



# Incident Review

Chamber of Commerce

(SLCPD Case No. 19-124550)

December 18, 2019

## Executive Summary

On July 9, 2019, at 2:00 PM several different groups held a coordinated, preplanned civil demonstration at the City and County Building, located at 451 S. State Street, on Washington Square. The Salt Lake City Police Department (SLCPD) was aware of the demonstration at Washington Square and had officers positioned in the area to protect the First Amendment rights of those present.

Approximately fifteen minutes after the demonstration at Washington Square began, the groups walked across 400 South (also known as University Blvd.) and entered the privately-owned building, which houses the Utah State Chamber of Commerce (“USCC” or “Chamber of Commerce”) at 175 University Blvd. The SLC 911 Dispatch Center received calls at 2:15 PM from building management requesting assistance due to demonstrators entering the USCC. Demonstrators made their way to the sixth floor of the building, where the offices for the Chamber of Commerce are located, and engaged in a “sit-in” using a “sleeping dragon.” (A “sleeping dragon” is a device of connected PVC pipes, wherein a series of individuals are handcuffed together through the PVC pipe, which prevents police from using bolt cutters to break the handcuffs).

After reports of vandalism, an executive for the Chamber of Commerce asked the group to leave and the demonstrators refused. That complainant called SLC 911 Dispatch to report that people were trespassing at 175 University Blvd. and wanted the police to respond. Officers arrived within two minutes and were asked by property management to remove the individuals from the privately-owned building. As officers began removing members of the group from the sixth floor, some of the demonstrators, who were on the sixth floor, began moving toward and gathering in the lobby area on the first floor, joining other demonstrators who had already congregated in the lobby.

The property management on scene also requested that SLCPD clear the lobby of the demonstrators. As officers entered and began to remove the demonstrators, pushing and shoving between police and demonstrators occurred. It took officers approximately five (5) minutes to forcibly remove the demonstrators from the lobby area.

The information in the following incident review was obtained by reviewing over 100 narrative reports written by officers, over 340 body camera videos and photos, media video footage, and the building security cameras. The police reports documented the vandalism and damage done to the building, in

addition to four victims of assault (two SLCPD officers and two civilians), ten arrested persons, and ten suspects.

## Incident Summary

At 14:15 hours, SLC 911 Dispatch received a call from the Chamber of Commerce. Dispatch relayed to responding officers that “approximately 20 people ran into office and are yelling- Comp and Staff don’t have anywhere to go to safety.”

- The field supervisor, Sgt. Harker, was advised of the demonstration at 14:17 hours
- The Watch Commander, Lt. Leonard, was notified at 14:23 hours
- A rally point was established at 14:35 hours

At 14:28, on scene officers relayed that approximately 100 to 200 demonstrators were walking across 400 South, and at 14:30, another 20 demonstrators were inside the Chamber of Commerce building.

Lt. Leonard arrived at the Chamber of Commerce building and spoke with Sergeants Hansen and Harker, who were already on-scene. Lt. Leonard also spoke with the property manager, who stated that the demonstrators were not welcome on the property and requested they be removed from the premises and issued a trespass warning. Lt. Leonard decided the building would be cleared of those demonstrators who were reported to be trespassing and committing acts of vandalism on the property. Lt. Leonard also established a rally point for responding officers at 200 East and 350 South.

Two groups of officers were sent to the sixth floor to remove the demonstrators. While most demonstrators left the sixth floor voluntarily, the majority did not leave the building, but instead congregated in the first-floor lobby.

Lt. Leonard created a Mobile Field Force (MFF) and tasked them to clear the lobby. SLCPD procedure 415.2 describes a Mobile Field Force as:

*A Mobile Field Force (MFF) is designed to provide a rapid, organized, effective response to civil disorders. The primary responsibility is to restore order as fast as possible by isolating problem areas, rescuing victims, and controlling crowds. All officers have the potential of being called to a MFF activation.*

*A MFF is comprised of an Incident Commander (usually the Watch Commander) and squads made up of on-duty units, with sergeants typically acting as a squad leaders. The ultimate size of a MFF can be adjusted to meet the needs of the Incident Commander and available resources.*

## Sixth Floor Offices

Fourteen officers responded to the sixth floor, where they encountered in excess of forty demonstrators who were yelling. Officers also found demonstrators using a “sleeping dragon” in the middle of the floor’s lobby. One of the responding officers, Officer Robinson, was approached by two individuals who stated they would facilitate communication between demonstrators and officers. SLCPD body camera footage recorded Officer Robinson telling them they were on private property and needed to leave. They stated they would let the group know. At the same time more demonstrators arrived on elevators overwhelming the officers who then called for more assistance.

Following SLCPD policy guidelines, officers on the sixth floor announced to the demonstrators that they were participating in an illegal gathering, were trespassing, and they needed to leave or face arrest. Though the formal announcement described within SLCPD policy 428 (and shown on page 11) was not given, it appears that the crowd on the sixth floor understood the officers’ intentions as some began to vacate the sixth floor. Other demonstrators did not comply with those orders. Lt. Leonard responded to the sixth floor with more officers. Lt. Leonard spoke with the group “liaisons” and told the group that this was an unlawful assembly, they were on private property and those who refused to leave would be arrested.

Officer Bennett, one of the responding officers, stated in his report, “Once more officers arrived, we began to warn the group that all those that stayed would be taken to jail.” Another responding officer, Officer J. Tracy states, “Lt. Leonard was there and determined from officers that the persons present were trespassing. They were ordered to disperse, and officers began to attempt to herd them to the stairwells”. Lt. Leonard then left to assume command at the command post.

Lt. Beener, the Public Order Unit Commander, responded to the sixth floor as the above actions were taking place. According to Lt. Beener’s report, he “decided to respond to the sixth floor to assume command.” After officers met with the liaisons and made multiple announcements, the crowd started to disperse, except for those involved in the “sleeping dragon” and an additional male. Officers were removing demonstrators, working from the top of the building down. Those individuals who did not

disperse were all arrested.

### First Floor Lobby

The Mobile Field Force (“MFF”) responded to the lobby area and grounds of the property tasked to remove the demonstrators. Approximately ten officers, led by patrol supervisor Sgt. Hatch, comprised the initial MFF.

When the MFF arrived at the entrance to the building, the officers told individuals, who were blocking the entrance and steps, that they needed to leave, and if they refused, they would be arrested. The group complied and moved to the sidewalk. As the MFF squad moved to the front door, they were met with a verbal barrage, including chants of “fuck the police”, from the crowd in the lobby.

Officers entered through the front doors and walked around the crowd, so they would be able to remove demonstrators from the lobby doors. Sgt. Hatch documented repeatedly telling the crowd that they were trespassing and needed to leave. He stated that “these attempts were shouted down by protestors and they refused to listen or leave.”

Officers planned to move to the elevator area, where there was a natural break, and attempted to move around the crowd. While moving into that natural break, officers were physically blocked by demonstrators and had to force their way through the lobby.

Sgt. Hatch physically pushed the crowd back in order to move around them. This push caused multiple demonstrators to stumble and fall. Other members of the crowd fell from being pushed by others in the crowd. That action appeared to incite the crowd, which led the officers to move into a defensive line and demonstrators pushed against the officers.

Many demonstrators refused to leave and were physically confrontational with officers. Multiple officers document being physically and verbally assaulted, while clearing the demonstrators from the first-floor lobby. Additional officers were required to respond in order to move the demonstrators to the exits.

Officers attempted to close the lobby doors to block additional demonstrators from entering the building. Multiple people grabbed the door handles so that officers could not close the doors. Sgt. Hatch documented, “I struck down on the arms of the people holding onto the doors, but as one would let go, others would grab hold. Again, I told them to let go of the door. When they continued to hold onto the door, I punched one of those holding the door. This had the desired effect, and all of them let go of the door and we closed the door.” The time taken to clear the lobby was approximately 5-6 minutes.

## Summary of Arrests and Charges

- 10 arrested persons
- 10 additional identified suspects
- Four victims, which include;
  - Two SLCPD officers
  - Two civilians

### Arrests Made on July 9, 2019

1. Lionel Trepanier - Released on citation
2. Richard Anderson - Booked, misdemeanor
3. Amy Kovac - Booked, misdemeanor
4. Ethan Petersen - Booked, misdemeanor
5. Hannah Zivolich - Released on citation
6. Rosemarie O'Brien - Released on citation
7. Kaden Fralick - Booked, misdemeanor
8. Elizabeth Chauca - Booked, felony DAO #19014747
9. Paula Bravo Latin - Booked, felony DAO #19014764
10. George Zinn - Booked, misdemeanor

### Formal Charges Filed by Salt Lake District Attorney's Office

(Salt Lake County District Attorney's filings of Oct. 21, 2019)

1. Jackson Richman - Two counts of felony riot, Class A propelling a substance
2. Nicholas Jones - Class A assault against a P.O., misdemeanor riot
3. Joshua Baker-Cooper - Felony riot, class A assault (group enhancement)
4. Richard Anderson - Felony riot, trespassing
5. Kaden Fralick - Felony riot, trespassing
6. Ethan Petersen - Felony riot, trespassing, interfering with arrest
7. Randy Navarette - Felony riot, trespassing
8. Rosemarie O'Brien - Felony riot, trespassing
9. Hannah Zivolich - Felony riot, trespassing
10. Amy Kovac - Felony riot, trespassing

### Estimated Building Damage

- \$7,000.00 cleaning (reported urine and human feces)
- \$2,000.00 lobby glass door replacement (damaged by demonstrators)
- \$150.00 receptionist desk damage (from demonstrators jumping)
- \$125.00 surveillance cameras adjustment
- \$25.00 keyboard replacement

## Officer Equipment Lost

- 1 body-worn camera (Axon)
- 1 pair personal sunglasses

## Reviews

### Internal Affairs Complaints

Three complaints regarding police behavior were reported to the SLCPD Internal Affairs Unit by email.

The complainants were contacted at the e-mail address used to send their respective complaints (no phone numbers were provided) and asked to come in to speak with investigators. The complainants did not respond to SLCPD's request to obtain additional information or to schedule interviews.

1. August 19 complaint via e-mail, followed up via e-mail, no response
2. August 26 complaint via e-mail, followed up via e-mail, no response
3. August 29 complaint via e-mail, followed up via e-mail and voicemail, replied to view video on Facebook profile, video viewed, followed up via voicemail, no response

### CRB Review

The Civilian Review Board reviewed the Internal Affairs complaints received and responded to the SLCPD with the following statement:

“CRB Declines: This matter is a highly public matter that occurred during the protest of the Inland Port Authority. C, the complainant, was contacted repeatedly by IA who left messages for her to call them back to assist in the investigation. C failed to do so. CRB, for the first time, attempted to directly contact C by leaving a voicemail on her cell phone (a unique message on this phone indicates that C in fact is the owner of the phone and has access to the VM system) and in both instances, C did not contact either CRB or IA to set up an interview.

The CRB policy and procedures manual states on page 25 that if:

- A. The Complainant is not cooperating with the investigation
- B. The Complainant will not keep appointments
- C. The Complainant will not provide information

the matter can be dismissed. Without the cooperation of C, there is no way for CRB to determine if a policy violation has occurred.”

After the CRB had closed their review, complainant C contacted the CRB and was subsequently referred to the SLCPD Internal Affairs Unit. C failed to follow through and schedule an appointment and has ceased all communication with the Internal Affairs Unit.

## District Attorney's Review on Use of Force

The Salt Lake District Attorney's Office (SLDAO), while reviewing reports, video recordings, and other evidence under this incident, reviewed the force used by Sgt. Hatch. In a letter dated October 21, 2019, the SLDAO related the following regarding Sgt. Hatch's use of force;

*"We're aware of no evidence that tends to refute Sgt. Hatch's account of the facts or his explanation for his use of force. In fact, we find the evidence of which we're aware supports and corroborates Sgt. Hatch's account of the facts as well as his explanation for his use of force. We're not aware of any evidence on which we could rely to disprove Sgt. Hatch's likely testimony at trial, and we could not meet our burden of proof beyond a reasonable doubt to disprove Sgt. Hatch's account.*

*For these reasons, we do not intend to file a criminal charge against Sgt. Hatch for his use of force in the above referenced incident. We do not believe a criminal case based upon the facts we know, in light of what we believe Sgt. Hatch's testimony would or could be, would have a reasonable likelihood of success at trial."*

## Assaults Against SLCPD Officers

After review of officers' reports and body camera footage, the following assaults against SLCPD officers were documented:

- Officer Stone was spit on his cheek by a female; this action captured on body camera.
- Officer Nicholas was kicked in the groin by a female; this action listed in a report.
- Officer Overman was pushed, spit on, a door was forcefully closed on him; this action listed in a report.
- Officer Oliva was spit on, was pulled into the crowd, and kicked and punched in the face by several "different" demonstrators; this was witnessed by other officers and captured on body camera.
- Officer Wilkinson was hit in the head by an object, spit on, and had a liquid sprayed on him; this action listed in a report.
- Sgt. Hatch was knocked to the ground, hit, and kicked by multiple demonstrators; he sustained a small laceration on his ear; this action captured on body camera.

## Areas for Improvement

### Sleeping Dragon

If this had been a more complicated device, the officers may not have been able to safely remove the persons. One officer asked for a Sawzall, which demonstrates a lack of knowledge of how to handle these devices. Line officers need additional training on common tactics used during demonstrations and the

appropriate actions officers should take.

## Verbal Persuasion

The lobby dispersal may have encountered less difficulty if SLCPD Policy 428 had been followed, which states in part:

*When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly and should order the dispersal of the participants. The mobilization of a Mobile Field Force shall be in place prior to issuing a dispersal order (unless the Public Order Unit is already on scene). Furthermore, a call-out of the Public Order Unit shall also be initiated if not already done so. The dispersal order should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.*

## Lack of Formal Announcement of Unlawful Assembly

A formal announcement should have been made, as per SLCPD policy 428, which provides the following verbiage;

*"I am (name and rank) of the Salt Lake City Police Department. I hereby inform all persons in this assembly that you are in violation of (State Law or City Ordinance). I order you, in the name of the people of Salt Lake City, to leave. Failure to disperse will subject each of you to arrest and prosecution."*

While an order to disperse was given on the sixth floor, official recommended verbiage was not used.

## Amplified Source

It is not clear if there was an amplified formal announcement in the first-floor lobby, but none was captured or heard on the BWCs of the officers or the video that was provided. This announcement should have come from an amplified source due to the noise of the demonstrators, but it appears there was not an amplified device on scene.

On the first floor, there was time to have made multiple announcements in the lobby, which could have possibly prevented the confrontation with, or reduced the number of, demonstrators that officers had to forcefully remove. Many demonstrators in the lobby heard the dispersal order on the sixth floor, where

the announcement was made, and then moved to the lobby. While it is unknown if the demonstrators would have left upon another announcement made in the lobby with amplification, it is a valid tactic and recommended per SLCPD policy. (There is video documentation of demonstrators asking if the announcement was made.)

### Mobile Field Force

The sergeant of the Mobile Field Force was, at times, in-line with officers applying force. The sergeant should have been behind the line giving direction to the officers and making sure that proper force was being used. This sergeant also was identified as one officer that was throwing what appeared to be punches at a demonstrator. \*See Salt Lake County District Attorney findings.

### Unified Command

There appeared to be three incident commanders for this event. This became an issue because one supervisor was in charge of monitoring the original protest. The second commander was an on-duty watch commander, who responded to the Chamber of Commerce as patrol officers responded to assist. The third commander was a responding supervisor of the public order unit, who “assumed incident command” upon arrival.

This caused confusion to responding officers. In reviewing the incident, it appears that although one incident commander sent in the MFF, it was a different incident commander, who may have had command over the first-floor lobby. Policy 428.4 states in part:

*“The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members.”*

A clearly defined command structure consistent with the Incident Command System (ICS) should have been established as resources were deployed.

### Areas of Merit

The communication by the officers on the sixth floor, with both the group and among themselves, was outstanding.

The officers in the lobby deserve merit for maintaining their composure during a dynamic and

increasingly volatile situation, where some of the officers were physically attacked by the demonstrators. They showed great restraint in removing the demonstrators from a dangerous situation, with little direction, in the chaos that was present.

An incident command post was set up and officers responded appropriately.

Officers used their body-worn cameras within policy. Several officers responded to the incident prior to arriving for shift and were unable to first get their body worn cameras from their charging stations. Those that did not use body worn cameras documented justification in a written report.

While pushing, shoving, and arrests were being made, there were no signs of excessive or inappropriate use of force. Officers interacted within policy and training to remove the trespassers. Policy 300.3 Use of Force states in part:

*Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.*

*The reasonableness of force will be judged from the perspective of a reasonable officer faced with the same set of facts and circumstances. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.*

*Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.*

*It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.*

*While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.*

## Recommended Next Steps

1. Meet with external international expert regarding best practices for civil disturbances. (Survival Edge Tactical, Completed, July 11, 2019)
2. Implement leaflet practice as recommended by expert (Completed, July 12, 2019, used at two protests to date)
3. Conduct incident review with recommendations (Completed, October 22, 2019)
4. Document policy reviews with MFF, POU, and watch commanders (Scheduled, First Trimester, 2020)
5. Issue a department-wide training bulletin regarding responding to civil demonstrations and applicable SLCPD policies (Select dissemination, July 20, 2019; Department-wide, First Trimester, 2020)
6. Administer Mobile Field Force training during next trimester training to all sworn personnel (Completed, Second Trimester, 2019)
7. Purchase amplification devices for each Watch Commander in the patrol divisions (Completed, )