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SUBJECT: THE CHANGING DYNAMICS OF PROTEST AND RESPONSE 1 JUN 17

Introduction

Confrontations between protestors and police¹, and between protesting groups², are rapidly increasing in frequency and intensity across the US. Police are often either abdicating responsibility by cancelling events³ (threatening the rights of Assembly and Free Speech), or militarizing without increasing efficacy, with States adopting laws that will be challenged as unconstitutional⁴. A significant cause of this situation is that crowd management in the US is rooted in the mindsets and tactics of the 1960s. The current US approach does not embrace individual accountability by the protestor nor the officer, and it disregards effective tactics. The import of confrontational, asymmetric protestor tactics from Europe have left the police unable to respond.

If the US is to assure free speech, due process, and the effective prosecution of criminals, a more robust approach must be taken. This is particularly important if legislatures and law enforcement wish to facilitate legal protest. One does not have to restrict legal protest to prevent and punish illegal acts of protests which occur during protests.

The Densus Group has been providing effective crowd management solutions on behalf of the Departments of State and Defence to foreign police and military forces and to elements of the US military for almost a decade. Our solutions are drawn from our decades of experience in solving these problems as the police and military in countries where this level of protest has been faced for decades, enabling us to

¹ Examples would include the protests in Ferguson in the aftermath of the Michael Brown shooting, many of the Black Lives Matter protests, and the protests during President Trump's inauguration.

² This has gone from clashes between President Trump's supporters and counter-protestors during the election campaign to the recent 'Free Speech' protests designed to create a backlash from left-wing counter-protestors that have taken place in Berkeley, Boston and now Portland.

³ Such as the cancellation of Ann Coulter's speech at UC Berkeley that was due to take place on April 27. The University stated it was 'not possible to assure that the event could be held successfully — or that the safety of Ms. Coulter, the event sponsors, audience and bystanders could be adequately protected', leading to the sponsor group withdrawing their request for her to speak.

⁴ Of the 20 States that have proposed new laws in regard to protest, 3 have already had some or all of the proposals defeated, and several more seem unlikely to pass the Senate vote.

create effective solutions that protect human rights for both legitimate protestors and the police.

We recommend that a fresh approach to the policing of protest in the United States, one that meets the needs of the police in this evolving environment and that has been proven to be operationally effective. This document places the current situation in context, and explains how proper training delivered within a sustainable framework will protect police officers and legitimate protestors, while effectively punishing those who seek to use protests to cause violence and criminal damage.

Context

Recent years have seen an increase in confrontations at protest events between police and protestors, and between rival groups of protestors. This has happened across the country and is partly a result of the import of protest tactics from Europe spread through the internet, and by North American activists who have travelled to Europe to take part in campaigns there. This is clearly an area of significant concern, but what is of more concern are the steps that some police departments and State Legislatures are taking to counter the problem. In recent months, there have been more than thirty new bills in twenty states related to protest introduced, which many feel is an attempt to intimidate protestors, a move toward an increased use of less-lethal force to try and create an artificial barrier between police and protestors, or even goes so far as to 'stifle' protest. Particularly concerning are the bills that allow for charges of riot, with significant jail time, to be applied to non-violent forms of protest. Some of the changes that are being proposed are of dubious legality, and many of them go against the spirit of the Constitution, if not directly against the letter of it. The American Civil Liberties Union and the National Lawyers Guild have already stated that they will oppose all of the new bills, and even the United Nations has described some of the proposed laws as 'incompatible with US obligations under international human rights law.' In states where they fail to prevent the passing of these laws, there is no doubt they will fight them in court the first time they are implemented, which will leave police departments with an even higher rate of lawsuits and failed prosecutions than they currently have. Currently, the majority of successful lawsuits against the police arising from protest events concern less-lethal weapons use and wrongful arrest.

At Densus we believe that much of the new legislation and the increase in less-lethal weaponry for police is not supported by evidence or by the expert perspective of those who have been managing these levels of protest for decades. A more effective approach would be to transform police tactics and approach to the problem using lessons learned in the US and in other countries that have faced these issues.

Protest challenges

The protest 'scene' in the US is changing due to the continuing import of new tactics and organizing methods from other countries, and the increase in political

opponents confronting each other on the streets. Black Bloc and direct-action tactics have been copied from their origins with extreme left-wing and anarchist protestors in Europe for several years; however, the number of those prepared to use these tactics is increasing, and anarchists are showing an increased willingness to violently confront police. For several years violence against police officers seemed a step too far for US anarchists, but in the last four years there has been an increase in incidents where they have physically attacked officers. Direct Action tactics have also been in use with environmental groups for several years, but the frequency and complexity of Direct Action protests is steadily increasing. Even more worrisome are the incidents over the past four months where 'Alt Right' protestors have begun to physically challenge counter-protests, in particular showing a desire to 'fight back' when attempts are made to disrupt conservative events by those protesting under the ANTIFA⁵ banner. This has led to events being specifically organized in order to provoke counter-protests, with those who fight ANTIFA protestors rapidly becoming social media 'celebrities.'

Changes to protest policing

Many police departments have responded by buying an ever-greater range of less-lethal technologies in the hope that they can improve the situation by keeping protestors at a greater distance and to achieve dispersal more rapidly. Some of the systems we have recently seen police departments considering are controversial in areas where there can be extreme violence at protests, such as the West Bank in Israel, and will be even more controversial in the much lower levels of violence seen at protests in the US. Many of these systems are indiscriminate and have the same effect on peaceful protestors and bystanders as they do on the violent offenders police wish to deal with.

The controversy over the way the protests in Ferguson and the Dakota Access Pipeline were policed has not only created more protests, but has also hardened the attitude of the protestors, making violence more likely at future events, and driving a wedge between the police and the community. A large part of this issue is that US police are still not being effectively trained to police protests - they are trained for riot control. That training in itself is based on a hopelessly outdated view of how crowds think and behave. The latest edition of the FEMA 'Field Force Operations Manual' has a chapter on Crowd Dynamics that is still based on research conducted in the 1960's and that has been superseded by much more recent, and relevant, research.

⁵ ANTIFA - Anti-Fascist Action, often described in the US as a group but in reality, a flag of convenience that can be used by anyone protesting far-right groups, often used by anarchist and extreme left wing groups.

A different approach

None of the protest policing issues departments in the US are facing are new, as police in other countries have been dealing with these tactics and issues for many years. For the past decade, the Densus Group on behalf of the US Department of State has been providing training to deal with similar issues faced by law enforcement all over the world, many of which are facing far more significant levels of violence than here at home. Our approach and terminology is that of crowd management, not riot control. We deliver a system of graduated response to protest activity that gives officers a set of tactics suitable for different levels of protestor behavior and violence. We also give them a practical understanding of how groups of people behave, and how modern protest tactics work. The combination of these two elements allows commanders and individual officers to apply the right tactic to the situation on the ground to the right specific environment, preventing the conditions for violence from occurring, deescalating the situation where possible, and dealing effectively with criminal elements when required. It has been our extensive experience that this degree of judgment and flexibility is absolutely essential in the modern world, where different protest groups can use very different tactics, encompassing very different levels of threat, in close proximity to each other.

Densus recruits our instructors internationally and teaches a combination of tactics taken from the countries that are world leaders in this field. All of our crowd management instructors have many years of experience using the tactics they teach while on operations in their own countries, as well as considerable experience teaching internationally. Our lead trainers also have experience in protest events in the US and in providing training to US Police Officers and the US Military. All the training is based on the latest academic research in this field, combined with the practical experience of our staff.

Recommendation

We recommend that a completely fresh approach be taken at the Federal level. Almost all crowd management tactics and training within the US comes from the FEMA Center for Domestic Preparedness (CDP). A complete rewrite of the CDP manuals and training programs to bring them up to date with modern protest policing will allow effective training to be delivered across the nation using a combination of not only the best of what is currently available in the US, but including the best of what has been developed abroad. This will provide police officers across the nation with the knowledge and skills they need to meet the current challenges and provide them with the mindset that allows them to tackle the complex issues that arise during protests in a legal and constitutional manner.

Conclusion

The protest environment in the United States continues to evolve and change with new challenges to policing arising from it. The mindset and tactics being used by police has failed to evolve with it. There is no technological solution to the current issues and buying a greater range of less-lethal weapons is more likely to contribute to the problems rather than solve them. Introducing new legislation is also a difficult area in that the damage to constitutional rights is likely to outweigh the advantages.

What we believe is required is to provide the police with the knowledge and skills they need to operate effectively in this new environment, and to deal with the complexities of 21st Century crowd management. This is an area that is too high risk to attempt new and untried methods; however, existing solutions to these problems, that have been proven to be effective, do exist. The Densus Group is every Federal, State, and Local Government's path to finding them.

Yours Very Sincerely and Respectfully,

A handwritten signature in blue ink, appearing to read "JRP", enclosed in a thin black rectangular border.

John R. Poncy
Chief Executive and Chief Quality Officer
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