conditions of the officers and civilians.

The impact of the Ferguson demonstrations reached beyond the streets into the homes and families of many of the officers involved in the police response. Officers not only were exposed to numerous threats and physical assaults but also were concerned for the safety of their families. Threats had been made after various Internet hacktivists and others had successfully identified officers by name and posted their personal information on the Internet for the world to see. Officers were unable to check on the safety of their families while on duty, intensifying their concern. Officers on duty in Ferguson reported all of these experiences.

The following is a brief excerpt from the Missouri State Highway Patrol incident command log that depicts the stressful conditions the officers endured:

> At approximately 1930 hours [7:30 p.m.], large crowds began to form in various locations on West Florissant and other streets nearby. Shortly thereafter, gun shots were fired by rioters and protesters at other individuals in the crowd as well as at officers responding. Officers extracted protesters from the area who were shot to a safe location for medical attention. At 2057 hours [8:57 p.m.], several hundred protesters attempted to overrun the command post using Molotov cocktails. An emergency mutual aid call was sent out to all law enforcement agencies to respond and secure the command post. Throughout the evening, multiple

*gun shots were fired by protesters, businesses were burglarized and looted, Molotov cocktails and other objects were thrown at officers, streets were barricaded by bricks . . . .[312]*

Published research and studies discuss the different types of stress police officers face and the effects such stress has on officers.[313] Law enforcement personnel who face conflict on a daily basis must make decisions about the use of force, assist victims of crimes, aid people who are injured, and generally be exposed to the worst side of humankind. While research shows that officers' work exposure has a cumulative effect on stress, being deployed in a critical situation such as the one at Ferguson can significantly increase the stressors and their effects. The stress on officers not only influences their behavior and judgment while on duty but can also influence their personal lives.[314]

During the Ferguson demonstrations, officers were in general deployed in 12-hour shifts; some officers worked in five-day rotations, and others reported working daily for as many as 10 days straight. Commanders and public information officers reported working even longer days and more consecutive days without time off.

A recent study identified some disadvantages associated with 12-hour shifts that are concerning.[315] A prolonged situation, such as Ferguson, can be stressful and fatiguing for various levels of personnel, from the incident commander to the officer. Physical well-being becomes an issue. Officers on duty can easily become dehydrated and tired, especially when exposed to high temperatures during the day. This not only threatens the health of an officer but also affects the officer's judgment and responses during an incident.

Under these types of conditions, officers may make bad judgments and engage in behavior that is uncharacteristic for the officer but which has serious impact.

**Table 6.** Number of officers injured per day in Ferguson

| Date | No. of officers injured |
|------|-------------------------|
| August 9 | 0 |
| August 10 | 6 |
| August 11 | 6 |
| August 12 | 3 |
| August 13 | 3 |
| August 14 | 3 |
| August 15 | 0 |
| August 16 | 0 |
| August 17 | 0 |
| August 18 | 6 |
| August 19 | 1 |
| August 20 | 3 |
| August 21 | 7 |
| August 22 | 0 |
| August 23 | 1 |
| August 24 | 0 |
| August 25 | 0 |
| **TOTAL** | 39 |

Regardless of whether that uncharacteristic behavior manifests in the form of a careless statement, an overreaction to an event, or the excessive threat or actual use of force, the stress endured by the officer cannot excuse unacceptable behavior, and such officers may be required to face disciplinary action.

For example, in one video taken by a demonstrator during the Ferguson demonstrations, a police officer is seen pushing people back; when the officer is asked his name, he curses at a citizen, and when the officer is mocked by a demonstrator, he raises his rifle in the direction of the demonstrators. A supervisor from the St. Louis County Police Department intervened and diffused the

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312. Missouri State Highway Patrol incident command log, entered August 17, 2014.

313. For an overview of police stress issues and research, see John M. Violanti, *Dying for the Job: Police Work Exposure and Health* (Springfield, IL: Charles C. Thomas, Publisher, 2014).

314. Akiva M. Liberman et al., "Routine Occupational Stress and Psychological Distress in Police," *Policing: An International Journal of Police Strategies & Management* 25, no. 2 (2002): 421–441.

315. "The Shift Length Experiment: What We Know About 8-, 10-, and 12-Hour Shifts in Policing," Police Foundation, accessed May 19, 2015, http://www.policefoundation.org/content/shift-length-experiment.

Daily roll call and prayer by police chaplain

confrontation by pushing the rifle down and walking the officer away from the confrontation. The event was video recorded and posted and immediately went viral.[316]

Even a casual observer of the video can see that the officer looked flushed, hot, and frustrated. The involved officer was excused from Ferguson duty once the incident became known to command, and he later expressed remorse for his actions. His behavior was said to be uncharacteristic of his many years' experience as an officer, yet he not only experienced the stigma of becoming an Internet "item" but also ultimately resigned from his position. From the videographer's perspective, the fact that the officer was under stress does not excuse the verbal abuse the videographer received or the threat of being shot and having a rifle pointed at him.[317]

At the command post, 23 St. Louis County PD police corps chaplains from different backgrounds and denominations created a rotating schedule in August. They listened to

officers and provided comfort and support as needed. Over the month of August, the chaplains provided a total of 307 volunteer hours.[318]

In interviews, some officers said that because of inconsistent orders and a constant barrage of criticism from the public and the media, they felt a "sense of abandonment" and that it seemed "public image trumped officer safety." For example, even though personal protective equipment was accessible, officers were told not to wear the equipment (except vests) because of the negative image the equipment portrayed. In particular, officers who worked at night when the crowds were more aggressive and threatening reported that they felt both in danger and unprotected. Incident command logs note that a minimum of 39 officers were injured[319] during the course of the assessment period.

Officers were asked whether they (or other officers they knew) were demonstrating any symptoms of residual stress. One officer reported being on edge and stated,

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316. Greg Botelho, "Officer Suspended for Pointing Semi-Automatic Rifle at 'Peaceful' Protester,'" CNN, August 21, 2014, http://www.cnn.com/2014/08/20/us/missouri-police-officer-suspended/.

317. Arit John, "ACLU: Officer Who Threatened to 'F*cking Kill' Ferguson Protesters Taken Off Duty," *The Atlantic*, August 20, 2014, http://www.thewire.com/national/2014/08/aclu-says-officer-who-threatened-to-fcking-kill-ferguson-protesters-taken-off-duty/378877/.

318. Valerie Schremp Hahn, "Police Chaplains Offer Support for Officers Working at Ferguson Protests," *St. Louis Post-Dispatch*, November 12, 2014, http://www.stltoday.com/lifestyles/faith-and-values/police-chaplains-offer-support-for-officers-working-at-ferguson-protests/article_7d20e540-f461-5fc4-8e87-79065626e706.html.

319. The assessment team was unable to confirm the injuries.

"I noticed I was arguing with my wife at home [during the deployment]." Other officers who had been in Ferguson for an extended period admitted to being short-tempered or irritable during their assignments. Most claimed this behavior resulted from lack of sleep and a change in routine, which also affected their families. Missouri State Highway Patrol commanders reported that some troopers were having problems with sleeping and in personal relationships as a result of this incident, especially those troopers assigned to Troop C. As a result, the Missouri State Highway Patrol conducted mandatory stress-relief counseling for all troopers assigned to Troop C.

When asked about the lingering impact of the Ferguson demonstrations, leaders of the several police officer associations whose members were involved agreed that existing employee assistance programs are inadequate to deal with the impact of duty in Ferguson. They further agreed that robust peer support programs—officers trained to help other officers—are necessary to bolster existing support mechanisms.

## Findings and lessons learned

**FINDING 43.** *The intensity of the circumstances and the length of the demonstrations led to officers exhibiting fatigue and stress, which impacted health, well-being, judgment, and performance. Law enforcement officers were required to work long shifts with minimal breaks and with limited days off in intense and stressful conditions. This took both a physical and an emotional toll on the officers. While efforts were made to provide breaks and to keep officers hydrated and fed, the stressful conditions officers faced during the long deployments impacted both physical and emotional endurance.*

> **LESSON LEARNED 43.1.** In times of prolonged and stressful duty, law enforcement agencies should closely monitor officers' emotional and physical well-being and develop a resilience support program that includes peer support.[320]

> **LESSON LEARNED 43.2.** Law enforcement agencies should ensure officers receive adequate time off to rest and recover.

> **LESSON LEARNED 43.3.** Agencies should have a health professional present in the rest area who can monitor officers, diagnose potential health issues, monitor blood pressure, and provide other health services that may be required during a prolonged incident.

> **LESSON LEARNED 43.4.** Pre-incident briefings of officers should include a health and safety briefing, the requirement for rest and nourishment, and a reminder to officers to bring along any medications that they may need to take during long shifts.

> **LESSON LEARNED 43.5.** When responding to a mass gathering, law enforcement should maintain an isolated location away from the demonstration area where personnel can rehydrate and eat. Officers will also have personal needs, such as contacting family members that will require break time from duty.

> **LESSON LEARNED 43.6.** In prolonged stressful situations, agencies should consider deploying a trained police counselor or psychologist who can discuss stress issues with individual officers and offer some stress management or reduction strategies or advice, as well as provide crisis intervention or make appropriate referrals for officers and their family members.

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**FINDING 44.** *Officers and civilian personnel were not prepared for the volume and severity of personal threats on themselves and their families, which created additional emotional stress for those involved in the Ferguson response. This includes threats of violence against family members and fraud associated with technology-based attacks.*

> **LESSON LEARNED 44.1.** Agencies should anticipate an increase in threats against personnel during times of mass demonstrations and civil disobedience and develop policies and procedures to reduce the impact of threats to physical safety, fraudulent schemes, hacking, identify theft, and social media attacks on officers and their families.

> **LESSON LEARNED 44.2.** Agencies need to establish protocols for responding to officers who receive extreme, immediate, and credible threats to themselves and their families.

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320. One example of an article on critical incident stress can be found at Pamela Kulbarsh, "Critical Incident Stress," Officer.com, October 15, 2007, http://www.officer.com/article/10249385/critical-incident-stress.

# FERGUSON COMMUNITY MEMBERS' PERSPECTIVES

**Considering the perspectives of the local community** is critical to understanding the full impact of the police response to the protests in Ferguson. The assessment team gathered feedback from community members from the city of Ferguson,[321] the unincorporated county, the city of St. Louis, and neighboring municipalities. The team collected input in person and by telephone from adult and youth community members through meetings and interviews.

Community members were candid about their perspectives of the police response during the first 17 days after the shooting of Michael Brown. Their personal accounts included their experiences and perspectives of witnessing the first moments after the shooting; to finding out about the incident via television, social media, or phone calls; to seeing or participating in the peaceful protests and the riots.

Community member feedback varied. Many community members rebuked the police for their "heavy-handed" police tactics and suppression of First Amendment rights. Some expressed frustration over law enforcement's lack of reaction to criminal activity while buildings burned and local businesses were damaged or destroyed. The vast majority acknowledged that police officers have a difficult job that they would not want to do themselves.

As several law enforcement officers stated, Ferguson had never experienced anything like this before. It did not have riots in 1968 after Dr. Martin Luther King, Jr. died or in 1992 after the Rodney King incident in Los Angeles. The community did not have any prior history with a similar critical incident on which to base the turn of events that resulted after Mr. Brown's death.

One community member stated, "Had law enforcement not taken the actions that they did, the riots would have expanded into the neighborhoods." Another said that residents, particularly in the early days of the demonstrations, did not really understand the issues and what was happening. A Ferguson resident stated that there was no communication from law enforcement to help them understand, burdening them with feelings of "helplessness." She also said the police "didn't care how the crowd was feeling" and that "they had no empathy for the crowd and brought out their dogs for control as the crowd increased in size."

A consistent observation regarding the lack of police-community relationship was that law enforcement's lack of communication inflamed the situation because community members already had little trust in the police, whom

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321. Community members were identified from multiple sources including referrals from the U.S. Department of Justice.

Men pray at the site of the burnt QuikTrip on August 15, 2014

the community characterized as "outsiders," as the officers did not live in the city. Another resident emphasized this point: "There is no relationship with the Ferguson police" because "they don't even live here in Ferguson. They don't know us or our community."

Another community member stated that even though the police and community did not have a strong relationship prior to the demonstrations, she did not sense any animosity either. After the shooting and the subsequent demonstrations, she felt a "lot of confusion and didn't know who to trust" and wondered, "Why are the police allowing this to happen?"

Repeatedly, community members stated that the police "lacked empathy" for community members and "lacked a human element" when dealing with victims. Another community member stated, "The Michael Brown [reaction] was about police-community relations." There was and still is anger and frustration.

Despite these comments, another community member stated that there were some good officers at the Ferguson Police Department who should be acknowledged. The community member went on to say that attention should "focus . . . on the agency. To vilify individuals within the PD is a stretch."

Immediately following the shooting, several members of the local clergy met with then Ferguson Police Chief Thomas Jackson, who assured them that he would "get the facts and figures together." One member of the clergy who was interviewed interpreted this to mean that Officer Darren Wilson would be indicted, which, in his mind, meant justice would be done. He stated that after Jackson's press conference, he then knew the "police couldn't be trusted to keep their word." In his words, the "police would say one thing, then do another." He also said the "police were attacking anyone," that even "identifiable clergy were arrested." The minister has mixed reactions about outside groups providing training on how to protest. However, he also stated that "everyone was opposed to the militarization" and that "community policing is the answer."

All clergy members were asked whether they had invited members of law enforcement to their church to build a relationship with the local police department. Each replied that he or she had not done this. Clergy members were asked if they had extended an invitation to law enforcement to visit with their congregation after the shooting of Mr. Brown. Each replied no. One clergy member said that meetings with leaders from law enforcement and the community had begun after the 17-day assessment period. Another minister said his church had invited Captain

Men protest at the site of the burnt QuikTrip on August 15, 2014

Ronald S. Johnson of the Missouri State Highway Patrol to his church to receive the Rosa Parks Award.

The ministers were also frustrated with the inability to bring the community together. One minister commented that everyone was trying to be a Dr. Martin Luther King, Jr. The consensus among the clergy was that their inability to provide unified leadership allowed outside leadership to take over.

When asked specifically about the crowds and demonstrations, community members clearly saw differences. "During the day, protest people were older. There were seniors and kids. The police were friendly and helpful. At night, protest tensions changed. The police [were] no longer friendly and helpful." Another community member had a number of succinct observations:

- "Police response was highly militarized."
- "Riot gear, tear gas, five-second rule, tanks were all acts of aggression."
- "Police response exacerbated people's response."

- "[The police] should have used less controversial tactics."
- "Feels like we are fighting a war."
- "Back to Selma all over again."

Another community member said the police did not seem to understand that "people wanted a place to be heard." Another stated, "Police overreacted when they didn't need to and underreacted when they should have responded."

One common observation was that during the day, everyone came out and had a good time, drinking, smoking, and playing music while the police just watched. As it got darker, people who had been there during the day knew they should get their children and go home.

Other community perspectives included the following:

- "Public officials and law enforcement are all reactive because no one tried to develop relationships."
- "There have been 60 years of law enforcement not understanding the community and not engaging with the community."
- "[I] would recommend that police be proactive in their communities; it is a leadership issue."
- "The easiest thing for a police chief to do is to know the community; police officers are the ambassadors for their communities. The most powerful tool is community relations."
- "Police need to engage the community and educate the public on what police actually do."

Young adults and teenagers stressed the lack of relationship with the police. The common request was for officers to get out of their vehicles and talk with them, play basketball with them, or simply to say "hi" and wave at them in a friendly manner when they went down the street. One young observer who had a relationship with the Ferguson PD through the Explorers program shared with the other young adult attendees the compassion the officers expressed during the 17 days—the officers' concern for their families and the community and that they were scared.

One Ferguson PD officer related that the last time there was any police-community relationship building and cultural awareness training was in 1995.

## Findings and lessons learned

**FINDING 45.** *The Ferguson PD had no agency-wide efforts in place to manage the community reaction. In addition, the fact that long-term relationships with the community were seemingly not developed over time led to devastating effects. Community members had no central source of contact to reach with questions or concerns.*

> **LESSON LEARNED 45.1.** Law enforcement should develop and maintain a well-established network of relationships with their community leaders and initially contact them with information regarding incidents that impact their community.

> **LESSON LEARNED 45.2.** Law enforcement should communicate with citizens about the facts of an incident as quickly as possible to minimize the spread of inaccurate information.

**FINDING 46.** *The Ferguson PD lacked community relationships with the residents of Canfield Green Apartments and with much of the African-American community.*

> **LESSON LEARNED 46.1.** The response in Ferguson demonstrates the importance of law enforcement agencies engaging in dedicated and proactive efforts to understand the communities they serve and to foster strong trust between officers and the community.

> **LESSON LEARNED 46.2.** Law enforcement should communicate with more than a select few by establishing ongoing dialogue with all segments of the community.

> **LESSON LEARNED 46.3.** Law enforcement agencies need to implement, develop, and maintain youth and adult programs (e.g., police academies and advisory boards) to establish communication and build relationships with all of the communities they serve.[322]

> **LESSON LEARNED 46.4.** Law enforcement agencies need to enhance police legitimacy and procedural justice in every interaction officers have with the public. By enhancing these principles, law enforcement can foster and maintain better police-community relationships.

**FINDING 47.** *The protests were sparked by the shooting of Michael Brown, but they were also a manifestation of the long-standing tension between the Ferguson PD and the African-American community.*

> **LESSON LEARNED 47.1.** Law enforcement officers should receive training on topics related to procedural justice, implicit bias, cultural diversity, and related topics that promote community policing to help build trust and legitimacy in diverse communities.[323]

**FINDING 48.** *Community members repeatedly expressed their belief that there was a difference in the nature of the activities between day and night, with daytime protests being peaceful and nighttime protests often becoming violent.*

> **LESSON LEARNED 48.1.** Law enforcement needs to be proactive during peaceful protests to engage community members to identify issues of concern and establish rapport.

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322. For an example of such a program, see the Ferguson Youth Initiative, accessed May 2015, http://fyifergyouth.org/.

323. President's Task Force on 21st Century Policing, Final Report (see note 231), 58.

# CONCLUSION

**As one might expect in a complex situation,** there were many lessons learned from the events in Ferguson, not only for the four agencies in this assessment but also for law enforcement nation-wide. The manner in which the crowd and demonstrations quickly evolved, the challenges for law enforcement in developing a measured response, the unexpected sustainability of the demonstrations, and the need to understand complex social-psychological relationships between the law enforcement and the community are all facets to understand. The lessons learned in this project provide direction for the agencies in this assessment as well as other law enforcement agencies as they examine whether such an incident could occur in their community.

*"Every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists on."*

– Robert F. Kennedy, U.S. Attorney General,
   September 25, 1963

The very fact that the four agencies volunteered to partici-pate in this assessment demonstrates their commitment to the communities they serve and to sharing their experi-ences with law enforcement agencies nationwide. Based on the experiences of the assessment team, it is believed that the lessons learned can help prevent potential police-community conflicts from occurring, avoiding the need for reparations in their relationships.

There is hope for healing the relationship between the Ferguson Police Department and the community it serves. The assessment team learned of instances of law enforce-ment working with the community in a positive way even during the days of conflict. For example, several interview-ees mentioned seeing a group of officers playing basketball in the community with some local youths. This was made possible after a few officers on patrol during the previous day observed a basketball hoop with no net. Those officers purchased a basketball and a net and then put the net on the hoop for the youths in the community.

Missouri State Highway Patrol incident command logs noted officers providing bank escorts for Ferguson busi-ness owners so that they could perform their daily routines safely. Officers also assisted with traffic control as the National Association for the Advancement of Colored
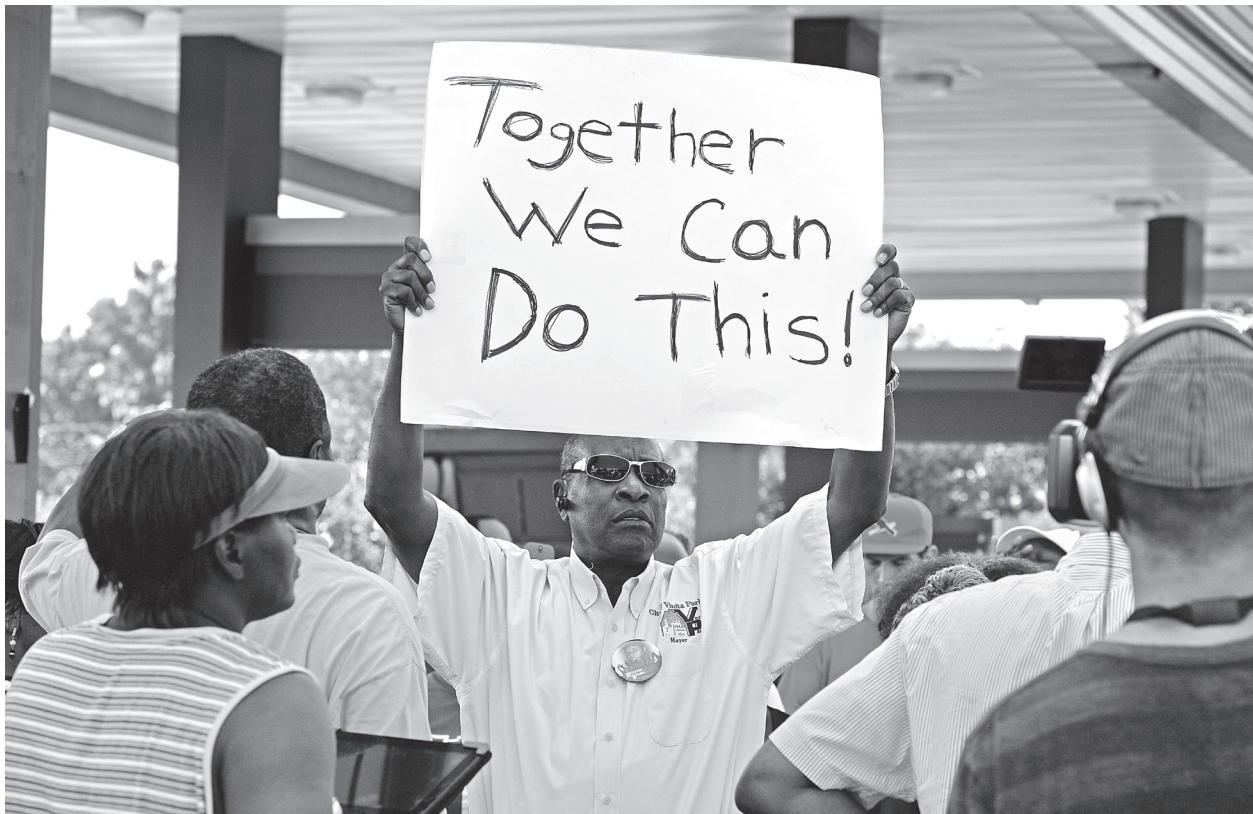
Man holds sign at the site of the QuikTrip on August 15, 2014

People organized a parade that traveled north on West Florissant Avenue from the Buzz Westfall Plaza toward Canfield Drive.[324]

Likewise, multiple churches, food banks, individuals, and organizations such as the United Way of Greater St. Louis helped organize deliveries of food and beverages to the protest areas.[325] The Ferguson Public Library stayed open so that teachers, cafeteria workers, and librarians could work with kids, feed them a healthy lunch, and keep them safe.[326] The St. Louis Rams even lent a helping hand, inviting the three local high school football teams to use their facilities to practice when the school facilities were closed

down.[327] And community members, law enforcement officers' spouses, and businesses provided officers with refreshments, cool water, and meals during the protests.

In reality, most of the world sees Ferguson as a community of division and violence because of the conflict that evolved following the shooting of Michael Brown. Yet the conflicts between law enforcement and the community, particularly the underlying strained race relations, in this small city came as a surprise to the Ferguson police. This lack of relationship between the police and community isn't just a Ferguson issue. This incident could happen in many places in which fostering positive police-community relationships and building trust are not a priority.

The hope from the lessons learned in Ferguson is that changes in policing and in police-community relationships will emerge. This assessment also identified focal

324.  Missouri State Highway Patrol incident command log, entered August 21, 2014.

325.  Sasha Belenky, "How Ferguson Is Coming Together to Help Struggling Families," *The Huffington Post*, August 21, 2014, http://www.huffingtonpost.com/2014/08/21/ferguson-families-food_n_5696342.html.

326.  Mosi Secret, "With School Closed, Teachers and Volunteers in Ferguson Work to Fill Gap," *The New York Times*, August 21, 2014, http://www.nytimes.com/2014/08/22/us/with-school-closed-ferguson-teachers-give-students-space-to-release.html?_r=1.

327.  Nick Wagoner, "Rams Invite Local Teams to Practice," ESPN, August 20, 2014, http://espn.go.com/nfl/story/_/id/11384930/st-louis-rams-invite-ferguson-area-high-school-football-teams-practice.

areas of stress or failure in the police-community relationship that can serve as a road map for law enforcement agencies. Similarly, should another critical incident response be required from law enforcement, this assessment offers important lessons on incident management, crowd control, and tactics and strategies that law enforcement could use nationwide.

From the policing perspective, perhaps one of the most obvious takeaways from Ferguson is that law enforcement needs to change the way in which critical incidents are managed. Nearly every aspect of the police response would have been significantly improved if the National Incident Management System (NIMS) and incident command had been implemented effectively. The nation has invested substantial amounts of time, energy, and resources in developing NIMS as a modular and scalable system capable of managing all-hazard events. While many first responder disciplines have taken NIMS to heart and are using it effectively, the law enforcement community lags significantly behind. A strategic focus on NIMS implementation and a cultural change driven by leadership to make incident command a standardized way of organizing critical incidents would bring huge benefits to law enforcement agencies and to the communities they serve.

Emphasizing the importance of community relationships and community trust, a recent report stated,

> Many police chiefs believe that the Ferguson incident was a defining moment for the entire policing profession. [The] critical aspect of 'defining moments' for police chiefs is whether they have a reservoir of trust in the community that can help everyone to get through the difficult situation. Police chiefs must develop personal relationships with community leaders and people from all parts of their jurisdiction, well before any incident takes place. . . . A critical incident is not the time to hold your first meeting with community leaders.[328]

Although this assessment focused on four law enforcement agencies, the causes of problems lying at the foundation of the conflict in Ferguson are systemic. The causes embody a complex interaction of forces including poverty, poor race relations, social inequity, and education. Police reform,

responsiveness, and renewed commitment to understanding the essence of the communities that law enforcement agencies serve are important elements required to rebuild community trust, restore confidence in the criminal justice system, and move forward to a better future.

When the assessment team made its final site visit to Ferguson in February 2015, the city was still in the process of returning to normalcy. While the mass gatherings had largely dissipated, there was palpable unease in the community. Quiet, small protests still occurred on a daily basis across the street from the Ferguson PD. On West Florissant Avenue, the burned-out remnants of once-thriving businesses hulked alongside the road. On the windows of many businesses, colorful artwork on plywood still depicted the memory of Michael Brown, illustrated the suffering of the community, or displayed hopeful symbols of a community's rebirth. Meanwhile, clergy, the police, community leaders, and interested citizens met to resolve issues and search for a path forward. Although the path would be long and winding, they had nonetheless found it.

While the assessment period for this report ended on August 25, 2014, the aftermath of the shooting death of Michael Brown is ongoing. The four agencies involved in the assessment made changes to their training and approach to mass demonstrations in preparation for their response to the protests following the grand jury's decision to not indict Officer Darren Wilson.

The need for significant change remains in the political, economic, and social culture of Ferguson, as it does in other cities and towns in the United States. The assessment team sincerely hopes that the findings and lessons learned from this difficult experience will help to drive forward a positive change in law enforcement relationships with their communities and in the police response to critical incidents.

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328. *Defining Moments for Police Chiefs* (see note 40).

# FINDINGS AND LESSONS LEARNED

## Chapter 3. Incident Command and Incident Management

**FINDING 1.** *The Code 1000 Plan, along with the mutual aid agreements from the Missouri State Highway Patrol and St. Louis Metropolitan PD, was the only police resource option available at the time to respond to the Ferguson demonstrations; however, it proved to be an ineffective response mechanism for the demonstrations for the following reasons:*

- *There were no effective protocols in place to handle an event like this; if such protocols had been in place, they would have identified the appropriate police resources and procedures for the event to accompany the mutual aid agreements*

- *The inability to effectively provide command and control for the many responding agencies*

- *The inconsistent training among officers in the responding agencies*

- *The different approaches to policing*

- *The tendency toward officer self-deployment by agencies not included in this assessment in the early days of the Ferguson demonstrations, which reduced officer accountability*

**LESSON LEARNED 1.1.** Officers from different agencies designated to respond should train together and share common policing philosophies and professional standards.

**LESSON LEARNED 1.2.** Agencies should have strong policies on self-deployment, and memoranda of understanding and mutual aid agreements should be formalized among the agencies to provide clear and consistent guidelines and procedures. In addition, these guidelines must be practiced at all operational and command levels of the participating agencies.

**FINDING 2.** *During the first two days (Saturday, August 9 and Sunday, August 10), the St. Louis County PD and the Ferguson PD did not anticipate that the Ferguson demonstrations would be long-term and focused only on immediate tactical responses; therefore, they did not effectively plan for a long-term operational strategy.*

**LESSON LEARNED 2.1.** Agencies should transition from a short-term response plan to a more organized mutual aid response once it is evident that the incident or event may be protracted.

**LESSON LEARNED 2.2.** Law enforcement agencies should develop comprehensive operational plans that include short-term response strategies that directly support long-term operational goals.

**FINDING 3.** *Incident command sought to make changes in their response and protest management based on their diverse array of experiences, with changes being implemented both during and after the assessment period.*

**LESSON LEARNED 3.1.** Even with the best planning for a police response to a protest, the nature and evolution of a protest, factors collaterally related to the protest, and the effectiveness of tactics and strategies must be constantly monitored and changed to reflect the changing protest management environment.

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**FINDING 4.** *While incident command was established, the National Incident Management System (NIMS) was not fully implemented, which inhibited coordination and response efforts.*

**LESSON LEARNED 4.1.** Law enforcement agencies should use the NIMS model for a critical incident, particularly when there is a multiagency response. Agencies should not only adopt the NIMS operating model and meet certification standards but also regularly train and exercise with participating agencies.

**LESSON LEARNED 4.2.** Law enforcement agencies should draw on the resources of NIMS incident management teams—groups of highly trained individuals who can be requested to deploy to the command center and help the incident commander (IC) set up his or her organization. These teams do not manage the event; they are present to help the IC get organized.

**LESSON LEARNED 4.3.** Law enforcement should implement and provide NIMS awareness training for elected officials and staff to underscore the importance of command and control.

**LESSON LEARNED 4.4.** The IC should remain focused on strategic decisions and allow other duties to be delegated to other members of the incident command team.

**LESSON LEARNED 4.5.** Clear and consistent communication from the IC to supervisors and all officers involved is imperative. As directives change throughout the incident, additional and continued notifications of changes must be made.

**FINDING 5.** *Incident command, with input from protest leaders, developed traffic management plans for the protest areas that minimally disrupted the traffic flow and provided safe environments for protesters.*

**LESSON LEARNED 5.1.** A traffic management plan involving the area where protests occur should be multifaceted with variation in road closures and detours considering variables to include time of day; nature of the protests; the number of protesters, businesses, and government buildings within the protest area; and traffic factors related to the safety of drivers, protesters, and officers.

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**FINDING 6.** *Incident command did not ensure that factors regarding arrest decisions were established and adequately conveyed to operational supervisors or frontline officers.*

**LESSON LEARNED 6.1.** Unified command should clearly convey factors that officers should consider when exercising their authoritative discretion to arrest. Unified command should also provide clear guidelines that minimize individually applied discretionary enforcement decisions by officers.

## Chapter 4. Use of Force

**FINDING 7.** *The use of canines during the Ferguson demonstrations raised many questions and concerns and the assessment team determined the following:*

- *The St. Louis County PD and the Ferguson PD used canine units for crowd control to protect the homicide scene on August 9. While consistent with both agencies' policy, such use is inconsistent with widely accepted policing practices and in fact exacerbated tensions by unnecessarily inciting fear and anger among amassing crowds.*

- *Canines were used within accepted policing practices by St. Louis County PD, Ferguson PD, and St. Louis Metropolitan PD for specific activities as documented by the team, including backup, building searches, and tracking suspects. Canines were used for tracking suspects on August 10, 11, and 17.*

- *Agencies outside the scope of this assessment used canines and may have used them for crowd control.*

- *None of the four core agencies that are the focus of this assessment prohibit the use of canine units for crowd control—which is not consistent with widely accepted policing practices.*

**LESSON LEARNED 7.1.** Police policy and procedures guiding the use of canines should prohibit their use for crowd control.

**LESSON LEARNED 7.2.** Law enforcement must balance decisions and tactics by taking into consideration the context of the environment, the systemic effects, and the overall strategic mission. What can be viewed as seemingly benign by law enforcement can be interpreted by the public as a form of intimidation. Canine use should be based on the criterion above.

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**FINDING 8.** *The assessment team identified a lack of thorough documentation of the use of CS gas (tear gas), including justification, deployment strategy, and outcomes. The team also identified instances of tear gas being deployed inappropriately without proper warnings, without sufficient attention paid to safe egress, and without consideration for environmental conditions (e.g. weather, wind direction, proximity to a densely populated area, potential impact on the safety of citizens as well as law enforcement).*

**LESSON LEARNED 8.1.** For the very limited circumstances when tear gas is used, law enforcement must deploy tear gas only when people have a means of safe egress and after appropriate warnings are clearly announced and sufficient time is allowed for individuals to leave the area.

**LESSON LEARNED 8.2.** Law enforcement agencies should develop an accepted audio recording of a warning that less-lethal weapons, such as tear gas, are about to be deployed in advance of a critical incident. This warning can be replayed via the public address system to ensure that correct and consistent information is provided.

**LESSON LEARNED 8.3.** Law enforcement agencies should assess environmental conditions (e.g., weather, wind direction, proximity to densely populated area, potential impact on the safety of citizens as well as law enforcement) prior to deploying gas to minimize collateral impact on innocent parties.

**LESSON LEARNED 8.4.** Law enforcement agencies should ensure documentation of gas dispersal, even when conditions are dynamic and evolving, as it is a critical component of command and control as well as of accountability.

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**FINDING 9.** *Citizens reported use of rubber bullets by law enforcement; however, no evidence was found of the use of rubber bullets by the four agencies in this assessment. But Stingerballs, PepperBalls, bean bag rounds, and baton rounds were used in the first days of the protest response.*

**LESSON LEARNED 9.1.** Members of the public can confuse rubber bullets with other forms of less-lethal projectiles. When law enforcement is made aware of nonfactual reports of weapons or tactics being used, immediate steps should be taken to communicate accurate information and clarify the misreported information with the community.

**LESSON LEARNED 9.2.** Law enforcement agencies should ensure documentation of the use of less-lethal projectiles, as it is a critical component of command and control as well as of accountability.

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**FINDING 10.** *With more than 50 agencies responding to the mass demonstrations and based on interviews and reviews of media content, responding agencies, including those outside the scope of this assessment, used varying levels of force.*

**LESSON LEARNED 10.1.** Guidelines must be in place regarding the types of less-lethal force that will be authorized as well as the criteria, including circumstances, for their use. This must be clearly communicated to all law enforcement agencies participating in a coordinated response and to the community and the public.

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**FINDING 11.** *The deployment of less-lethal weapons in the multiagency response to the demonstrations was not centralized or tracked. The unprecedented nature of this event does not justify the lack of documentation and need to track the use of lesslethal responses.*

**LESSON LEARNED 11.1.** Agencies should establish a system to accurately record and document the deployment of less-lethal weapons. The system should include the date, time, and circumstance for each deployment. All commanders and supervisors should ensure the accurate documentation of all events, facts, and uses of force as soon as practicable after an event or decision.

## Chapter 5. Militarization

**FINDING 12.** *While a tactical response was warranted at times during the Ferguson demonstrations because of threats to public safety, the highly elevated initial response, including tactical elements, limited options for a measured, strategic approach. The elevated day-time response was not justified and served to escalate rather than de-escalate the overall situation.*

**LESSON LEARNED 12.1.** The use of tactical units should be limited to a specific and deliberate mission because their use can undermine the police's peace-keeping role. Such units can anger and frighten citizens, resulting in greater animosity toward the police, which in turn may fuel more conflict.

**LESSON LEARNED 12.2.** Law enforcement administrators must remain vigilant that tactical responses are appropriate and measured. Simply having the availability of resources does not mean the resources should be used.

**LESSON LEARNED 12.3.** Monitoring crowd behaviors is essential for incident and response planning because the character of the crowd can change depending on the time of day, environmental condition, and who decides to participate in the demonstration.

**FINDING 13.** *The presence of tactical officers with military-style uniforms, equipment, weapons, and armored vehicles produced a negative public reaction.*

**LESSON LEARNED 13.1.** Use of equipment or weaponry should be restricted to limited situations that clearly justify their use. Policies and procedures should clearly state the limited situations for their deployment.

**LESSON LEARNED 13.2.** Law enforcement agencies should consider options for having tactical teams in place but remaining out of public view until circumstances warrant their deployment.

**LESSON LEARNED 13.3.** Tactical officers train with and drive armored vehicles on a regular basis and may become desensitized to or not understand the military image such vehicles project to the public.

**LESSON LEARNED 13.4.** Less-lethal weapons should have properly marked or colored barrels, when applicable, to avoid confusing the public about excessive force and to ensure officers never accidentally use the wrong weaponry.

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**FINDING 14.** *At times, the deployment of the long-range acoustic device (LRAD) was warranted as a high-volume public address system; however, it should have been deployed using a platform other than an armored vehicle.*

**LESSON LEARNED 14.1.** While the LRAD may be appropriate to disperse crowds, using it in conjunction with an armored vehicle escalates the hostility of the crowd and creates a negative public image.

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**FINDING 15.** *The assessment team realizes that the overwatch tactic, in which police snipers took positions on top of tactical vehicles and used their rifle sights to monitor the crowd, was inappropriate as a crowd control measure. Further, it served only to exacerbate tensions between the protesters and the police.*

**LESSON LEARNED 15.1.** The assessment team realizes that the overwatch tactic can be a valuable tool for law enforcement; in this instance, however, it should not have been used. Overwatch is an inappropriate tactic for protest and protest-centric events.

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**FINDING 16.** *During the first several days of the Ferguson demonstrations, law enforcement staged armored vehicles visibly in a way that was perceived to be threatening to the community and, at times, used them absent danger or peril to citizens or officers. As the protests progressed, law enforcement staged the armored vehicles in a more strategic and less visible manner allowing for quicker and more measured responses to situations including the rescue of officers and civilians in need.*

> **LESSON LEARNED 16.1.** Armored vehicles should not be visible to protesters except in narrowly defined circumstances, for example when shots are fired and in some active shooter situations.

> **LESSON LEARNED 16.2.** Community members who are lawfully protesting will likely view the presence of armored vehicles as intimidating or as an attempt to intimidate them.

**FINDING 17.** *Many community members perceived law enforcement using the standard protective equipment worn by officers, such as helmets, external vests, and shields, for offensive and not defensive measures.*

> **LESSON LEARNED 17.1.** Agencies should consider a tiered approach to policing public demonstrations, beginning with standard issue uniforms for peaceful demonstrations and progressing to defensive protective equipment for unruly crowds and ultimately to a tactical approach to protect life and preserve the peace should violence occur. Officers wearing defensive and tactical equipment should be staged out of sight during peaceful demonstrations.

> **LESSON LEARNED 17.2.** When officers are deployed with any form of defensive, protective equipment during mass gatherings, law enforcement agencies should communicate to the public via social media and public information officers that officers will be wearing protective equipment for their personal safety.

## Chapter 6. The "Keep Moving" Order

**FINDING 18.** *Unified command created a vague and arbitrary derivative of the Missouri failure to disperse statute—the "keep moving" order, or "five-second rule," which violated citizens' right to assembly and free speech, as determined by a U.S. federal court injunction.*

> **LESSON LEARNED 18.1.** It is essential that law enforcement establish and apply procedures that comply with statutory and constitutional requirements. Legal counsel should be consulted and involved when establishing policies, procedures, and tactics that could infringe on or impact constitutional protections.

> **LESSON LEARNED 18.2.** While law enforcement must meet its duty to protect people and property during mass demonstrations and protests, it can never do so at the expense of upholding the Constitution and First Amendment-protected rights.

**FINDING 19.** *Law enforcement applied the "keep moving" order broadly and without guidelines for officers that allowed for its legal application.*

> **LESSON LEARNED 19.1.** New operational procedures should not be implemented when responding to an incident without first being vetted for legal sufficiency. The high degree to which operational decisions will be scrutinized for their constitutionality demands that law enforcement make these decisions after receiving legal advice and counsel regarding the effect of their implementation.

**FINDING 20.** *Unified command failed to establish a clearly marked First Amendment free speech zone until August 19, 2014. This delay, coupled with the "keep moving" order, had an overall effect of discouraging protesters from exercising their First Amendment rights.*

**LESSON LEARNED 20.1.** Law enforcement should establish a First Amendment free speech zone that is clearly marked; accessible to the media; and clearly communicated to all officers, the media, and public information officers.

**LESSON LEARNED 20.2.** A First Amendment free speech zone should be created with legal advice and counsel.

## Chapter 7. Training

**FINDING 21.** *Limitations and variations in officer training on civil disobedience, de-escalation, and mutual aid negatively impacted the response to events in Ferguson.*

**LESSON LEARNED 21.1.** Law enforcement agencies with mutual aid requests must conduct regional response training, to include regular regional tabletop critical incident or event exercises involving mutual aid responders, other first responders, and key community leaders.

**LESSON LEARNED 21.2.** Agencies should employ out-of-classroom methodologies, such as online training or roll call training, for more flexible in-service training delivery options.

**LESSON LEARNED 21.3.** Agencies should train all officers on the nature of the First Amendment and the protections it affords, including what is a lawful protest, how law enforcement should deal with lawful protests, and what are best practices for policing crowds.

**FINDING 22.** *The four core agencies dedicated officer training on operational and tactical skills without an appropriate balance of de-escalation and problem-solving training.*

**LESSON LEARNED 22.1.** Law enforcement agencies must ensure operational and tactical training is balanced with training that provides officers with tools to evaluate and de-escalate law enforcement encounters prior to resorting to use of force.

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**FINDING 23.** *There was no evidence of comprehensive training or exercises involving all four agencies related to the National Incident Management System (NIMS). While agencies conducted some joint training and exercises, they often focused on a narrowly defined collective response. This training borrowed some NIMS principles but was not a wholesale application of NIMS.*

**LESSON LEARNED 23.1.** There is tremendous value for all law enforcement agencies, regardless of size, to be fully trained (including exercises) in NIMS guidelines.

## Chapter 8. Policies and Procedures

**FINDING 24.** *The application of selected policies addressed in this assessment in response to the Ferguson incident and the related operational and tactical decisions did not always align with the intended spirit of the policies and with widely accepted policing practices. Although agencies acted in accordance with their own policies, some of those policies were not in line with widely accepted policing practices.*

**LESSON LEARNED 24.1.** Model or recommended policies and procedures provide a basic foundation to build upon and to enhance with jurisdiction-specific guidelines tailored to local police and community values and culture.

**LESSON LEARNED 24.2.** Policies should be reviewed on a systematic basis to ensure they clearly address all applications of policing techniques and tools. For example, deploying canines for crowd control, using tools such as the long-range acoustic device and militarization equipment, and using tactics such as overwatch should be appropriately controlled or restricted.

**FINDING 25.** *Only the St. Louis County PD makes agency policies publicly available and easily accessible via its website, which is consistent with principles of transparency and accountability. The Ferguson PD, the St. Louis Metropolitan PD, and the Missouri State Highway Patrol do not make policies publicly available and easily accessible.*

**LESSON LEARNED 25.1.** The process of public policing should be open and transparent. As such, policies of law enforcement agencies should be publicly available and easily accessible except for those narrowly defined and specifically unique policies, procedures, and general or special orders whose disclosure may jeopardize sensitive police operations.

**FINDING 26.** *Because of the lack of clear direction for unified operational policies, officers from more than 50 law enforcement agencies involved in the response to the mass gatherings typically relied on their parent agency's policies to govern their actions. That lack of consistency in policy led to unclear arrest decisions, ambiguous authority on tactical orders, and a confusing citizen complaint process.*

**LESSON LEARNED 26.1.** Law enforcement agencies should work together in advance of the need for a coordinated response situation to review policies and to ensure any issues or substantial variations of interpretation are resolved. Agencies that do not participate in this advance review process should not be eligible to participate in regional mutual aid requests.

**LESSON LEARNED 26.2.** When entering into mutual aid agreements, participating agencies should form a unified compliance committee to agree upon the policy content, training curriculum, and joint tactics. These agreements should mandate participation, and any agency that falls out of compliance should be released from the mutual aid agreement. Relevant policies and procedures associated with the agreement should be collaboratively reviewed to ensure they are consistent with remedies developed by the compliance committee should inconsistent practices be identified.

**LESSON LEARNED 26.3.** Law enforcement officers operating under a multiagency incident command structure must be informed of the policies and procedures to be followed during the execution of orders and tactics. A method of resolving questions or conflicts about policies must be readily available to assigned officers and communicated to them before deployment.

**LESSON LEARNED 26.4.** Law enforcement agencies should establish a framework for mutual response that includes not only a general mutual aid agreement but also procedures for implementing and managing the mutual aid response and clear distinction regarding which agency's policies will prevail when an agency is operating outside of its original jurisdiction.

**LESSON LEARNED 26.5.** During extraordinary events, law enforcement agencies should remain flexible to modifying policies or supplemental orders to address contingencies encountered and, if modification occurs, ensure that officers deployed in the operation receive clear direction regarding any changes.

## Chapter 9. Accountability and Transparency

**FINDING 27.** *The four core law enforcement agencies have policies and procedures for receiving and processing citizen complaints that reflect acceptable national practice. However, these standard and separate processes for complaints appeared not to be able to meet the needs that arose from the unique circumstances of the Ferguson response.*

**LESSON LEARNED 27.1.** Law enforcement agencies should establish multiple methods for submitting complaints/commendations (in person, by phone, online, etc.) that are easily accessible, efficient, effective, and not intimidating to the public to ensure that citizen complaints are received, fairly investigated, and adjudicated. Agencies should review these methods periodically to stay current with technology and generational changes.

**LESSON LEARNED 27.2.** During events involving a multijurisdictional response, agencies should consider creating a formal, centralized complaint intake process for all agencies.

**LESSON LEARNED 27.3.** Law enforcement agencies should consider the option of establishing an off-site or alternate facility to address grievances if the established facility is not easily accessible during a mass gathering.

**LESSON LEARNED 27.4.** During events involving multiple law enforcement agencies, if a citizen seeks to make a complaint against an officer but is at the wrong agency of employment, reasonable efforts should be made to assist the citizen in identifying the proper agency to make the complaint. Also, an on-site, joint internal affairs or complaint intake process should be established.

**LESSON LEARNED 27.5.** Officer complaint/commendation processes should be shared with and accessible to the community and the media.

**LESSON LEARNED 27.6.** Methods for acknowledging good officer behavior, extraordinary efforts, or other accolades should be provided in addition to options for complaints.

**FINDING 28.** *The St. Louis County PD and the St. Louis Metropolitan PD each reported one officer complaint during the assessment period. Neither the Ferguson PD nor the Missouri State Highway Patrol reported receiving a complaint against any officer or trooper during the assessment period. However, given the size and scope of the protest and the findings outlined within this report, the limited number of filed complaints is misleading. Other factors that made it difficult or impossible to lodge complaints—or a lack of confidence in the complaint process—likely deterred citizens from filing complaints about police behavior.*

**LESSON LEARNED 28.1.** The absence of trust and confidence may negatively influence the community's willingness to engage law enforcement, even when they have significant concerns or complaints.

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**FINDING 29.** *During the law enforcement response to the protests, some officers removed their nameplates. This behavior defeated an essential level of on-scene accountability that is fundamental to the perception of procedural justice and legitimacy.*

**LESSON LEARNED 29.1.** Citizens must have a means to identify an officer whom the citizen believes has acted inappropriately. The method of identifying the officer must be readily recognizable but does not necessarily have to be the officer's name, particularly when responding to a critical incident.

**LESSON LEARNED 29.2.** Law enforcement agencies and the communities they serve should discuss the need to protect officers and their families and determine how officers will identify themselves during daily service and volatile mass gatherings.

## Chapter 10. Use of Intelligence

**FINDING 30.** *Incident command did not functionally incorporate available intelligence into the strategic decision-making process because NIMS was not fully implemented. The St. Louis County PD, the St. Louis Metropolitan PD, the St. Louis Fusion Center, and the Missouri State Highway Patrol (via the Missouri Information Analysis Center) each developed a significant amount of intelligence about threats and public disorder concerns related to the mass gatherings and protests, though that intelligence did not systematically inform operations or decision making.*

**LESSON LEARNED 30.1.** Agencies should develop a mechanism to gather raw information and to manage tips and leads, such as videos, from the scenes of mass gatherings so the intelligence can be forwarded to the intelligence units for analysis.

**LESSON LEARNED 30.2.** Agencies should clearly communicate the protocol for identifying the type of information intelligence units can collect, when they can collect it, how they can collect it, what they will keep, and how long they can keep it.

**LESSON LEARNED 30.3.** City and county agencies should proactively leverage the resources and expertise of fusion centers in response to a critical incident such as that in Ferguson.

**LESSON LEARNED 30.4.** Law enforcement agencies involved in a multijurisdictional response to a critical incident must establish a strong incident command structure following the NIMS model and incorporate intelligence into strategic decision-making processes.

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**FINDING 31.** *Limited intelligence was shared with incident commanders, despite intelligence personnel being assigned to the command post. This resulted from a lack of a formal information sharing mechanism within the incident command structure.*

**LESSON LEARNED 31.1.** An intelligence officer should be identified and assigned to the command post to enhance the two-way information flow and to help ensure that valuable strategic and tactical intelligence is being considered and used appropriately to inform tactical decision making.

**LESSON LEARNED 31.2.** The incident commander must thoroughly understand the importance of the intelligence officers and pay particular attention to their recommendations for staffing, deployment, and operational decisions. The incident commander should be trained through interactive table-top exercises and other training mechanisms on operationalizing intelligence.

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**FINDING 32.** *Officers deployed for incident management received little intelligence about threats and protester strategies, which inhibited their ability to manage public interactions and make informed decisions.*

**LESSON LEARNED 32.1.** Leadership should ensure line officers receive direction regarding the types of information that they should be cognizant of and that would be useful for them to pass on to intelligence units.

**LESSON LEARNED 32.2.** Law enforcement agencies responding to a critical incident should develop consistent briefing content that command should use for advising officers, agencies, the public, and other officials.

## Chapter 11. Internal and External Communications

**FINDING 33.** *The absence of trust between the police in Ferguson and many in the community negatively impacted the response of all agencies involved and was a barrier to responding agencies' efforts to communicate effectively with the community.*

**LESSON LEARNED 33.1.** Law enforcement agencies must invest time to establish trusted relationships with all segments of the communities they serve to promote ongoing, effective communications that can be leveraged during challenging times.

**LESSON LEARNED 33.2.** Law enforcement agencies responding to a mutual aid situation must understand that they inherit the relationships established by the requesting agency.

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**FINDING 34.** *After the first several days of the protest, there was a noticeable change to the way in which law enforcement leaders engaged protesters on the protest line; they began meeting with protest leaders and reached out to local clergy in an effort to open the lines of communication.*

**LESSON LEARNED 34.1.** Law enforcement must reach out to protest leaders to understand the protesters' issues and establish an understanding of police responsibilities for managing the safety and security of protesters and the community.

**LESSON LEARNED 34.2.** Lines of communication between law enforcement and protest leaders should remain open and consistent not only throughout the protest but also after the protest to ensure effective communications to prepare for future protests and ensure a relevant ongoing dialogue between the protesters and the police occurs.

**FINDING 35.** *Radio interoperability challenges impeded communications between responding law enforcement agencies in the early days of the response. The St. Louis Metropolitan PD and the Missouri State Highway Patrol operated radio systems that were incompatible with the systems used by the other two agencies involved in this assessment, requiring alternate communication methods until patches could be made to the systems.*

**LESSON LEARNED 35.1.** Law enforcement communications equipment should provide for seamless interoperability among responding agencies by preparing and testing communication systems in advance of an incident.

**FINDING 36.** *One mutual aid channel was used initially for communications by responding agencies and the volume of radio traffic resulted in people talking over one another. A second radio channel was subsequently added, but it took time to communicate the protocols for use of two channels by responding agencies.*

**LESSON LEARNED 36.1.** Methods of interagency communications, including radio and electronic messaging, among mutual aid agencies should be established and reviewed on a regular basis to ensure interoperability during emergency situations.

## Chapter 12. Public Information and Media Relations

**FINDING 37.** *Law enforcement agencies initially offered limited public information and did not commit to proactive communications with the public, both of which set a negative tone for media relations for the rest of the demonstrations.*

**LESSON LEARNED 37.1.** Law enforcement should establish a practice to release all information lawfully permitted as soon as possible and on a continuing basis, unless there is a compelling investigatory or public safety reason not to release the information. A "compelling reason" should be narrowly defined and limited in scope. Had law enforcement released information on the officer-involved shooting in a timely manner and continued the information flow as it became available, community distrust and media skepticism would most likely have been lessened. As noted in the *Final Report of the President's Task Force on 21st Century Policing*, "when serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality."

**LESSON LEARNED 37.2.** Law enforcement should establish a media credentialing process and a well-publicized staging area for frequent briefings during times of crisis.

**FINDING 38.** *Incident command did not follow the NIMS public information protocols, including establishing a joint information center (JIC), which could have reduced or eliminated some of the conflict between law enforcement and the media and improved relations with the community.*

**LESSON LEARNED 38.1.** Law enforcement agencies should understand the importance of quickly establishing a JIC and communicate timely and relevant information to the public.

**LESSON LEARNED 38.2.** Law enforcement should have a designated, trained public information officer (PIO), who engages with the public on a routine basis. Established relationships will benefit the department and provide a familiar face to the public during times of crisis.

**LESSON LEARNED 38.3.** Law enforcement should consider establishing a forum for its PIOs and other personnel in media relations so they can discuss issues, learn how to assist in critical situations, and keep apprised of contemporary issues that impact them.

**LESSON LEARNED 38.4.** PIOs should complete the Federal Emergency Management Agency's Emergency Management Institute training courses for PIOs (which comply with NIMS), including the four-day advanced course.

**LESSON LEARNED 38.5.** Agencies jointly involved in a critical incident must defer to the established PIO for the timely release of accurate and relevant information.

**LESSON LEARNED 38.6.** When an agency is overwhelmed with media inquiries in a critical incident, a viable option may be to request a temporary detail of experienced PIOs from other law enforcement agencies to moderate the burden.

**LESSON LEARNED 38.7.** Law enforcement should dedicate sufficient staff to cover public information and media relations needs.

## Chapter 13. Social Media

**FINDING 39.** *The four core law enforcement agencies underestimated the impact social media had on the demonstrations and the speed at which both facts and rumors were spread and failed to have a social media strategy.*

**LESSON LEARNED 39.1.** Law enforcement agencies should have some capacity to use social media during emergency situations. They should develop a social media strategy along with policies and procedures that align with the agency's mission and culture. Critical response policies and procedures should be included.

**LESSON LEARNED 39.2.** Agencies should proactively build, develop, and strengthen their social media capacities before an incident occurs, as this is nearly impossible to accomplish in the midst of a major incident. Policies and procedures should be consistent with applicable laws and regulations and with law enforcement best practices. An effective social media capacity requires an investment of resources including funds and personnel. This is sometimes difficult for some agencies to embrace; however, effectively building this capacity requires an investment and a commitment.

**LESSON LEARNED 39.3.** Public information officers and social media specialists should be well versed in integrating social media tools to provide accurate information to the communities they serve and recognize the strength, immediacy, and capacity of social media to both share information and collect intelligence.

**LESSON LEARNED 39.4.** Law enforcement leaders should leverage the skills and aptitude of technologically savvy personnel to use current social media tools.

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**FINDING 40.** *Social media was the key global driver of information and opinion, which shaped many aspects of the Ferguson demonstrations.*

**LESSON LEARNED 40.1.** Law enforcement personnel must receive training to understand the concept and practice of effectively using social media. Social media is a vehicle that instantaneously spreads information, both accurate and inaccurate, worldwide.

**LESSON LEARNED 40.2.** Social media—from video streams to cell phone videos to photographs—can be a strong accountability tool when used to document the behavior of not only police officers but also demonstrators.

## Chapter 14. Technology

**FINDING 41.** *Law enforcement and local government agencies were not prepared for the tremendous use of technology for various purposes, including social media, distributed denial of service attacks, and hacking into personal computers.*

**LESSON LEARNED 41.1.** Agencies should be aware of the broad range of technology available to facilitate and coordinate mass gatherings and protests, and understand the beneficial and malicious impact such technology can have.

**LESSON LEARNED 41.2.** Agencies and local governments should ensure their IT staff is aware of potential cyberwarfare attacks and has prepared for them as much as possible by exploring mirrored websites, data backup, and state-of-the-art security.

**LESSON LEARNED 41.3.** Agencies and local governments should develop technologically based preventive strategies as part of both policy and training to ensure the security of all personnel records containing personally identifiable information to prevent theft and to monitor attempts to access the information.

**LESSON LEARNED 41.4.** Agencies should consider using available commercial web applications and services for enhanced planning, research, and communications during protests.

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**FINDING 42.** *Hackers successfully executed doxing attacks among several law enforcement personnel from all four core agencies, resulting in cases of identity theft.*

**LESSON LEARNED 42.1.** Law enforcement officials should ensure officers and their families are informed about the potential risks they take by participating on social media sites, educate them on how to protect themselves and their data, and encourage them to take proactive steps to protect their assets from potential intrusions.

**LESSON LEARNED 42.2.** Law enforcement personnel should strongly consider subscribing to an identity and credit monitoring service to minimize the impact of identity theft.

## Chapter 15. Officer Resilience

**FINDING 43.** *The intensity of the circumstances and the length of the demonstrations led to officers exhibiting fatigue and stress, which impacted health, well-being, judgment, and performance. Law enforcement officers were required to work long shifts with minimal breaks and with limited days off in intense and stressful conditions. This took both a physical and an emotional toll on the officers. While efforts were made to provide breaks and to keep officers hydrated and fed, the stressful conditions officers faced during the long deployments impacted both physical and emotional endurance.*

**LESSON LEARNED 43.1.** In times of prolonged and stressful duty, law enforcement agencies should closely monitor officers' emotional and physical well-being and develop a resilience support program that includes peer support.

**LESSON LEARNED 43.2.** Law enforcement agencies should ensure officers receive adequate time off to rest and recover.

**LESSON LEARNED 43.3.** Agencies should have a health professional present in the rest area who can monitor officers, diagnose potential health issues, monitor blood pressure, and provide other health services that may be required during a prolonged incident.

**LESSON LEARNED 43.4.** Pre-incident briefings of officers should include a health and safety briefing, the requirement for rest and nourishment, and a reminder to officers to bring along any medications that they may need to take during long shifts.

**LESSON LEARNED 43.5.** When responding to a mass gathering, law enforcement should maintain an isolated location away from the demonstration area where personnel can rehydrate and eat. Officers will also have personal needs, such as contacting family members that will require break time from duty.

**LESSON LEARNED 43.6.** In prolonged stressful situations, agencies should consider deploying a trained police counselor or psychologist who can discuss stress issues with individual officers and offer some stress management or reduction strategies or advice, as well as provide crisis intervention or make appropriate referrals for officers and their family members.

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**FINDING 44.** *Officers and civilian personnel were not prepared for the volume and severity of personal threats on themselves and their families, which created additional emotional stress for those involved in the Ferguson response. This includes threats of violence against family members and fraud associated with technology-based attacks.*

**LESSON LEARNED 44.1.** Agencies should anticipate an increase in threats against personnel during times of mass demonstrations and civil disobedience and develop policies and procedures to reduce the impact of threats to physical safety, fraudulent schemes, hacking, identify theft, and social media attacks on officers and their families.

**LESSON LEARNED 44.2.** Agencies need to establish protocols for responding to officers who receive extreme, immediate, and credible threats to themselves and their families.

## Chapter 16. Ferguson Community Members' Perspectives

**FINDING 45.** *The Ferguson PD had no agency-wide efforts in place to manage the community reaction. In addition, the fact that long-term relationships with the community were seemingly not developed over time led to devastating effects. Community members had no central source of contact to reach with questions or concerns.*

**LESSON LEARNED 45.1.** Law enforcement should develop and maintain a well-established network of relationships with their community leaders and initially contact them with information regarding incidents that impact their community.

**LESSON LEARNED 45.2.** Law enforcement should communicate with citizens about the facts of an incident as quickly as possible to minimize the spread of inaccurate information.

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**FINDING 46.** *The Ferguson PD lacked community relationships with the residents of Canfield Green Apartments and with much of the African-American community.*

**LESSON LEARNED 46.1.** The response in Ferguson demonstrates the importance of law enforcement agencies engaging in dedicated and proactive efforts to understand the communities they serve and to foster strong trust between officers and the community.

**LESSON LEARNED 46.2.** Law enforcement should communicate with more than a select few by establishing ongoing dialogue with all segments of the community.

**LESSON LEARNED 46.3.** Law enforcement agencies need to implement, develop, and maintain youth and adult programs (e.g., police academies and advisory boards) to establish communication and build relationships with all of the communities they serve.

**LESSON LEARNED 46.4.** Law enforcement agencies need to enhance police legitimacy and procedural justice in every interaction officers have with the public. By enhancing these principles, law enforcement can foster and maintain better police-community relationships.

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**FINDING 47.** *The protests were sparked by the shooting of Michael Brown, but they were also a manifestation of the long-standing tension between the Ferguson PD and the African-American community.*

**LESSON LEARNED 47.1.** Law enforcement officers should receive training on topics related to procedural justice, implicit bias, cultural diversity, and related topics that promote community policing to help build trust and legitimacy in diverse communities.

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**FINDING 48.** *Community members repeatedly expressed their belief that there was a difference in the nature of the activities between day and night, with daytime protests being peaceful and nighttime protests often becoming violent.*

**LESSON LEARNED 48.1.** Law enforcement needs to be proactive during peaceful protests to engage community members to identify issues of concern and establish rapport.

# GEOGRAPHICS AND JURISDICTIONAL INFORMATION

**Table B-1.** Population, jurisdiction size, and density of the three core jurisdictions

| Jurisdiction | Population | Area in square miles | Density per square mile |
|---|---|---|---|
| St. Louis County* | 1,001,876 | 507.80 | 1,972.1 |
| City of St. Louis† | 318,416 | 61.91 | 5,157.5 |
| Ferguson‡ | 21,111 | 6.19 | 3,423.2 |

* "State and County Quick Facts: St. Louis County, Missouri," U.S. Census Bureau, accessed May 26, 2015, http://quickfacts.census.gov/qfd/states/29/29189.html.

† "State and County Quick Facts: St. Louis (city), Missouri," U.S. Census Bureau, accessed May 26, 2015, http://quickfacts.census.gov/qfd/states/29/2965000.html.

‡ "State and County Quick Facts: Ferguson (city), Missouri," U.S. Census Bureau, accessed May 26, 2015, http://quickfacts.census.gov/qfd/states/29/2923986.html.

To interpret the issues and discussions in this report, there is value in understanding the demography, structure, and character of the three core jurisdictions in Missouri: Ferguson, St. Louis County, and the city of St. Louis.

Within St. Louis County, there are 90 different municipalities[329] (see figure B-1 on page 136); many of these municipalities have a police force. As one would expect, most of these police departments are fairly small. The St. Louis County Police Department is responsible for policing the unincorporated areas of the county as well as for contracting to provide police services for 17 of the county's municipalities.[330] Table B-1 describes the population and density of the three core communities.

Despite the small size of most communities in the county, the total St. Louis metropolitan area has a population estimated at 2.817 million.[331] Thus, even though most of

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329. "Local Governments in Individual County-Type Areas: 2012 - State – County – County/Equivalent 2012 Census of Governments, Missouri," American Fact Finder, accessed May 19, 2015, http://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG13.ST05P?slice=GEO~0400000US29.

330. St. Louis County contracts to provide complete police service for the following communities: Black Jack, Clarkson Valley, Dellwood, Fenton, Grantwood Village, Green Park, Hanley Hills, Jennings, Marlborough, Norwood Court, Pasadena Hills, Twin Oaks, Valley Park, Vinita Terrace, Wilbur Park, Wildwood, and Winchester. "Facility Addresses and Phone Numbers," St. Louis County Government, accessed May 19, 2015, http://www.stlouisco.com/LawandPublicSafety/PoliceDepartment/FacilityAddressesandPhoneNumbers.

331. "St. Louis, MO," Wolfram Alpha [computational knowledge engine], accessed May 2015, http://www.wolframalpha.com/input/?i=st+louis%2C+mo.
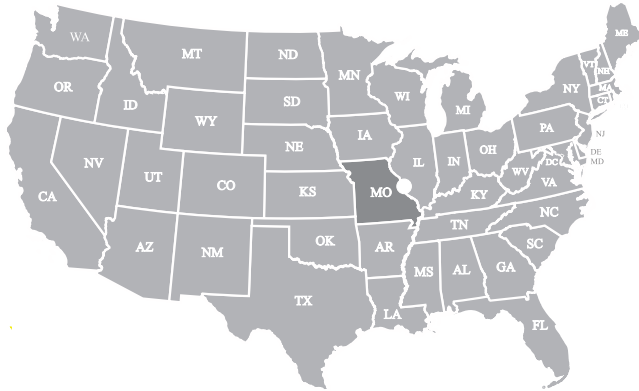
Missouri and the St. Louis metropolitan area          St. Louis county
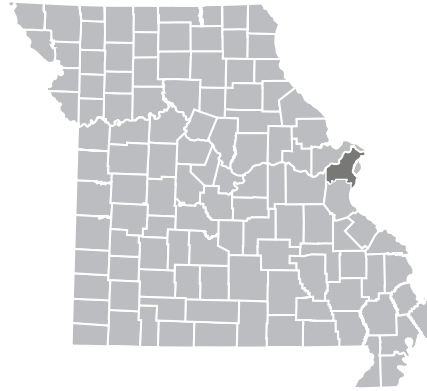
**Figure B-1.** Map of Missouri and St. Louis County
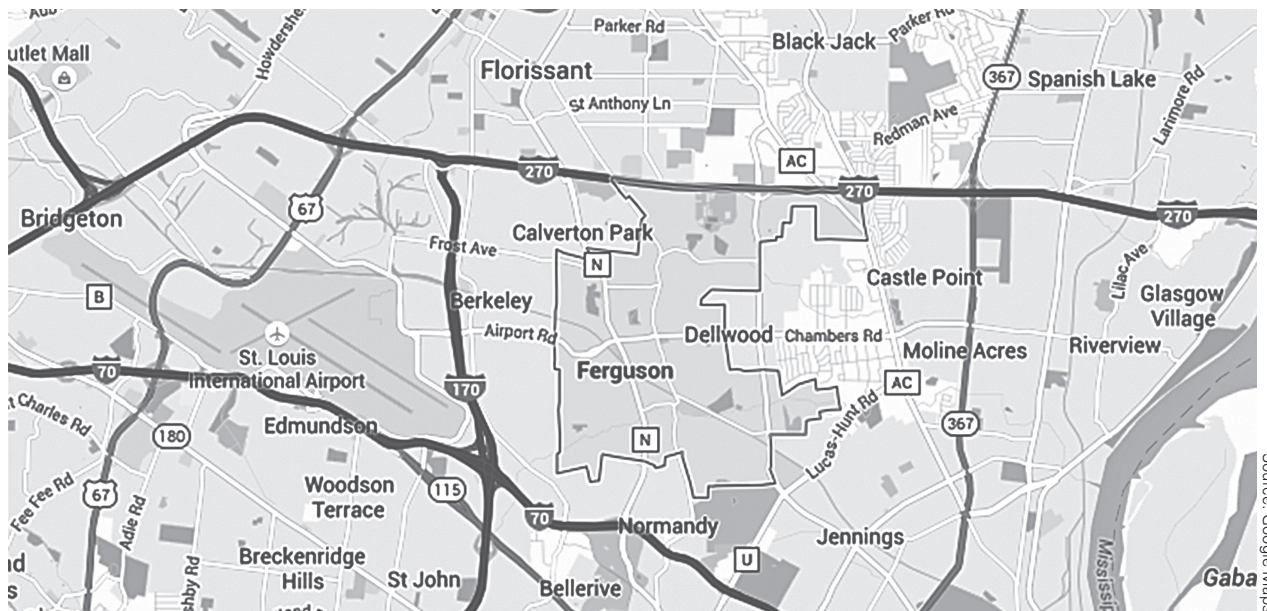


Source: Google Maps

**Figure B-2.** Geographic location of Ferguson, Missouri

the municipal police departments are small, virtually all of the communities are contiguous; in many ways, there is a similar effect of policing a major city yet being part of a much-smaller governmental structure.

One point often confusing is that the city of St. Louis is a jurisdiction of its own and is the only city in Missouri that is not in a county. Surrounded by the county of St. Louis

on the north, west, and south and by the Mississippi River and the Illinois state line on the east, the city is essentially landlocked and unable to expand geographically.

When describing geography, residents of the county of St. Louis often divide the county into the Mid, North, West, and South sections. North County lies north of I-70. West County lies west of I-270. South County lies south of I-44,

**Figure B-3.** Map of the Ferguson Police Department and South Florissant Road

**Figure B-4.** Map of critical locations

and Mid-County lies in the middle of the three main bordering highways (I-70, I-270, and I-44) and the St. Louis county-city line. The city of Ferguson is located in North County, approximately 3 miles east of the Lambert-St. Louis International Airport[332] (see figure B-2 on page 136).

Most of the mass gatherings associated with the Ferguson incident, including damages to and the burning of businesses, occurred on West Florissant Avenue in Ferguson. There were two core areas where mass gatherings regularly occurred: on South Florissant Road in front of the Ferguson PD (see figure B-3) and on West Florissant Avenue near Canfield Drive. The daily demonstrations at FPD, many of which were quite small in number during the day but grew as evening approached, were most commonly located on the edge of the parking lot of Andy Wurm Tire and Wheel,[333] which is directly across the street from the Ferguson PD (see figure B-3).

A further geographical perspective of critical locations is provided in figure B-4. The address on Canfield Drive is the location of the officer-involved shooting. The Target store in Jennings, Missouri, is noted on the map because the police command post was located in this strip mall and large parking lot.

When the crowd converged on the homicide scene and during the first two to three evenings of mass gatherings, multiple police departments from within the county responded.[334] However, four core law enforcement agencies were involved in the bulk of the police response and are the subject of this assessment (see table B-2 on page 138):

■ **Ferguson Police Department.**[335] The agency has 72 personnel, including 54 commissioned officers and 18 civilian support staff.[336] The officers are all certified peace officers by the Missouri Department of Public Safety. Many of the officers have bachelor's or advanced degrees. All officers participate in advanced continuous training in numerous areas of law enforcement. In addition to the uniform patrol officers and criminal investigation detectives, the agency has four K-9 officers, a bicycle patrol, and a traffic unit, as well as a community relations officer and school resource officers. The Ferguson PD is certified under the Missouri Police Chiefs Charitable Foundation State Certification Program[337] (similar to accreditation).

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332. Lambert-St. Louis International Airport, accessed May 2015, http://www.flystl.com/.

333. Andy Wurm Tire and Wheel, accessed May 2015, http://www.andywurm.com/.

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334. For greater detail, see chapter 3's discussion of the Code 1000 Plan.

335. The Ferguson PD is located at 222 South Florissant Road, Ferguson, MO 63135.

336. "Bureau of Administration," City of Ferguson, accessed May 19, 2015, http://www.fergusoncity.com/93/Bureau-of-Administration.

337. "MPCCF—Law Enforcement Certification," Missouri Police Chiefs Association, accessed May 19, 2015, http://www.mopca.com/mpca.nsf/ContentPage.xsp?action=openDocument&documentId=670FC3284A87AA9D862576C70053B7E4.

**Table B-2.** Number of sworn officers and their race and gender for the four core agencies

| Agency | Sworn officers | RACE | | | GENDER | |
| --- | --- | --- | --- | --- | --- | --- |
| | | White | African American | Other race/ combined | Male | Female |
| **Ferguson PD**[*] | 54 | 87.0% | 7.4% | 5.6% | 94.4% | 5.6% |
| **St. Louis Metropolitan PD**[†] | 1340 | 64.2% | 33.4% | 2.4% | 84.1% | 15.9% |
| **St. Louis County PD**[‡] | 833 | 87.0% | 10.2% | 2.8% | 86.9% | 13.1% |
| **Missouri State Highway Patrol**[§] | 1,267 | 94.2% | 2.6% | 3.2% | 94.9% | 5.1% |

* Information provided by agency representatives.

† Information provided by agency representatives.

‡ Information provided by agency representatives.

§ Information provided by agency representatives.

- **St. Louis County Police Department.**[338] By county charter, the chief is responsible for the law enforcement duties of the sheriff; hence, there is no elected sheriff. The agency serves a population of more than one million, with a predominant focus in unincorporated areas of the county and a few small cities that the agency contracts with to provide police service. However, St. Louis County PD officers often assist municipalities in the county as needed. The St. Louis County PD is a full-service law enforcement agency responsible for a geographical area of more than 500 square miles. The current agency strength is 833 sworn officers and 252 nonsworn personnel,[339] and it has a budget of more than $113 million. The St. Louis County PD is a Commission on Accreditation for Law Enforcement Agencies (CALEA)-accredited law enforcement agency, and in 2013 it received the CALEA TRI-ARC award.[340]

- **St. Louis Metropolitan Police Department.**[341] This full-service law enforcement agency serves the 318,000 residents of the city of St. Louis. It has a $173 million annual budget. The agency has approximately 1,340 sworn officers and 588 civilian employees.[342] The St. Louis Metropolitan PD is a CALEA-accredited law enforcement agency, and in 2013 it received the CALEA TRI-ARC award.[343]

- **Missouri State Highway Patrol.**[344] The highway patrol is a full-service law enforcement agency with police authority throughout the state. The headquarters is located in Jefferson City (approximately 125 miles WSW of Ferguson). The agency is organized into nine troops around the state. The Greater St. Louis area is served by Troop C. Overall, the Missouri State Highway

338. The St. Louis County PD is located at 7900 Forsyth Avenue, Clayton, MO 63105.

339. Information provided by agency representatives.

340. The Commission on Accreditation for Law Enforcement Agencies (CALEA) is a credentialing process related to explicit standards recognized as best practices for law enforcement. Not every law enforcement agency is certified. Rather, certification is an elective process an agency can choose to go through. For more information, visit CALEA, accessed May 2015, http://www.calea.org/.

341. The St. Louis Metropolitan PD is located at 1915 Olive Street, St. Louis, MO 63103.

342. Information provided by agency representatives.

343. "CALEA TRI-ARC Award," CALEA, accessed May 19, http://www.calea.org/content/tri-arc-award.

344. The Missouri State Highway Patrol's Troop C headquarters is located at 891 Technology Drive, Weldon Spring, MO 63141.

**Table B-3.** Race, gender, and poverty level of the three core jurisdictions

| Jurisdiction | RACE | | | GENDER | | |
|---|---|---|---|---|---|---|
| | White | African American | Other race/ combined | Male | Female | Persons below poverty level |
| St. Louis County* | 70.3% | 23.7% | 6.0% | 47.3% | 52.7% | 10.9% |
| City of St. Louis† | 43.9% | 49.2% | 6.9% | 48.3% | 51.7% | 27.4% |
| Ferguson‡ | 29.3% | 67.4% | 3.3% | 44.8% | 55.2% | 24.9% |

\* "State and County Quick Facts: St. Louis County, Missouri," U.S. Census Bureau, accessed March 19, 2015, http://quickfacts.census.gov/qfd/states/29/29189.html.

† "State and County Quick Facts: St. Louis (city), Missouri," U.S. Census Bureau, accessed March 19, 2015, http://quickfacts.census.gov/qfd/states/29/2965000.html.

‡ "State and County Quick Facts: Ferguson (city), Missouri," U.S. Census Bureau, accessed March 19, 2015, http://quickfacts.census.gov/qfd/states/29/2923986.html.

Patrol has approximately 1,267 sworn troopers and 1,122 nonsworn personnel.[345] The Missouri State Highway Patrol is a CALEA-accredited law enforcement agency.

Although the Missouri National Guard[346] was deployed, its role was narrowly defined to maintain security at the police command post, to protect police vehicles, and to provide security for selected facilities that varied throughout its deployment.[347] The Missouri National Guard is not part of this assessment because it was not deployed to aid in the control of the mass gatherings. Thus, any contact between members of the National Guard and community members was incidental and limited to areas being secured. No problems or issues were reported arising from these incidental contacts.

Beyond geography and descriptive information related to the involved jurisdictions, insight into their demographic character is also important. Table B-3 provides racial, gender, and poverty proportions in the three core jurisdictions.

One factor that stands out is that the demography of Ferguson is significantly different from the county of St. Louis on the variables of race and poverty.

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345. Information provided by agency representatives.

346. Missouri National Guard, http://www.moguard.com/.

347. Office of Missouri Governor Jay Nixon, "Statement from Gov. Nixon Regarding the Ongoing Situation in Ferguson and Role of National Guard," news release, August 18, 2014, https://governor.mo.gov/news/archive/statement-gov-nixon-regarding-ongoing-situation-ferguson-and-role-national-guard.

# DEMOGRAPHY

Beyond geography and descriptive information about the jurisdictions involved, insight into their demographic character provides further context. In discussions with researchers from the University of Missouri–St. Louis, it was pointed out that Canfield Green Apartments is in an area geographically close to the Jennings, Missouri, city limits. Moreover, many of the Ferguson residents in this area socially identify more closely with Jennings than Ferguson. As a result, for reference, the Jennings demographic data, which is similar to Ferguson, is also included in this appendix for insight.

One factor that stands out is that the demography of Ferguson is significantly different from the county of St. Louis on the variables of race and poverty (see table C-1 on page 142). Ferguson has a higher proportion of African Americans and residents living in poverty than the county as a whole.

While the average poverty level in Ferguson is 24.9 percent, it is unevenly distributed through the city with the highest poverty rates on the eastern edge of Ferguson, near the Jennings city limit, at 40 percent or higher.[348] Canfield Green Apartments is located in this area of town.

As shown in table C-2 (on page 143), high school graduation rates of Ferguson residents aged 25+ are higher than average, but baccalaureate degree rates are notably lower. Research indicates that there is a significantly higher voting rate among college graduates when compared to high school graduates.[349]

On another demographic variable, Ferguson has a notably higher proportion of residents in rental property compared to the county, the state, and the national average (see table C-3 on page 143).

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348. Elizabeth Kneebone, "Ferguson, MO Emblematic of Growing Suburban Poverty," Brookings, August 15, 2014, http://www.brookings.edu/blogs/the-avenue/posts/2014/08/15-ferguson-suburban-poverty.

349. "Voting Rates by Age and Educational Level, 2008," Trends in Higher Education, accessed May 2015, http://trends.collegeboard.org/education-pays/figures-tables/voting-rates-age-and-education-level-2008.

**Table C-1.** Race, gender, and poverty level across four jurisdictions, the United States, and the state of Missouri

| Jurisdiction | RACE | | | GENDER | | Persons below poverty level |
|---|---|---|---|---|---|---|
| | White[*] | African American | Other race/ combined | Male | Female | |
| St. Louis County[†] | 70.3% | 23.7% | 6.0% | 47.3% | 52.7% | 10.9% |
| City of St. Louis[‡] | 43.9% | 49.2% | 6.9% | 48.3% | 51.7% | 27.4% |
| Ferguson[§] | 29.3% | 67.4% | 3.3% | 44.8% | 55.2% | 24.9% |
| Jennings[**] | 8.5% | 89.8% | 1.7% | 44.5% | 55.5% | 24.7% |
| United States[††] | 77.7% | 13.2% | 9.1% | 49.2% | 50.8% | 15.4% |
| State of Missouri[‡‡] | 83.7% | 11.7% | 4.6% | 49.0% | 51.9% | 15.5% |

[*] According to the U.S. Census Bureau, when reporting race, "Hispanics may be of any race, so they are included in applicable race categories" rather than having a separate race/ethnicity category. (This notation is found on each of the U.S. Census Bureau web pages for the next five footnotes.)

[†] "State and County Quick Facts: St. Louis County, Missouri," U.S. Census Bureau, accessed March 2015, http://quickfacts.census.gov/qfd/states/29/29189.html.

[‡] "State and County Quick Facts: St. Louis (city), Missouri," U.S. Census Bureau, accessed March 2015, http://quickfacts.census.gov/qfd/states/29/2965000.html.

[§] "State and County Quick Facts: Ferguson (city), Missouri," U.S. Census Bureau, accessed March 2015, http://quickfacts.census.gov/qfd/states/29/2923986.html.

[**] "State and County Quick Facts: Jennings (city), Missouri," U.S. Census Bureau, accessed March 2015, http://quickfacts.census.gov/qfd/states/29/2937178.html.

[††] "State and County Quick Facts: USA," U.S. Census Bureau, accessed March 2015, http://quickfacts.census.gov/qfd/states/00000.html.

[‡‡] "State and County Quick Facts: Missouri," U.S. Census Bureau, accessed March 2015, http://quickfacts.census.gov/qfd/states/29000.html.

**Table C-2.** Education data for persons aged 25+, 2009–2013

| Jurisdiction | High school graduate or higher | Bachelor's degree or higher |
|---|---|---|
| St. Louis County | 92.1% | 40.6% |
| City of St. Louis | 82.9% | 29.6% |
| Ferguson[†] | 88.6% | 22.7% |
| Jennings | 78.1% | 13.0% |
| United States | 86.0% | 28.8% |
| State of Missouri | 87.6% | 26.2% |

† As in many cases where cities are small and close together, a school district will overlap city lines. Ferguson students attend four school districts: Ferguson-Florissant, Hazelwood, Jennings, and Riverview Gardens. http://www.fergusoncity.com/165/Schools.

Source: "Quick Facts Beta: Table. St. Louis County, Missouri; Ferguson City, Missouri; St. Louis City, Missouri; and Missouri,"
U.S. Census Bureau, accessed March 2015, http://www.census.gov/quickfacts/table/HSG445213/29189,2923986,2965000,29,00.


**Table C-3.** Housing occupancy data across four jurisdictions, the United States, and the state of Missouri

| Jurisdiction | Owner-occupied | Renter-occupied |
|---|---|---|
| St. Louis County | 71.0% | 29.0% |
| City of St. Louis | 44.6% | 55.4% |
| Ferguson[†] | 58.7% | 41.3% |
| Jennings | 56.7% | 43.3% |
| United States | 64.9% | 35.1% |
| State of Missouri | 68.4% | 31.6% |

Source: "Quick Facts Beta: Table. St. Louis County, Missouri; Ferguson City, Missouri; St. Louis City, Missouri; and Missouri,"
U.S. Census Bureau, accessed March 2015, http://www.census.gov/quickfacts/table/HSG445213/29189,2923986,2965000,29,00.

# THE NATIONAL INCIDENT MANAGEMENT SYSTEM

The National Incident Management System (NIMS) is a systematic, proactive approach to guide departments and agencies at all levels of government, nongovernmental organizations, and the private sector to work together seamlessly and to manage incidents involving all threats and hazards—regardless of cause, size, location, or complexity—to reduce loss of life and property and harm to the environment. NIMS provides the template for the management of incidents and operations.[350]

NIMS is a standardized approach to incident management that is scalable and flexible. It enhances cooperation and interoperability among responders, is a comprehensive all-hazards preparedness system, provides efficient resource coordination among jurisdictions or organizations, and reflects best practices and lessons learned.[351]

The NIMS focuses on five key components: preparedness, communications and information management, resource management, command and management, and ongoing management and maintenance.[352]

NIMS enables effective and efficient incident management and coordination by providing a flexible, standardized incident management system (see figure D-1 on page 146).[353]

The following table briefly summarizes the purpose of NIMS:

**Table D-1.** Purpose of NIMS

| What NIMS is: | What NIMS is NOT: |
|---|---|
| A comprehensive, nation-wide, systematic approach to incident management | A response plan |
| A set of preparedness concepts and principles for all hazards | Only the Incident Command System or an organization chart |
| Essential principles for a common operating picture and interoperability of communications and information management | A communications plan |
| Standardized resource management procedures | Applicable only to certain emergency management incident response personnel |
| Scalable, so it may be used for all incidents | Used only during large-scale incidents |
| A dynamic system that promotes ongoing management and maintenance | A static system |

Source: Adapted from *National Incident Management System: Overview* (Washington, DC: Federal Emergency Management Agency, 2011), 3, http://www.fema.gov/media-library-data/20130726-1853-25045-0014/nims_overview.pdf.

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350. "The National Incident Management System (NIMS)," accessed May 2015, https://www.fema.gov/national-incident-management-system.

351. *National Incident Management System: Overview* (Washington, DC: Federal Emergency Management Agency, 2011), http://www.fema.gov/media-library-data/20130726-1853-25045-0014/nims_overview.pdf.

352. Ibid.

353. Ibid.

**Figure D-1.** NIMS incident command system's command and general staffs
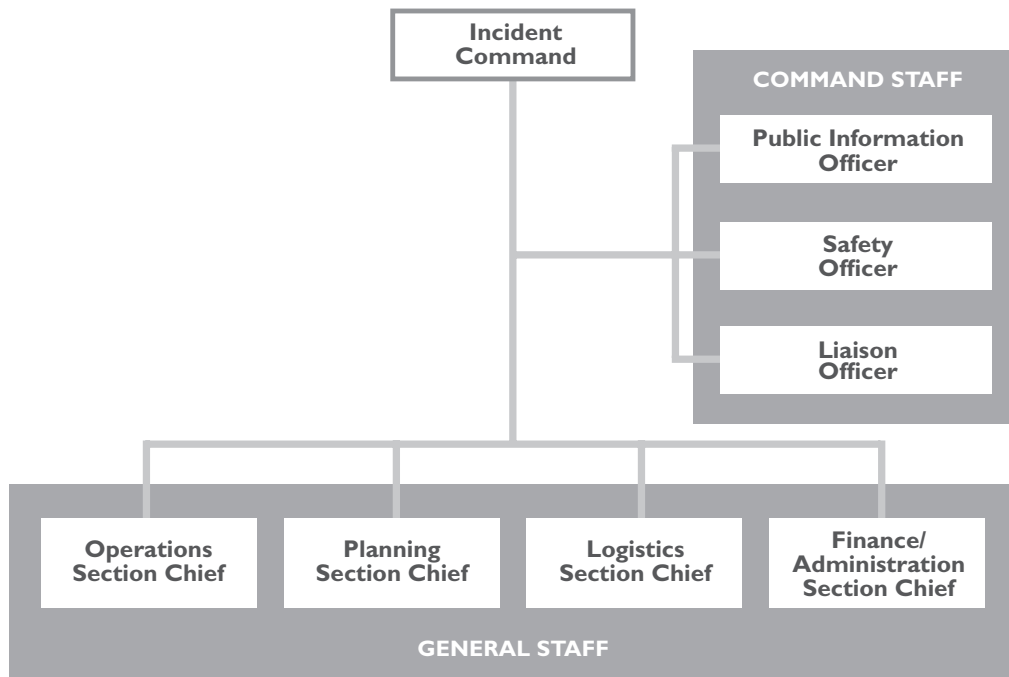


Source: Adapted from *National Incident Management System: Overview* (Washington, DC: Federal Emergency Management Agency, 2011), 12, http://www.fema.gov/media-library-data/20130726-1853-25045-0014/nims_overview.pdf.

As related to this report, the follow lists some relevant NIMS terminology:[354]

- **area command.** An organization established to oversee the management of (1) multiple incidents that are each being handled by an Incident Command System (ICS) organization or (2) large or multiple incidents to which several incident management teams have been assigned. Area command has the responsibility to set overall strategy and priorities, allocate critical resources according to priorities, ensure that incidents are properly managed, and ensure that objectives are met and strategies followed. Area command may be established at an emergency operations center facility or at some location other than an incident command post. (See also *unified area command.*)

- **command staff.** The command staff consists of the public information officer, safety officer, and liaison officer. They report directly to the incident commander. They may have an assistant or assistants, as needed.

- **delegation of authority.** A statement provided to the incident commander by the agency executive delegating authority and assigning responsibility. The delegation of authority can include objectives, priorities, expectations, constraints, and other considerations or guidelines as needed. Many agencies require written delegation of authority to be given to incident commanders prior to their assuming command on larger incidents.

- **documentation unit.** Functional unit within the planning section responsible for collecting, recording, and safeguarding all documents relevant to the incident.

- **incident.** An occurrence or event, natural or human-caused, that requires an emergency response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, wildland and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

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354. All definitions were pulled directly from ICS Resource Center, "Glossary of Related Terms" (see note 127).

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- **incident action plan (IAP).** An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods.

- **incident command post (ICP).** The field location at which the primary tactical-level, on-scene incident command functions are performed. The ICP may be collocated with the incident base or other incident facilities and is normally identified by a green rotating or flashing light.

- **incident command system (ICS).** A standardized on-scene emergency management construct specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents. It is used for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.

- **incident commander (IC).** The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and the release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.

- **intelligence officer.** The intelligence officer is responsible for managing internal information, intelligence, and operational security requirements supporting incident management activities. These may include information security and operational security activities, as well as the complex task of ensuring that sensitive information of all types (e.g., classified information, law enforcement sensitive information, proprietary information, or export-controlled information) is handled in a way that not only safeguards the information but also ensures that it gets to those who need access to it to perform their missions effectively and safely.

- **joint information center (JIC).** A facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating agencies should collocate at the JIC.

- **joint information system (JIS).** Integrates incident information and public affairs into a cohesive organization designed to provide consistent, coordinated, timely information during crisis or incident operations. The mission of the JIS is to provide a structure and system for developing and delivering coordinated interagency messages; developing, recommending, and executing public information plans and strategies on behalf of the incident commander; advising the incident commander of concerning public affairs issues that could affect a response effort; and controlling rumors and inaccurate information that could undermine public confidence in the emergency response effort.

- **liaison officer (LNO).** A member of the command staff responsible for coordinating with representatives from cooperating and assisting agencies. The liaison officer may have assistants.

- **multiagency coordination systems (MACS).** Multiagency coordination systems provide the architecture to support coordination for incident prioritization, critical resource allocation, communications systems integration, and information coordination. The components of multiagency coordination systems include facilities, equipment, emergency operations centers, specific multiagency coordination entities, personnel, procedures, and communications. These systems assist agencies and organizations to fully integrate the subsystems of NIMS.

- **multiagency incident.** An incident where one or more agencies assist a jurisdictional agency or agencies. May be single or unified command.

- **mutual aid agreement.** Written agreement between agencies or jurisdictions that they will assist one another on request by furnishing personnel, equipment, or expertise in a specified manner.

- **National Incident Management System (NIMS).** A system mandated by the Homeland Security Presidential Directive-5 (HSPD-5) that provides a consistent nationwide approach for federal, state, local, and tribal governments; the private sector; and nongovernmental organizations to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among federal, state, local, and tribal capabilities, NIMS includes a core set of concepts, principles, and terminology. HSPD-5 identifies these as the ICS; multiagency coordination systems; training; identification and management of resources (including systems for classifying types of resources); qualification and certification; and the collection, tracking, and reporting of incident information and incident resources.

- **public information officer (PIO).** A member of the command staff responsible for interfacing with the public and media or with other agencies with incident-related information requirements.

- **safety officer.** A member of the command staff responsible for monitoring and assessing safety hazards or unsafe situations and for developing measures for ensuring personnel safety. The safety officer may have assistants.

- **unified area command.** A unified area command is established when incidents under an area command are multijurisdictional. (See also *area command* and *unified command*.)

- **unified command.** An application of ICS used when there is more than one agency with incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the unified command, often the senior person from agencies or disciplines participating in the unified command, to establish a common set of objectives and strategies and a single incident action plan.

The NIMS is a tool for those entities who must respond to and manage incidents presenting threats and hazards in the community by promoting advanced planning, organization of command structures, and delegation of responsibilities and by facilitating the seamless cooperative and effective use of available resources.

# APPENDIX E

## DOCUMENTS REVIEWED

The assessment team reviewed the following documents as part of this assessment:

- "40 Million Lawsuit Slams Ferguson Police Actions During Recent Protests," Catherine E. Shoichet and Anne Claire Stapleton, CNN

- *Abdullah* v. *County of Saint Louis, Missouri, et al.*, U.S. District Court, Eastern District of Missouri, Eastern Division, Case No. 4:14CV1436, Verified Complaint, August 18, 2014

- *Abdullah* v. *County of St. Louis, Missouri, et al.*, U.S. District Court, Eastern District of Missouri, Eastern Division, Case No. 4:14CV1436 CDP, Memorandum, Order, and Preliminary Injunction entered by U.S. District Judge Catherine D. Perry, October 6, 2014

- "Cable, Twitter Picked Up Ferguson Story at a Similar Clip," Pew Research Center

- *Collaborative Reform Initiative: An Assessment of Deadly Force in the Philadelphia Police Department*, 2015, Office of Community Oriented Policing Services, U.S. Department of Justice and CNA Analysis & Solutions

- *Collaborative Reform Model: A Review of the Use of Force Policies, Processes, and Practices in the Spokane Police Department*, 2014, Office of Community Oriented Policing Services, U.S. Department of Justice and CNA Analysis & Solutions

- *Command, Control, and Coordination: A Quick-Look Analysis of the Charlotte-Mecklenburg Police Department's Operations During the 2012 Democratic National Convention*, March 2013, Bureau of Justice Assistance, U.S. Department of Justice and CNA Analysis & Solutions

- *Command, Control, and Coordination: A Quick-Look Analysis of the Tampa Police Department's Operations During the 2012 Republican National Convention*, March 2013, CNA Analysis & Solutions

- *Critical Response Technical Assessment Review: Police Accountability—Findings and National Implications of an Assessment of the San Diego Police Department*, 2015, Office of Community Oriented Policing Services, U.S. Department of Justice and Police Executive Research Forum

- *Defining Moments for Police Chiefs*, Critical Issues in Policing Series, Police Executive Research Forum, February 2015

- *Department of Justice Report Regarding the Criminal Investigation into the Shooting Death of Michael Brown by Ferguson, Missouri, Police Officer Darren Wilson*, March 4, 2015, U.S. Department of Justice

- *Did Social Media Make the Situation in Ferguson Better or Worse?* Mathew Ingram

- Executive Order 14-14, Office of Missouri Governor Jay Nixon

- *Ferguson in Focus*, NAACP Legal Defense and Educational Fund, Inc.

- *Final Report of the President's Task Force on 21st Century Policing*, May 2015, U.S. President's Task Force on 21st Century Policing, Office of Community Oriented Policing Services , U.S. Department of Justice

- *Hussein* v. *County of Saint Louis, Missouri, et al.*, U.S. District Court, Eastern District of Missouri, Eastern Division, Case No. 4:14CV1410-JAR, Memorandum in Support of Motion for a Preliminary Injunction, November 14, 2014

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- *Law Enforcement Guidelines for First Amendment-Protected Events,* Global Justice Information Sharing Initiative, U.S. Department of Justice, October 2011

- *Legitimacy in Policing*, Crime Prevention Research Review, Office of Community Oriented Policing Services, U.S. Department of Justice and the Campbell Collaboration, 2013

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- NAACP Legal Defense and Educational Fund, Inc. Joint Statement on Ferguson Curfew, August 17, 2014

- NAACP Legal Defense and Educational Fund, Inc. letter to Judge Maura McShane, 21st Judicial Circuit, regarding *State of Missouri v. Darren Wilson* Grand Jury Proceedings, January 5, 2015

- *On the Streets of America: Human Rights Abuses in Ferguson*, Amnesty International

- *Press Freedom Under Fire in Ferguson*, 2014, PEN America

- *Recommendations Pursuant to Executive Order 13688: Federal Support for Local Law Enforcement Equipment Acquisition*, Law Enforcement Equipment Working Group, May 2015

- *Resource Guide for Enhancing Community Relationships and Protecting Privacy and Constitutional Rights*, Bureau of Justice Assistance, U.S. Department of Justice, 2014

- *Review: Federal Support for Local Law Enforcement Equipment Acquisition*, Executive Office of the President, December 2014

- Saint Louis University submission to the President's Task Force on 21st Century Policing, written statement submitted by Justin Hansford on the issues of policy and oversight, January 28, 2015

- Saint Louis University written transcript on testimony to the President's Task Force on 21st Century Policing, submitted by Justin Hansford on community policing and crime reduction, February 12, 2015

- *SWAT Standards for Law Enforcement Agencies*, September 2008, National Tactical Officers Association

- *Templeton, et al.* v. *Sam Dotson, et al.*, U.S. District Court, Eastern District of Missouri, Eastern Division, Case No. 4:14CV2019, Complaint, December 8, 2014

- The Code 1000 Plan for St. Louis County and Municipal Law Enforcement Agencies

- U.S. Department of Justice's letter to Chief Thomas Jackson, City of Ferguson, regarding Ferguson Police Department Investigation on Bracelets, September 26, 2014

- United States' Compliance with the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, Written Statement on the Police Shooting of Michael Brown and Ensuing Police Violence Against Protesters in Ferguson, Missouri, submitted to the 53rd Session of the United Nations Committee Against Torture by the Family of Michael Brown, HandsUpUnited, Organization for Black Struggle (OBS), & Missourians Organizing for Reform and Empowerment (MORE), November 2014

The assessment team reviewed the following reference material:

- *2011 Electronic Control Weapon Guidelines*, Police Executive Research Forum and the Office of Community Oriented Policing Services, U.S. Department of Justice, March 2011

- Applicable Missouri state statutes

- City of Ferguson Emergency Operations Plan prepared by the Louis Berger Group, Inc. in conjunction with the Department of Public Safety, State Emergency Management Agency and the City of Ferguson, updated January 2015

- Commission on Accreditation for Law Enforcement Agencies (CALEA) Standards

- *A Guide to Death Scene Investigation*, National Institute of Justice

- *Homicide Process Mapping—Best Practices for Increasing Homicide Clearances* by David L. Carter, Ph.D. , Bureau of Justice Assistance, U.S. Department of Justice, September 2013

- International Association of Chiefs of Police model policies

- Missouri Police Chiefs Association's State Certification Program

- *Police Under Attack: Southern California Law Enforcement Response to the Attacks by Christopher Dorner*, The Police Foundation

- U.S. Census Bureau data for the Ferguson, Missouri, and the Greater St. Louis, Missouri, metropolitan area

# AGENCIES' MISSIONS AND PATCHES

*The following patches are included as reference to identify officers in images used throughout the report.*

### Ferguson Police Department

The mission of the Ferguson Police Department is to enforce the law, maintain the peace, protect life and property, and promote the quality of life in the city of Ferguson. To accomplish our mission, we depend upon a partnership among citizens, elected officials, and city employees.[355]

### St. Louis County Police Department

The mission of the St. Louis County Police Department is to work cooperatively with the public and within the framework of the Constitution to enforce the laws, preserve the peace, reduce fear, and provide a safe environment in our neighborhoods.[356]

### St. Louis Metropolitan Police Department

The mission of the Metropolitan Police Department, City of St. Louis is to protect, serve, and assist citizens when conditions arise that may affect the well-being of the individual or the community. Cooperating with others in the community, officers will work to prevent and detect crime, protect life and property, and achieve a peaceful society, free from the fear of crime and disorder. Members of the department will strive continually for excellence and maintain the peace through service, integrity, leadership, and fair treatment to all.[357]

### Missouri State Highway Patrol

The Missouri State Highway Patrol will serve and protect all people by enforcing laws and providing services to ensure a safe and secure environment.[358]

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355. General Order 103.01, "Department Purpose and Mission," April 26, 2011 (St. Louis, MO: Ferguson Police Department, 2011).

356. "Values: Our Mission Statement and Codes of Ethics," St. Louis County Government, accessed March 26, 2015, http://www.stlouisco.com/LawandPublicSafety/PoliceDepartment/AboutUs/Values.

357. "Our Philosophy," Metropolitan Police Department, City of St. Louis, accessed March 26, 2015, http://www.slmpd.org/mission_values_statements.shtml.

358. *Vision, Mission, Core Values* (Missouri State Highway Patrol, n.d.), http://www.mshp.dps.missouri.gov/MSHPWeb/PatrolLocations/missionVisionCoreValues.pdf.

# ABBREVIATIONS

| | |
|---|---|
| **ACLU** | American Civil Liberties Union |
| **BDU** | battle dress uniform |
| **CAD** | computer-aided dispatch |
| **CALEA** | Commission on Accreditation for Law Enforcement Agencies, Inc. |
| **CDRT** | civil disturbance response training |
| **CMPA** | County and Municipal Police Academy |
| **COPS Office** | Office of Community Oriented Policing Services |
| **DDoS** | distributed denial of service |
| **DOJ** | U.S. Department of Justice |
| **ECW** | Electronic Control Weapon |
| **FBI** | Federal Bureau of Investigation |
| **FPD** | Ferguson Police Department |
| **GPS** | global positioning system |
| **IACP** | International Association of Chiefs of Police |
| **IAD** | Internal Affairs Division |
| **IC** | incident commander |
| **ICS** | Incident Command System |
| **IIR** | Institute for Intergovernmental Research |
| **ISP** | Internet Service Provider |
| **IT** | information technology |
| **JIC** | joint information center |
| **LE** | law enforcement |
| **LRAD** | long-range acoustic device |
| **MACTAC** | multi-assault counter-terrorism action capabilities |
| **MIAC** | Missouri Information Analysis Center |
| **MPCCF** | Missouri Police Chiefs Charitable Foundation |
| **MSHP** | Missouri State Highway Patrol |
| **NAACP** | National Association for the Advancement of Colored People |
| **NIJ** | National Institute of Justice |
| **NIMS** | National Incident Management System |
| **PIO** | public information officer |
| **POST** | Peace Officer Standards and Training |
| **RFID** | radio frequency identification |
| **SLCPD** | St. Louis County Police Department |
| **SME** | subject matter expert |
| **SWAT** | Special Weapons and Tactics |
| **WAN** | wide area network |

# GLOSSARY OF OPERATIONAL DEFINITIONS

As a means to ensure reliability in the review of police actions, it is important to have operational definitions of critical terms to ensure that all assessment team members and consumers of this report understand and correctly interpret the issues and conclusions. Although there may be differences in the way these terms are used in daily language, statutes, policies, or research reports, the definitions provided in this section reflect how the terms are used in this report.

**best practices** and **widely accepted practices.** Those tasks performed by an organization that reflect the spirit of current research and ideology of the discipline. In law enforcement, this includes problem solving, community policing, evidence-based decision making, and procedural justice.

**critical incident.** Writing convention used by the assessment team to refer collectively to the complexity of issues related to the shooting death of Michael Brown, the subsequent lawful demonstrations, and the unlawful disorder and property damage, as well as the involvement of multiple law enforcement agencies in the response.

**direct action.** Activity undertaken by individuals or groups to achieve political, economic, or social goals outside of normal social and political channels. Direct action can include lawful and unlawful activities that target persons, groups, or property deemed offensive to the direct action participant.[359]

**doxing.** The process of retrieving, hacking, and publishing other people's information, such as names, addresses, phone numbers, and credit card details. Doxing may be targeted toward a specific person or an organization.[360]

**Ferguson** or **Ferguson incident.** Writing conventions that refer to the collective police activities and mass gatherings in response to the shooting death of Michael Brown in the area of Ferguson, Missouri, although some activities may have been outside of the actual Ferguson city limits.

**Ferguson, Missouri,** and **Ferguson Police Department.** Writing conventions used when referring to those specific governmental organizations.

**homicide.** The killing of one human being by another human being. Not all homicides are crimes. There are three categories of homicides:[361]

1. **criminal homicide.** A homicide that involves some level of criminal intent, such as criminal negligence, recklessness, or malice aforethought.

2. **excusable homicide.** A homicide that is not a crime and is committed without criminal intent and without blame, such as an accidental death.

3. **justifiable homicide.** A homicide that is not a crime and is usually intentional but is required out of necessity, typically to protect one's life or the life of another.

**mass gathering.** A situation or an event during which people gather to the extent that it strains emergency resources and impedes normal traffic and behavior, or that there is the potential for a delayed response to emergencies because of limited access, the behavior of the gathering, or other features of the environment or location.[362] For this report, there are four types of mass gatherings:

1. **crowd.** A group of people who are fundamentally lawful observers of an event or an incident. A law enforcement presence may be needed to maintain

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359. "Direct Action," Wikipedia, last modified February 17, 2015, http://en.wikipedia.org/wiki/Direct_action.

360. "Definition—What Does Doxing Mean?" Techopedia, http://www.techopedia.com/definition/29025/doxing.

361. For more detail, see "Homicide," Legal Information Institute, Cornell University Law School, accessed May 19, 2015, http://www.law.cornell.edu/wex/homicide.

362. Definition adapted from Paul Arbon, "The Development of Conceptual Models for Mass-Gathering Health," *Prehospital and Disaster Medicine* 19, no. 3 (September 2004): 208–212, http://www.aemvf.org.au/site/_content/resource/00000012-docsource.pdf.

order, such as traffic control; to respond to any safety or security issue; or to provide crowd management and public safety.

2. **public demonstration.** A lawful gathering intended to exercise First Amendment rights to express sentiments about an issue or protest the action of an individual, an organization, or the government. Demonstrations may be politically based or policy-based. Similarly, demonstrations may also be in opposition to or in support of the statements or behaviors of individuals. The goal of a demonstration is usually to make some type of change. A police presence is typical to protect the right to demonstrate, to maintain order, to ensure that the group follows the rules and does not violate the rights of others (such as impede traffic), and to maintain safety.

3. **civil disobedience.** A violation of regulations or the commission of less serious law violations by participants exercising their First Amendment rights. Examples include marching without a permit; impeding traffic flow; exercising passive resistance, such as a sit-in; and violating a curfew. The police presence is to maintain order and public safety. The decision to arrest is typically based on the circumstances in the judgment of the incident commander or agreements with protesters made prior to the gathering.

4. **public disorder.** Involvement of participants in the mass gathering in property damage, violence, or threatening or intimidating behavior. Some members of this group typically commit crimes such as arson, assault, property damage, and behavior that causes injury to others. They also create a threatening environment, for example, by firing guns or throwing objects at police officers or counterprotesters. The police presence is for maintaining public safety, protecting people and property, and making arrests.

These characterizations of a mass gathering exist on a continuum, and all may conceivably occur in one mass gathering, depending on circumstances. Discussions that assess the police response include a description of the type of mass gathering at which the police response was directed.

**police response.** A collective phrase to encompass all law enforcement actions by all agencies involved in responding to mass gatherings associated with Ferguson.

**tactical units** and **tactical officers.** There is variance of terminology depending on the agency; however, for this report, tactical units and officers are specially trained officers responsible for handling circumstances and confrontations that pose significant danger to the community and officers. Examples include capturing and arresting heavily armed criminals, responding to an active shooter, performing hostage rescue, resolving an armed and barricaded offender, and performing counterterrorism operations. These units are frequently equipped with specialized firearms, smoke and gas control agents, and stun grenades. Similarly, they have specialized equipment, including heavy body armor, ballistic shields, entry tools, armored vehicles, night vision goggles, and motion detectors. In this report, these terms are synonymous with Special Weapons and Tactics and Special Emergency Response Team.

# ABOUT THE ASSESSMENT TEAM

All members of the assessment team were vetted and approved by the COPS Office.

## TEAM LEADER

**David L. Carter**, PhD, is a professor in the School of Criminal Justice at Michigan State University (MSU). A former police officer in Kansas City, Missouri, Carter is the author of five books and numerous peer-reviewed articles and papers on policing issues, as well as the principal investigator on nearly $9 million in federal grants at MSU. Over the last 30 years, he has provided extensive training and technical assistance to law enforcement agencies throughout the world and has served as an instructor at the FBI National Academy for over 25 years. Carter is an academic fellow with the Foundation for the Defense of Democracies and a former academic fellow with the Police Executive Research Forum and has served as both the team leader and lead author on various U.S. Department of Justice projects.

## TEAM MEMBERS

**Lieutenant Roy E. Alston**, PhD, has been with the Dallas (Texas) Police Department since August 2003. He serves as the commander of the Bexar Street Satellite Police Station and the Community Engagement Unit and as a watch commander. He previously served as in-service training coordinator and was responsible for developing, planning, coordinating, and delivering training. He is the author of three leadership books, including *The Leader's Compass for Law Enforcement Professionals: A Values-Based Approach to Influencing People, Accomplishing Goals, and Improving Your Organization*. Alston is a graduate of the U.S. Military Academy at West Point. He served in the U.S. Army as a commissioned officer with the 82nd Airborne Division and served in combat with the 1st Battalion of the 319th Field Artillery Regiment during the first Gulf War. He is a graduate of the U.S. Army's Ranger School, Airborne School, Jungle School, Field Artillery Officer's Basic Course, and the Field Artillery Officer's Advance Course.

**Larry Austin** began his career in 1978 as a trooper with the Florida Highway Patrol. He was promoted through the ranks, serving in various roles—traffic, homicide investigator, first-line supervisor, training lieutenant, district commander, chief training officer, and bureau chief—before being appointed deputy director in 2001. He is experienced in managing law enforcement response to high-profile incidents involving racial tension and with mobile field force operations. He currently serves as an associate on the Institute for Intergovernmental Research team responsible for services related to the VALOR Initiative, a national officer safety project developed at the direction of the U.S. attorney general. Previously, he served as senior police instructor with a government contractor for the U.S. Department of State, Bureau of International Narcotics and Law Enforcement. He also served the Transportation Security Administration as the assistant general manager and program manager with the Office of Security Operations in Herndon, Virginia, and as the Federal

Security Director at the Louis Armstrong New Orleans International Airport. He is a member of the FBI National Academy Association and the International Association of Chiefs of Police. He is a past president of the State Law Enforcement Chiefs' Association and a past president of the North Florida Chapter of the National Organization of Black Law Enforcement Executives.

**Andra J. Bannister**, PhD, is a professor in the Department of Criminal Justice at Wichita State University and served as director of the Regional Community Policing Institute serving Kansas and Nebraska for nearly 20 years. Bannister is the author of numerous articles and papers on policing, the recipient of approximately $10 million in federal grants, and has provided training and technical assistance to law enforcement agencies throughout the United States and Thailand. Bannister served as an academic fellow in Israel and was a co-instructor for the Michigan State University overseas study program. She has worked on a wide range of national training and technical assistance projects for both the U.S. Department of Justice and the U.S. Department of Homeland Security. Bannister has served as a reserve sworn police officer in Wichita and is an academic fellow with the Foundation for the Defense of Democracies.

**Rick Braziel** retired from the Sacramento (California) Police Department after 33 years of service, including five years as chief of police. As chief, he refocused the department's mission, resulting in the reduction of Part I crime by 21 percent. He also increased transparency and community involvement through a police advisory committee, a youth advisory committee, town hall meetings, online community surveys, and a redesigned website with interactive features. He is a member of the team working with the Police Foundation in the Collaborative Reform Assessment of St. Louis County, Missouri. His participation will allow for continuity and complementary assessments. Braziel authored the book *Cop Talk: Essential Communication Skills for Community Policing* and the report *Police under Attack: A Police Foundation Review of the Christopher Dorner Incident.*

**Gina Hartsfield** is a senior research associate and executive vice president with the Institute for Intergovernmental Research. In this capacity, she oversees and directs the development, coordination, and delivery of national technical assistance programs designed for criminal justice personnel. With an emphasis on collaboration and communication, Hartsfield has a proven ability to help identify and solve problems, create a shared vision, and establish strategic goals and objectives for projects and organizations. She has served the criminal justice community for more than 25 years and has coordinated complex, national-level training and technical assistance services for more than two decades. Hartsfield possesses extensive experience in coordinating a wide range of complex technical assistance initiatives for state, local, and tribal criminal justice entities. In addition, she is experienced in working with law enforcement executives on complex criminal justice issues and has coordinated the delivery of numerous law enforcement operational performance assessments on behalf of the U.S. Department of Justice.

**Gerald P. Richard II**, Esq., recently retired after serving as assistant to the chief of police of the Phoenix (Arizona) Police Department. He was responsible for overseeing the Phoenix Police Training Academy and the Employment Services Bureau as well as department leadership development and training. He was also responsible for implementing recommendations submitted by the Community Engagement and Outreach Task Force and community advisory boards, overall police and community relations, and legislative issues. Previously, Richard served the Arizona Attorney General's Office as a special policy advisor for law enforcement. His experience includes positive and proactive police-community development, negotiations, and resolutions; passive and large-scaled, highly charged controversial demonstrations; public safety and emergency management; local, regional, and federal planning; corporate communications; intra- and intergovernmental relations; grant oversight; community oriented crime prevention and intervention services; and other core public services. He is an experienced litigator, arbitrator, and legal advisor for local, state, federal, community, and faith-based organizations. He has extensive experience serving as adjunct faculty and as a guest lecturer. He is a member or past member of numerous professional associations, boards, and commissions. He is the pastor of the Harbert Chapel African Methodist Episcopal Church in Flagstaff, Arizona.

# ABOUT IIR

The **Institute for Intergovernmental Research (IIR)** is a Florida-based, not-for-profit corporation specializing in research, training, and technical assistance for criminal justice, homeland security, and juvenile justice issues. IIR has a proven history of successful service delivery of federal programs to state, local, and tribal law enforcement agencies and homeland security partners.

With emphasis on intergovernmental collaboration, IIR offers expertise and an extraordinary track record in management and organization, operations, information systems, planning, research, technical assistance, program evaluation, curriculum development, training, and policy development and implementation. IIR has long-standing, trusted relationships with federal, state, local, and tribal law enforcement agencies as well as partnerships with national organizations dedicated to advancing the field of criminal justice.

In addition to IIR's experienced and resourceful staff of more than 140 employees, IIR partners with a cadre of more than 150 highly experienced criminal justice professionals, law enforcement practitioners, and academic researchers—many of whom are nationally and internationally recognized—in the delivery of federal programs.

IIR is one of the technical assistance providers for the U.S. Department of Justice, Office of Community Oriented Policing Services Critical Response Initiative and Collaborative Reform Initiative for Technical Assistance.

To learn more about IIR, visit www.iir.com.

# ABOUT THE COPS OFFICE

**The Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territory, and tribal law enforcement agencies through information and grant resources.

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.

Rather than simply responding to crimes once they have been committed, community policing concentrates on preventing crime and eliminating the atmosphere of fear it creates. Earning the trust of the community and making those individuals stakeholders in their own safety enables law enforcement to better understand and address both the needs of the community and the factors that contribute to crime.

The COPS Office awards grants to state, local, territory, and tribal law enforcement agencies to hire and train community policing professionals, acquire and deploy cutting-edge crime fighting technologies, and develop and test innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders and all levels of law enforcement. The COPS Office has produced and compiled a broad range of information resources that can help law enforcement better address specific crime and operational issues, and help community leaders better understand how to work cooperatively with their law enforcement agency to reduce crime.

- Since 1994, the COPS Office has invested more than $14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.

- To date, the COPS Office has funded approximately 125,000 additional officers to more than 13,000 of the nation's 18,000 law enforcement agencies across the country in small and large jurisdictions alike.

- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.

- To date, the COPS Office has distributed more than 8.57 million topic-specific publications, training curricula, white papers, and resource CDs.

COPS Office resources, covering a wide breadth of community policing topics—from school and campus safety to gang violence—are available, at no cost, through its online Resource Center at www.cops.usdoj.gov. This easy-to-navigate website is also the grant application portal, providing access to online application forms.

On August 9, 2014, Officer Darren Wilson of the Ferguson (Missouri) Police Department shot and killed Michael Brown. This tragic incident and the ensuing weeks of demonstrations and riots launched a national debate about racial profiling, use of force, militarization, and policing in general. The *After-Action Assessment of the Police Response to the August 2014 Demonstrations in Ferguson, Missouri* examines the law enforcement response to the mass demonstrations during the first 17 days, focusing on the primary responders, the St. Louis County Police Department, the St. Louis Metropolitan Police Department, the Missouri State Highway Patrol, and the Ferguson Police Department. In this report, the after-action assessment team composed of subject matter experts identifies findings and provides lessons learned based on interviews, media content analysis, and literature reviews. This report also delves into specific topic areas from use of force to communications to policies and procedures.