



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor
Michael W. Marshman, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000

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DATE: June 21, 2017

TO: Mayor Ted Wheeler

RE: Response to questions from June 13, 2017 letter

Dear Mayor Wheeler,

Thank you for your letter of June 13, 2017 and the opportunity to address your questions arising from the protests and counter protests of June 4, 2017. As you note, these demonstrations occurred in a highly charged atmosphere only a week after the tragedy in which two men were brutally murdered on a MAX train. It appears that the suspect, Jeremy Christian, was directing hate speech at two young women, one of whom wore a hijab.

The Portland Police Bureau shared the concerns you articulated in the days immediately following the MAX murders that a federally permitted protest by an “alt-right” group and counter protests by other groups, coming on the heels of the tragedy, posed the potential to threaten the safety of all involved. Like you, we also strongly value First Amendment and free speech rights and believe their protection is a core value of our country and our city. We view it as our job to facilitate the public’s ability to exercise those rights, without regard to the content or viewpoint of the speech itself, while attempting to ensure that public safety is maintained. We concur with you that violence, vandalism and the so-called “taking” of bridges and freeways pose threats to public safety, are unlawful and should not be permitted to occur unchecked.

I want to express my appreciation for the support you have shown the members of PPB before, during and after the June 4 protests. In our meetings leading up to June 4, you were clear that the safety of our officers, together with the safety of the public, was paramount. You took the time to be present in our command center throughout the day and to speak to our officers. I know they sincerely appreciated your expressions of support for them and their safety at the beginning of the day and the time you took to thank them for their performance at the end. Like you, I am grateful that we were able to avoid any major injuries or property damage and that the making of arrests was minimal.

I also appreciate the opportunity to address the specific questions you raise. The information which can be provided in an “open letter” format is of necessity somewhat more limited, particularly as it pertains to specific criminal intelligence and tactics, than we can provide to you in a private meeting. I am of course available to meet with you to provide additional information at your convenience. That said, I welcome the opportunity to make as much information as possible public about our decision making and policies.

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Question 1

The law enforcement response to the June 4 events necessitated coordination between the Portland Police Bureau and Homeland Security. There have been questions raised as to why Homeland Security agents received assistance from a person or persons providing security for the rally in Terry Schunk Plaza. Does the Portland Police Bureau have a policy pertaining to citizen involvement in making arrests? To what extent, if any, does the Portland Police Bureau coordinate with event organizers on security arrangements?

Response to Question 1

PPB tries to work closely with organizers of permitted events to ensure that events are safe and have adequate security. Adequate security is a requirement for obtaining a permit for certain events. Generally speaking, with those types of events, organizers either hire security or pay for PPB to provide security. When security is hired, PPB will communicate with the hired security but does not (absent exigent circumstances) rely on private security agents or members of the public for assistance with arrests.¹

PPB asks organizers of both permitted and non-permitted events to take steps to keep their events peaceful and safe. PPB attempts to maintain communication with event organizers and designated peace keepers or security throughout the event. PPB requests that organizers and peacekeepers take steps to maintain control of their events and to encourage lawful conduct on the part of those participating. This outreach effort is a well-established and practiced tool to minimize the need for police intervention and enforcement activity.

Question 2

One point of comparison often drawn between Portland Police Bureau and the police departments of other cities is Portland Police Bureau's use of officers in so-called "riot gear" during protests. On June 4, what factors were considered to determine when officers will wear additional protection and when those officers will appear on scene? How do you evaluate the use of officers in protective gear versus, for example, bicycle officers?

Response to Question 2

The equipment colloquially referred to as "riot gear" is among the personal protective equipment (PPE) utilized by PPB to attempt to keep its employees safe on the job. PPB takes a number of factors into account in determining the amount of PPE officers will use during protest or demonstration events. PPB prefers not to use full PPE unless it is found to be necessary based upon a combination of factors. Those factors include an assessment of the likelihood of violence directed against officers based on criminal intelligence combined with the actual conditions encountered by officers. It is PPB's preference to have officers staff demonstrations, parades, marches and protests in their regular uniforms. This is very often the case. Two recent examples

¹ Oregon statutes actually make it an offense to unreasonably refuse to assist a police officer in effecting an arrest or preventing the commission of a crime. ORS 162.245. Nonetheless, absent exceptional circumstances, PPB would not seek the assistance of members of the public in making arrests and in fact would strongly discourage members of the public -- including organizers of permitted events -- from physically assisting in an arrest.

include the Women's March in January 2017 and the Pride Parade this past weekend, in which no enhanced PPE was necessary despite large crowds of attendees and demonstrators. Although PPE is not intended to intimidate protestors or escalate conflict, PPB recognizes that wearing full PPE makes it more difficult for officers to interact freely with members of the public and that it is perceived negatively by some members of the public. It is also not as comfortable for officers as are "regular" uniforms. For these reasons, full PPE is not utilized unless it is deemed necessary for officer safety.

With regard to its use on June 4 specifically, rapid response team officers were strategically placed between Terry Shrunken Plaza (the initial permitted protest) and Chapman Square (the site of one of the counter protests) and were told to wear full PPE for a number of reasons. First, these officers were intentionally placed in a potentially dangerous location for the safety of all of the demonstrators and the public, to keep the groups separated and minimize the risk of violent confrontations between them. Second, information available prior to the event, such as the heightened tensions already discussed, the recent prior "alt right" events and counter events in places such as Berkeley, and criminal intelligence, raised concerns about the risk of violence. Finally prior to the start of the events, some people arrived with a number of weapons and others items which posed a risk to officers. Given these heightened risks, full PPE was deemed necessary.

The risk to officers in these types of situations is real and significant. We are including with this letter photographs of weapons and implements seized at this event that posed risks to the safety of officers and members of the public. We are also attaching a photograph of bruising suffered by one officer on June 4 who was struck by a brick *while wearing full PPE*. We believe his injuries would have been far more severe had he been wearing a standard patrol uniform. It is important to note that many other cities *do* use full PPE when they experience the types of events Portland has experienced in the past year or so. We communicate regularly with other agencies and are always open to refining and reevaluating our tactics and protocols. We also want to note that many alternatives we are aware of would be quite costly in that they require either significantly higher staffing levels, or expensive new personal protective equipment that provides somewhat comparable protection in a slightly less "storm trooper" like package (to use the frequently expressed vernacular).

Finally, we note that we do often use bike officers for large public events. However, in the event of the types of risks expected and encountered on June 4, bike officers are not sufficiently protected to be placed between protestors and counter protestors. They wear bike helmets which are designed to protect an officer from falling to the ground, and are not made to protect officers from bricks, marbles, ball bearings and other objects which were being thrown and slung at officers on June 4th.

Question 3

Portland Police Bureau made the determination that counter-protesters in Chapman Park should move north, away from Terry Shrunken Plaza. Subsequently, Chapman Square was closed and crowd control devices were deployed. What were the circumstances that led to the deployment of crowd control devices? What steps were taken to communicate with people in and around the area prior to deploying crowd control devices?

Response to Question 3

The decision to move the group located in Chapman Square was made after PPB had repeatedly observed objects being thrown and shot from slingshot type devices from Chapman Square into Terry Shrunken Plaza. These objects included urine and feces filled balloons, balloons with unknown chemicals, marbles, bricks and rocks (see attached photos). Police observed people in Chapman Square climbing atop the brick restroom structure at the south end of the park, with bricks. PPB knew that objects were already being thrown and slung and that bricks were being prepared to be thrown. This presented an imminent risk of serious physical injury to members of the public and officers. Based on this concern, PPB made a decision to move the people assembled in Chapman Square out of projectile range of Terry Shrunken Plaza to defuse the tension. PPB judged this to be the least intrusive option available to reduce this risk. The liaison sergeant on the ground contacted the protesters and informed them of this decision while at the same time repeated warnings were given over the Long Range Acoustical Device (LRAD).

Some members of the counter protest group responded violently to the announcement to move north by hurling additional bricks, bottles, fireworks and other small explosive items at officers. Slingshots were used to fire marbles, fireworks and other explosive items toward the police as well. Officers also observed individuals in black attire and masks with improvised shields and other implements who appeared to be preparing to resist. Given this, the assembly was declared an unlawful assembly and the park closed for public safety. As the officers attempted to clear the park, they continued to experience violence directed toward them and the decision to employ aerial distraction devices (essentially loud noise-making only devices) was made in an effort to encourage the group to move to the north. As physical resistance and violence continued to be experienced from some members of the group, the use of impact munitions on targeted persons was authorized to help obtain compliance and ensure the safety of the officers and the public.

Question 4

I have heard from people who claim they were protesting peacefully and following instructions, but nevertheless were affected by the use of crowd control devices. What steps are taken to minimize the use of crowd control devices? What steps are taken to attempt to ensure that when they are used those protesting peacefully and following instructions are not affected?

Response to Question 4

It is PPB's preference to use no crowd control devices at all, and this is the case with many demonstration events. Absent exigent circumstances, PPB provides warnings prior to the use of any crowd control agents. Pepper spray is used when it is deemed necessary to target specific individuals who are reasonably perceived to be attempting to cause physical harm to any person, engaging in the destruction of property or displaying intent to engage in physical resistance to a lawful police order.

In order to ensure that they are used appropriately and that the risk to bystanders is minimized, impact munitions like bean bags and rubber balls may only be used by officers who have undergone extensive training. These devices are used to target individuals in response to active aggression, such as throwing projectiles that could cause serious injury, or looting or to prevent the destruction of property.

PPB attempts a myriad of techniques to avoid the need for crowd control devices, and to minimize their impact when they are used. It is not possible, however, to completely avoid the risk that individuals, who are not themselves the intended target, will suffer the consequences of such devices when they are used. For example, PPB attempts to target pepper spray to those refusing to comply with lawful orders but it can diffuse and affect others nearby. To ameliorate this risk, except for the most exigent circumstances, PPB provides warnings to disburse prior to the deployment of crowd control devices.

Further, even when the use of impact munitions is authorized by the incident commander, the authorization is not a blanket authorization to use such devices indiscriminately. Each individual member using such a device must be able to articulate why the person or persons subjected to said devices meets the established standards for force relative to Police Bureau training, policy and the Graham Standard (federal law). The decision to deploy these devices is not taken lightly and is only permitted by members that have substantial training. Each use of a crowd control device is subjected to a rigorous after action review process.

Finally, as a point of clarification, watching video of the June 4th gathering a number of explosions are heard and a lot of smoke is seen. Much of this is not the result of devices used by PPB, but is the result of the actions of some in the group in Chapman Square, who were launching large fireworks and smoke bombs at officers. It appears that protesters may have been using “gopher gassers”, small rodent poison gas devices.

Question 5

Portland Police Bureau detained a group at 4th and Morrison. Those present were asked to produce identification, and their identification was photographed prior to being released. What circumstances led to the decision to detain the group? What will the Portland Police Bureau do with the photographic evidence collected?

Answer to Question 5

The decision to detain the group was based on several factors. Upon leaving Chapman Square, a group began marching down the street, blocking traffic. Beyond the usual concerns with traffic safety and public inconvenience, there were additional threats posed by this behavior, primarily the risk that the marchers would come into physical contact with the group they were protesting against, resulting in threats to both groups' physical safety. Police were able to stop the march and informed the group they were being temporarily detained to investigate criminal activity (disorderly conduct and, as to some members of the group, possibly more serious crimes related to the violence in Chapman Square). The temporary detention of these persons was done after

consultation with the City Attorney's Office and the Multnomah County District Attorney's Office. The detained group from Chapman Square was brought water by police officers as they waited to have their I.D. checked and then be released. The brief detention (which ranged from a few minutes to about under an hour depending on the speed with which the person was processed) also served to deescalate the threat of violence between groups. While the Chapman Square group was being detained the federal officers closed down Terry Shrunken Plaza and required everyone to vacate the Plaza.

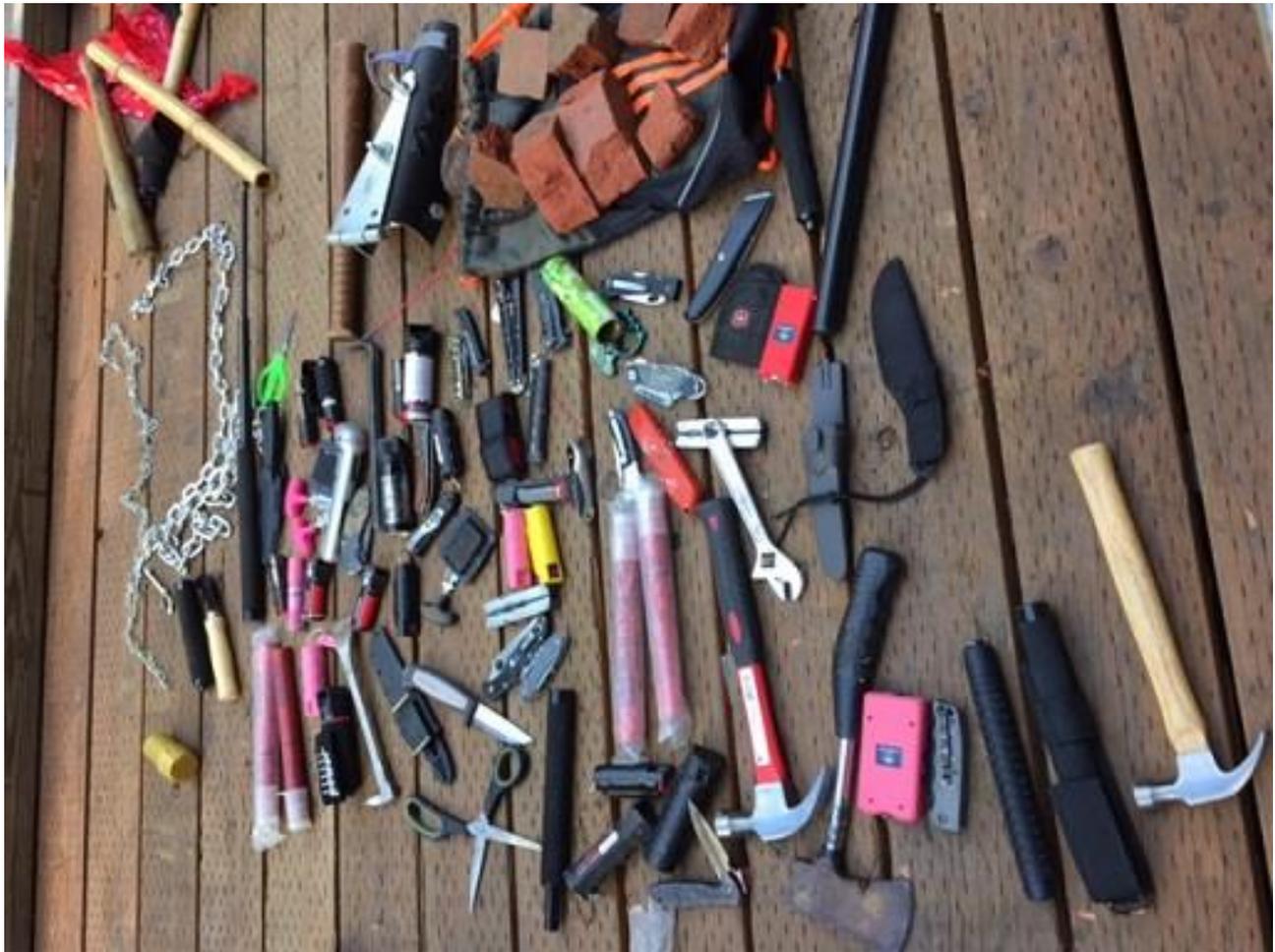
The decision to photograph identification was made to speed up the process. Writing down each person's information would have taken much longer. The photographs were uploaded to the DIMS system where it is currently being used by detectives investigating criminal behavior. Any photographs not used in a criminal investigation will be purged pursuant to PPB policy.

Conclusion

Thank you again for your support of the members of the Portland Police Bureau. We consider it a privilege to serve all Portlanders. We are proud of the work we do, and strive to continually improve our service to our community.

A handwritten signature in black ink, appearing to read "Michael W. Marshman". The signature is fluid and cursive, with a long horizontal stroke at the end.

MICHAEL W. MARSHMAN
Chief of Police



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