

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest



**Final Report and
Recommendations
December 1, 2017**

Governor’s Task Force on Public Safety Preparedness and Response to Civil Unrest

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Introduction

On August 12, 2017, the Commonwealth of Virginia experienced one of the largest outpourings of hatred and violence in modern history. Hundreds of neo-Nazis and white supremacists from across the country descended upon the City of Charlottesville as part of a permitted “Unite the Right” rally to protest the removal of the Robert E. Lee Monument in Emancipation Park. Large numbers of protestors and counter-protestors gathered early in the morning on August 12, and the rally ultimately evolved into a violent incident of civil unrest.

The violence escalated such that Governor McAuliffe declared a state of emergency, Charlottesville issued a local declaration of emergency, and law enforcement declared an unlawful assembly. As a result of the civil unrest, Virginia experienced three tragic fatalities: first when a domestic terrorist drove his car into a crowd, killing 32-year-old Heather Heyer and injuring dozens more; and next when a Virginia State Police (VSP) helicopter assigned to monitor the rally crashed, killing Lieutenant H. Jay Cullen, III, and Trooper-Pilot Berke M.M. Bates.

In the days following these terrible events, Governor McAuliffe took decisive action and signed Executive Orders 67 and 68 (2017) to ensure a thorough review of the events leading up to and on August 12 and the Commonwealth’s ability to support Charlottesville’s response. As incidents of civil unrest are becoming more prevalent across the country, it is critical now, more than ever, that Virginia be prepared for and able to respond to civil disturbances.

Executive Order 67 temporarily suspended permitting at the state-owned Robert E. Lee Monument, located in the City of Richmond, pending a thorough review of the state’s permitting process by the Task Force on Public Safety Preparedness and Response to Civil Unrest, which was established under Executive Order 68. The Task Force was chaired by Brian J.



Market Street and 2nd Street NE at 11:21 AM

Source: Curtis Brown, Deputy Secretary of Public Safety and Homeland Security

Moran, Secretary of Public Safety and Homeland Security was charged with reviewing and making recommendations on the results of an independent After-Action Review (AAR), developing and adopting an emergency regulation for the Department of General Services (DGS) to promulgate governing permitting at the state-owned Lee Monument, developing a permitting reference document for state and local governments, and assessing our ability as a Commonwealth to prepare for and respond to incidents of civil unrest.

Governor’s Task Force on Public Safety Preparedness and Response to Civil Unrest

The Task Force was comprised of members of state and local government officials with public safety expertise and experience. To better execute its directive, the Task Force established two work groups, a Permitting Work Group and a Preparedness and Response Work Group. The Task Force met four times and received expert briefings, shared and discussed information, and adopted recommendations presented by the work groups.



Task Force Meeting

Source: Olson Group, LTD

The Task Force focused heavily on permitting and preparedness efforts, as decisions made by Charlottesville prior to the rally directly affected law enforcement’s ability to prepare for the event and prevent acts of violence.

The Task Force heard several presentations from experts, including:

- Rodney A. Smolla, Dean and Professor of Law at Widener University, First Amendment scholar
- Chief James Cervera, City of Virginia Beach Police Department
- Christopher Beschler, Director of the Department of General Services (DGS)
- Chief Rodney Monroe, (Retired) Chief of Police for the City of Charlotte, North Carolina, and the City of Richmond, Virginia.

Permitting Work Group

The Permitting Work Group was established to review state and local permitting processes and advise the Task Force on necessary public safety protections that should be applied to permits, while also balancing First Amendment freedoms of speech and assembly. The Work Group was comprised of a diverse group of state and local officials, including law enforcement, first responders, a city and Commonwealth’s attorney, and other state and local officials.

The Work Group met four times, developed an emergency regulation to be promulgated by DGS, composed a reference document to assist state and local government agencies, and made recommendations that were adopted by the Task Force. The products developed by the Work Group reflect significant discussion and deliberation by all members based on research and input from Task Force staff and Dean Rodney Smolla.

Preparedness and Response Work Group

The Preparedness and Response Work Group was established to review the Commonwealth’s ability, across all levels of government, to prepare for and respond to incidents of civil unrest. Specifically, Executive Order 68 called for a review of and recommendations on: appropriate lines of authority and control; internal and external communication; planning; coordination of preparedness and response efforts; capabilities; deployment of resources; intelligence gathering and information sharing; and cyber security issues.

The Work Group met three times and received presentations from a number of recognized experts, including Catherina Hutchins, Senior Assistant Attorney General, and Alfred Durham, Chief of Police for the City of Richmond. Additionally, to inform the Work Group’s discussion, Task Force staff interviewed more than 30 individuals from various state and local agencies, who provided valuable insight into approaches to preparedness and response across the Commonwealth. Based on this research, the Work Group presented recommendations to the Task Force, all of which were adopted.



*Clearing of Emancipation Park
Source: Northwest Herald*

Summary of Findings

Permitting Work Group

One of the most significant findings from the review by the Task Force and Permitting Work Group was the critical importance of implementing a robust permitting process for special events. Permitting decisions made by Charlottesville prior to the “Unite the Right” rally directly affected law enforcement’s ability to prepare for the event and prevent acts of violence from occurring. Permitting processes provide government agencies with a mechanism to review potential event information, allocate necessary resources, and implement precautions to protect significant governmental interests. As a result of the actions that occurred in Charlottesville, governments nationwide are evaluating their permitting processes for special events and amending them accordingly.

After conducting a statewide survey of local permitting practices, the Task Force identified that many localities do not have special event permitting processes, and those that do, often fail to address First Amendment activities. Some localities responded that they do not have permitting processes due to the misconception that requiring permits violates the First Amendment. Additionally, many localities with established permitting processes do not provide their public safety agencies with opportunities to review permit applications or participate in the approval/denial process; the inclusion of public safety agencies in permitting processes was identified as a best practice by the Task Force and Work Group, as it may facilitate more robust preparations for and responses to events.

The Task Force and Permitting Work Group recognized that prior to implementing a robust permitting process, public officials must begin with an understanding of the First Amendment, and the right to exercise freedoms of speech and assembly in *traditional public forums*, such as public streets, sidewalks, and parks. In order to preserve these freedoms, governments are strictly limited in their ability to regulate speech in these spaces. However, governments may regulate activities in traditional public forums if the regulations are content-neutral, pertain only to the time, place, or manner of the speech, and leave open ample alternative channels for communication.

Permits are a form of time, place, and manner regulations. Governments, through the issuance of permits, can regulate when an event may begin and end, where an event may be held, and the manner in which an event may occur, so long as these restrictions are content-neutral and advance significant governmental interests. While permitting processes should be tailored to address the unique characteristics and needs of each locality, the Task Force identified a number of factors that a robust permitting process should encompass. These factors are listed below and are fully explained in Appendix F: *Permitting Reference Document*:

- Threshold for requiring a permit
- Capacity limits for public spaces
- Tiered permit applications
- Time restrictions
- Timeline for submitting and reviewing permit applications

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- Fees
- Off-duty public safety officers
- Weapons restrictions
- Coordination
- Communication
- Evaluation and feedback

Given the prevalence of armed protestors during the events in Charlottesville, the issue of weapons restrictions was heavily discussed. The Task Force and Permitting Work Group recognized that under Virginia Code § 15.2-915(A), localities are prohibited from restricting the possession or carrying of firearms and ammunition. First responder agencies consistently noted that the presence of firearms during permitted events, particularly those that have the potential for violence, presents significant public safety threats not only to the participants at the events, but also to the men and women in uniform who risk their lives to protect us.



*11 August 2017 Torchlight March
Source: ABC News*

Preparedness and Response Work Group

In assessing the Commonwealth's ability to successfully prepare for and carry out a coordinated response to incidents of civil unrest, the Preparedness and Response Work Group focused on the need for further multi-jurisdictional and cross-disciplinary coordination and collaboration. Key components of this discussion involved the use of the National Incident Management System (NIMS), including the Incident Command System (ICS) and Unified Command, to coordinate incident responses and increase information sharing among agencies.

Use of NIMS and Unified Command

The use of NIMS and Unified Command enables agencies to work together to jointly manage incident activities through a common set of incident objectives and strategies, and a single Incident Action Plan (IAP). However, issues often arise when attempting to implement Unified Command, as it is inconsistently used across disciplines. Many disciplines have at least a cursory understanding of Unified Command, as most agencies require basic training on ICS (ICS-100, ICS-200, ICS-700, and ICS-800); however, courses that cover Unified Command in-depth (ICS-300 and ICS-400) are often optional.

Inconsistent use of terminology during incident response often leads to confusion. Understanding and fully utilizing ICS should eliminate this issue and enable jurisdictions to better coordinate during emergencies. The Preparedness and Response Work Group noted that reoccurring planned events (e.g., Fourth of July celebrations, parades, etc.) are opportunities for jurisdictions to build cross-disciplinary relationships and practice Unified Command in non-emergency situations.

Information Sharing

The Task Force and Work Group highlighted the need to enhance communication, both internal and external information sharing, as an important component of facilitating a successful incident response. Promoting increased communication among agencies and across levels of government is especially important during multi-agency events, as the success of the response is dependent upon a complete understanding of the event and surrounding circumstances.

There is currently no uniform process for sharing information among agencies and across levels of government, which presents significant challenges when planning for events and tracking resource requests. WebEOC is the system of record utilized by the Virginia Department of Emergency Management (VDEM). During emergencies, all localities and state agencies are expected to use WebEOC to request resources, as well as report and disseminate information. However, during the planning process, local agencies typically request resources from contacts within their discipline at the state level. The Work Group found that these requests are not logged into WebEOC, which jeopardizes cohesive planning at the state level. Improving this communication in real-time will facilitate better situational awareness and enhance preparedness and response capabilities for the Commonwealth.

The work group also discussed challenges related to sharing Law Enforcement Sensitive information with non-law enforcement agencies. This is significant during multi-agency events, as it is important for entities involved to have up-to-date information for planning and situational awareness purposes. Interviews stressed the need for clearly defined protocols that help law

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enforcement agencies, including the Virginia Fusion Center (VFC), to extract sensitive aspects of reports so that pertinent information can be shared with partner agencies.

Training and Exercise

In order to address collaboration and coordination issues raised during Work Group meetings and interviews, the Preparedness and Response Work Group emphasized the need for additional regional, cross-disciplinary trainings. Expanding access to training for all public safety agencies, including joint training and exercises, is essential to reinforcing a common understanding and expectation of how NIMS and Unified Command should be implemented. The more familiar officials are familiar with these concepts and one another, the better prepared governments will be to respond to sudden incidents of civil unrest.

Training and exercises should occur regularly in order to maintain institutional knowledge within the agency. Additionally, staff from different levels of management should be included and provided with opportunities to participate in refresher programs as they advance in their careers or take on different responsibilities in incident command. Moreover, the Preparedness and Response Work Group discussed the need for senior leadership, including elected officials and college and university presidents, to better understand their roles and responsibilities during an incident, as well as chain of command. In addition, trainings should be made available on weekends, evenings, and online platforms for volunteer-based response agencies who have personnel that are not available during traditional business hours. Training and exercising together ensures that key personnel learn each other’s responsibilities and authorities, as well as forge stronger relationships with one another. Finally, the Work Group recommended developing training and exercise programs specifically tailored to information and intelligence sharing.

Resources and Capabilities

The Preparedness and Response Work Group also stressed the importance of understanding what capabilities and resources are available to support preparedness for and response to incidents of civil unrest and other events. Work Group members noted that smaller localities may be targets for incidents of civil unrest, due to the perception that they have fewer resources to respond. Similarly, institutions of higher education may also be targeted for protests. Cross-disciplinary and cross-jurisdictional resource coordination and sharing will help to thwart that tactic.

It is critical that state and local agencies understand all of the capabilities available to them during an event. To this end, the Work Group recommended conducting a statewide capability assessment. Regular, joint trainings will inevitably enhance agency capabilities and promote a better understanding of how others can be of assistance. In addition, the Work Group specifically suggested enhancing regional collaboration to facilitate this exchange of information. The VDEM Chief Regional Coordinators are the Commonwealth’s coordinating liaisons and should be utilized to assist in this endeavor.

A better understanding of available capabilities will enable state agencies and localities to leverage available resources and further enhance preparedness and response efforts related to incidents of civil unrest.

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The Work Group discussed the benefits of utilizing the following resources to successfully prepare for and carry out a coordinated response to incidents of civil unrest:

Incident Action Plans (IAPs)

An IAP is a cohesive set of incident objectives, tactics, and assignments for operational and support activities. Utilizing a common IAP is a core tenant of Unified Command, meant to ensure effective coordination. The Work Group expressed concern that during the events leading up to and during August 12, there was not a singular IAP used by all agencies, which ultimately caused confusion over tactics and command structure. IAPs should clearly indicate the authorities of the Governor and the role of state agency personnel that are deployed to assist localities.

Based on the events in Charlottesville, the Work Group noted that IAPs should incorporate state input into the planning process, and clearly define the specific conditions permitting state officials to assume command. Members felt that many agencies would benefit from a planning template or an IAP guidance document to standardize internal processes and incorporate principles of ICS and Unified Command, to include job aids. This will help ensure the development of cohesive IAPs for every event, which is essential to a coordinated, collaborative response.

Incident Management Teams (IMTs)

IMTs are multi-agency, multi-jurisdictional teams of specially-trained personnel that support localities in the management of complex incidents and planned events. There are four regional all-hazard IMTs located within the National Capital Region, Central Virginia, Hampton Roads, and Southwest Virginia. IMTs are a vital asset to support the administration of planning and response efforts, and it is important that localities and state agencies understand the capabilities IMTs provide, their roles and responsibilities, as well as how and when they should be requested.

Joint Information Center (JIC)

Keeping up with the fast-paced and ever-changing nature of social media presented challenges for responders and Public Information Officers (PIOs) during the events of August 12. As such, the Work Group recognized the importance of a JIC for multi-agency operations. A JIC is a central location where PIOs and other personnel work together to disseminate information to the public and media during an emergency. The Work Group discussed how the lack of a JIC during the events in Charlottesville led to a delay in information sharing during a critical period of time. A well-resourced JIC will enable the timely dissemination of accurate information in an age when the use of social media can quickly lead to widespread public misconception.

Cyber Security

The prevalence of cyber-attacks during incidents of civil unrest continues to challenge state and local governments. During the events on August 12, the City of Charlottesville’s official website went down and the hacktivist group Anonymous claimed responsibility for carrying out a distributed denial-of-service (DDoS) attack on it. The Work Group stressed that localities and state agencies should explore opportunities to conduct cyber vulnerability assessments and consider incorporating cyber security within the IAP so that responders are aware of the potential threat and can mitigate it to the extent possible.

Recommendations

Recommendation 1

Permitting Work Group

Localities should adopt permitting processes for special events.

Recommendation 2

Permitting Work Group

Local permitting processes should incorporate, at a minimum:

- Threshold for requiring a permit
- Capacity limits for public spaces
- Tiered permit applications
- Time restrictions
- Timeline for submitting and reviewing permit applications
- Fees
- Off-duty public safety officers
- Weapons restrictions
- Coordination
- Communication
- Evaluation/Feedback

Recommendation 3

Permitting Work Group

Modify Code of Virginia § 15.2-915(A) to allow localities to prohibit firearms at permitted events.

Existing Language

No locality shall adopt or enforce any ordinance, resolution or motion, as permitted by § 15.2-1425, and no agent of such locality shall take any administrative action, governing the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. For purposes of this section, a statute that does not refer to firearms, ammunition, or components or combination thereof, shall not be construed to provide express authorization.

Proposed Amendment

Localities may prohibit the possession or carrying of firearms, ammunition, or components or combination thereof in public spaces during permitted events or events that should otherwise require a permit.

This recommendation will require legislation to implement.

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Recommendation 4

*Preparedness and Response
Work Group*

Conduct a statewide cross-discipline capability assessment to better understand the Commonwealth’s ability to prepare for and respond to incidents of civil unrest. Explore the feasibility of developing a statewide system for identifying and communicating availability of resources at the state and local level to support incidents of civil unrest.

Recommendation 5

*Preparedness and Response
Work Group*

Develop a planning template for incidents of civil unrest that localities and state agencies may use to update emergency plans.

Recommendation 6

*Preparedness and Response
Work Group*

Provide funding for and develop regional, cross-discipline training and exercise opportunities for:

- State and local elected officials, senior leaders and executives (i.e. college/university presidents) on relevant NIMS and ICS courses and state and local laws
- State and local agencies on Unified Command
- Weekend, evening and virtual trainings for volunteer-based response agencies that may not be available during traditional business hours (i.e., volunteer firefighters and EMS personnel)
- Refresher trainings to address organizational changes and changes in responsibilities
- State and local governments to enhance information sharing

Additional funding is necessary to fully implement these training and exercise programs.

Recommendation 7

*Preparedness and Response
Work Group*

Examine current training opportunities for public safety agencies to ensure they are adequate for incidents of civil unrest.

Recommendation 8

*Preparedness and Response
Work Group*

During events that require state resources, the consolidated, multi-agency IAP establishing Unified Command shall include language on the Governor’s authorities under Title 44 so the emergency powers of the state and localities are well understood, including devolution of authority.

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Recommendation 9

*Preparedness and Response
Work Group*

For planned incidents of civil unrest that require multiple state agency involvement, establish a cross-discipline group at the regional and/or state level to maximize state agency support, coordination, and information sharing and to ensure that localities fully understand available resources.

Recommendation 10

*Preparedness and Response
Work Group*

In order to enhance regional coordination, VDEM Chief Regional Coordinators should:

- Facilitate coordination among state agencies in the region
- Educate localities on state agency resources and capabilities, as well as how to request them

Recommendation 11

*Preparedness and Response
Work Group*

Promote value and importance of regional all-hazard IMTs to support localities when planning and responding to incidents of civil unrest.

Recommendation 12

*Preparedness and Response
Work Group*

Provide funding for regional all-hazard IMTs.

Recommendation 13

*Preparedness and Response
Work Group*

Encourage localities and state agencies to take advantage of cybersecurity vulnerability assessments.

Recommendation 14

*Preparedness and Response
Work Group*

Promote enhanced information sharing between agencies, and establish necessary relationships for sharing law enforcement sensitive information.

Recommendation 15

*Preparedness and Response
Work Group*

Ensure that a multi-agency JIC is established and well-resourced during events.

Recommendation 16

*Preparedness and Response
Work Group*

The JIC should include plans for leveraging social media to ensure the public is receiving timely, accurate information.

Appendix A: Task Force Members

Brian J. Moran, (Chair), Secretary of Public Safety and Homeland Security

Curtis Brown, Deputy Secretary of Public Safety and Homeland Security

Melvin Carter, Chief of Fire and Emergency Services, City of Richmond

Tonya Chapman, Chief of Police, Portsmouth Police Department

Steven Cover, Deputy City Manager, City of Virginia Beach

Suzette Denslow, Deputy Chief of Staff to Governor McAuliffe

Fran Ecker, Director, Department of Criminal Justice Services

Quintin Elliott, Chief Deputy Commissioner, Virginia Department of Transportation

Phyllis Errico, General Counsel, Virginia Association of Counties

Colonel Steven Flaherty, Superintendent, Virginia State Police

Colonel David R. Hines, Sheriff, County of Hanover

Carlos Hopkins, Secretary of Veterans and Defense Affairs

La Bravia Jenkins, Commonwealth's Attorney, City of Fredericksburg

William Leighty, Former Chief of Staff, Governor Warner and Governor Kaine

Dr. Marissa Levine, Virginia State Health Commissioner, Virginia Department of Health

Delegate L. Scott Lingamfelter, Virginia House of Delegates, 31st District

David McCoy, Associate Vice President of Public Safety and Chief of Police, University of Richmond

Victoria Pearson, Deputy Attorney General, Office of the Attorney General

Colonel Anthony S. Pike, Chief of Police, Division of Capitol Police

James Redick, Director, Division of Emergency Management, City of Norfolk

Senator Bryce Reeves, Senate of Virginia, 17th District

Noah Simon, City Manager, City of Lexington

Dr. Jeffrey Stern, State Coordinator, Virginia Department of Emergency Management

Noah Sullivan, Counsel to the Governor

Major General Timothy Williams, Adjutant General of Virginia, Department of Military Affairs

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Nicky Zamostny, Task Force Director, Office of the Secretary of Public Safety and Homeland Security

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Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

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Appendix B: Permitting Work Group Members

Brian J. Moran, (Chair), Secretary of Public Safety and Homeland Security

Christopher Beschler, Director, Department of General Services

Steven Cobb, Deputy Attorney General, Office of the Attorney General

Suzette Denslow, Deputy Chief of Staff, Office of the Governor

Kathleen Dooley, City Attorney, City of Fredericksburg, Virginia Municipal League

Alfred Durham, Chief of Police, City of Richmond

Phyllis Errico, General Counsel, Virginia Association of Counties

Michael N. Herring, Commonwealth Attorney, City of Richmond

Brian McGraw, State Fire Marshal, Virginia Department of Fire Programs

Victoria Pearson, Deputy Attorney General, Office of the Attorney General

Colonel Anthony S. Pike, Chief of Police, Division of Capitol Police, Commonwealth of Virginia

Senator Bryce Reeves, Senate of Virginia, 17th District

Allen Rothert, Special Events Coordinator, City of Richmond

Lieutenant Colonel Tracy Russillo, Deputy Superintendent, Virginia State Police

Noah Sullivan, Counsel to the Governor

Major John Venuti, Chief of Police, Virginia Commonwealth University

Appendix C: Preparedness and Response Work Group Members

Brian J. Moran, (Chair), Secretary of Public Safety and Homeland Security

Richard Bowers, Jr., Chief, Fairfax County Fire and Rescue Department

Curtis Brown, Deputy Secretary of Public Safety and Homeland Security

Melvin Carter, Chief of Fire and Emergency Services, City of Richmond

Tonya Chapman, Chief of Police, Portsmouth Police Department

Ron Clinedinst, Regional Healthcare Coordinator, Northwest Region Healthcare Coalition

Walter English, Emergency Management Planner, City of Fairfax Fire Department Office of Emergency Management

Sharon Gray, Manager, Department of Criminal Justice Services

David Hoback, Chief, City of Roanoke Fire and Emergency Medical Services

Karen Lovely, Division of Emergency Management, City of Norfolk

Bob Mauskopf, Director, Virginia Department of Health Emergency Preparedness

David McCoy, Associate Vice President of Public Safety and Chief of Police, University of Richmond

Brian McGraw, State Fire Marshal, Virginia Department of Fire Programs

Anna McRae, Deputy Coordinator of Emergency Management, Henrico County

Lieutenant Colonel Gary Settle, Director, Bureau of Criminal Investigation, Virginia State Police

Karen Owens, Emergency Operations Manager, Virginia Department of Health Office of Emergency Medical Services

Colonel Anthony S. Pike, Chief of Police, Division of Capitol Police, Commonwealth of Virginia

Brook Pittinger, Acting Executive Director, Virginia Department of Fire Programs

James Redick, Director, Division of Emergency Management, City of Norfolk

Senator Bryce Reeves, Senate of Virginia, 17th District

Dr. Jeffrey Stern, State Coordinator, Virginia Department of Emergency Management

Appendix D: Executive Order 67



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER SIXTY SEVEN (2017)

**EXECUTIVE ORDER TEMPORARILY SUSPENDING PERMIT-REQUIRING USES
OF THE LEE MONUMENT IN RICHMOND, VIRGINIA AND DIRECTING REVIEW
OF PERMITTING REGULATIONS**

Importance of the Initiative

Virginia is the birthplace of liberty in the United States, and the Commonwealth has had an historic commitment to freedom of speech, freedom of religion, freedom of the press, freedom of assembly, and freedom of thought are among our most cherished values. Recent events have also demonstrated that activities surrounding Confederate monuments within the Commonwealth raise substantial public safety concerns. Among these are the statue of Robert E. Lee on horseback, and the surrounding grounds, located within a traffic circle on Monument Avenue in the City of Richmond, Virginia (the "Lee Monument").

On August 12, 2017, I declared a State of Emergency based on a state of civil unrest in Charlottesville, Virginia, caused by violence that erupted over a demonstration organized by the Unite the Right organization, which included a number of affiliated white supremacist and Neo-Nazi hate groups. I was compelled to order the Virginia National Guard to active service for the purposes of controlling civil unrest, an action that has not been taken in decades. The stated purpose for the Unite the Right demonstration was to protest the City of Charlottesville's decision to remove a statue of Robert E. Lee from one of its city parks.

The violence in Charlottesville, Virginia was broadcast around the world, and the protests and counter-protests ended in tragedy. Demonstrators descending on the rally became engaged in violent conflict, leading to a declaration by city officials that the rally had become an unlawful assembly. Later, a man using his car as a weapon plowed into a group of counter-protestors, injuring 19 people and killing a young woman, Heather Heyer. The chaos of the day required extraordinary sacrifices from law enforcement, including the crash of a Virginia State Police

helicopter that killed Lieutenant H. Jay Cullen and Trooper-Pilot Berke M.M. Bates, who were surveilling the scene from the air.

Subsequent protests have threatened not only violence against citizens, but also violence against the monuments themselves. In the days since the tragedy in Charlottesville, law enforcement in Richmond, Virginia have responded to demonstrations around the Lee Monument, including situations that involved heavily-armed protestors that disturbed the peace near the monument. In Durham, North Carolina, a recent video showed protestors tearing down a statue of a Confederate soldier, resulting in felony charges against those involved.

Reviewing the events in Charlottesville to determine what steps can and should be taken to prevent any such violence from occurring again is critically necessary for public safety and demands a full review of permitting processes and other relevant regulations. There are already, and it is anticipated that there will be more, permit requests for demonstrations at the Lee Monument as the public debate over Confederate monuments continues, leaving grave risks for future civil unrest. Until a full review process has been concluded, it is a threat to public safety to allow permit-requiring activity to occur in the absence of such sensible regulations that should be implemented to govern all expressive activity at the Lee Monument, no matter its content.

Additionally, regulations governing the use of the Lee Monument were last reviewed some time ago. A critical review of these regulations is long overdue.

Unlike a city park, the Lee Monument serves a limited purpose and has not historically been an open forum for expressive activity. It sits in a traffic rotary, in a major thoroughfare through the City of Richmond, in the middle of one of the most scenic and historic residential areas in the United States. Current standards contemplate up to 5,000 people gathering at the Lee Monument. Given the size of the Lee Monument, the fact that traffic continually passes around it, and that there is no pedestrian crosswalk for access, I have concluded that permitting any large group would create a safety hazard in the current circumstances. Current policies also allow for permits to be issued from sunrise to 11:00 pm, which also could, given the Lee Monument's proximity to private residences, interfere with the quiet enjoyment of those properties. Moreover, the Lee Monument is a State-property island in an area otherwise regulated by the City of Richmond, yet there is no formal requirement for coordinating approval through the City of Richmond's permitting process. This regulatory gap, which has heretofore been handled informally, must be addressed.

It is also clear that adequate alternative venues exist to accommodate any expressive activities that citizens may desire to conduct, should the Lee Monument be temporarily closed for permit-requiring activity.

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

Executive Action

Accordingly, by the power vested in me as the Chief Executive by Article V of the Constitution of Virginia and the laws of the Commonwealth, I hereby order the following:

No demonstrations shall be authorized at the Lee Monument in the absence of a permit issued by the Department of General Services. The term "demonstrations" includes demonstrations, processions, picketing, speechmaking, marching, vigils, and all other like forms of conduct, that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers. This term includes the display of flags, banners, or other demonstratives designed to communicate a message.

No permits for demonstrations shall be issued for activities at the Lee Monument pending adoption of regulations by the Department of General Services to govern such activities.

Under separate Order, I will convene a task force, led by the Secretary of Public Safety and Homeland Security, to evaluate the public safety issues arising from the events of August 12, 2017, including regulatory best practices related to the Lee Monument.

The Department of General Services is directed to promulgate emergency regulations by November 18, 2017 to govern any public use of the Lee Monument based upon the recommendations from this task force.

Effective Date of the Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect until such emergency regulations are promulgated by the Department of General Services by November 18, 2017.

Given under my hand and under the Seal of the Commonwealth of Virginia this 18th Day of August, 2017.

Terence R. McAuliffe, Governor

Attest:

Kelly Thomasson, Secretary of the Commonwealth

Appendix E: Executive Order 68



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER SIXTY EIGHT (2017)

**ESTABLISHING THE TASK FORCE ON PUBLIC SAFETY
PREPAREDNESS AND RESPONSE TO CIVIL UNREST**

Importance of the Task Force

Acts of hate and violence like those that took place in Charlottesville, Virginia on August 12, 2017, and similar incidents across the country are becoming more prevalent and are endangering our communities. When large rallies or demonstrations become violent, it is not only the safety of our communities and citizens that is threatened, but also the safety of our men and women in uniform who risk their lives to protect us.

As a Commonwealth, we are heartbroken and shaken to our core. As we begin to recover and heal from the terrible events that claimed three lives and caused at least 35 injuries on August 12, we must take every step possible to prevent this type of tragedy from ever occurring again in Virginia. While I ordered unprecedented state resources to assist Charlottesville in responding to the Unite the Right demonstration, current law dictated that the state play only a supporting role, with local government officials holding key decision-making authority over permitting and command of the police response. I never again want to be in a position where state resources are needed to protect public safety, but the state is not vested with control over the events that ultimately could lead to a public safety emergency.

On August 18, 2017, I issued Executive Order 67, which temporarily suspended permitting for the Lee Monument in Richmond pending a thorough review of the events in Charlottesville and recommendations for best-practices in permitting. It is critical now more than ever that we are prepared and ready as a Commonwealth, across all levels of government, to respond to future incidents of civil unrest.

We must engage in a thorough review of the events that took place before, during and after the incident in Charlottesville and identify any existing gaps or issues that need to be addressed, including our permitting process. Following the completion of that review, we must take swift and immediate action to implement any necessary changes that will protect public safety and prevent further loss of life, while protecting constitutional rights.

Establishment of the Task Force on Public Safety Preparedness and Response to Civil Unrest

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby establish the Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest ("Task Force").

Composition of the Task Force

The Task Force will be chaired by the Secretary of Public Safety and Homeland Security (the "Secretary") and will include representatives from the Virginia State Police, the Virginia National Guard, the Virginia Department of Emergency Management, local law enforcement agencies, local governing boards, the Office of the Attorney General, and any other relevant state and local agencies. The Secretary is granted discretion to compose the Task Force with other members and to seek input from whatever sources he deems fit.

Task Force Priorities

The Task Force will conduct a review of the following key areas:

1. **After Action Review:** The Task Force will review findings from an independent, comprehensive After Action Review and make recommendations to address any areas of concern. These recommendations shall include any proposed legislative or executive branch actions necessary, as well as any potential private sector engagement.
2. **Policies, Regulations and Procedures Governing Rally Permits:** The Task Force will review current policies, regulations, and procedures governing rally and demonstration permits. This review shall include criteria for issuance of permits, the review and consideration process, and any limitations that should be applied to protect public safety, consistent with the protections afforded by the First Amendment. The Task Force will develop a model permitting process that the Commonwealth and localities may adopt.
3. **The Commonwealth's Preparedness as it Relates to Incidents of Civil Unrest:** The Task Force will work with local, state and federal partners to assess our preparedness as a Commonwealth. Incidents of civil unrest are extremely complex, and involve numerous agencies with diverse missions and capabilities, as well as jurisdiction and authority. The Task Force is charged with working collaboratively with agencies across all levels of government to review and make recommendations to enhance the following areas: appropriate lines of authority and control, internal and external communication, planning, coordination of preparedness efforts, capabilities, deployment of resources, intelligence gathering and information sharing, and cyber security issues that could impact our ability to prepare and respond.

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

4. The Commonwealth's Ability to Successfully Carry Out a Coordinated Response: In addition to reviewing our preparedness as a Commonwealth, the Task Force will review our ability to successfully carry out a coordinated response to incidents of civil unrest. As noted above, the complexity of these incidents and involvement of numerous agencies can create challenges. The Task Force will work collaboratively with agencies across all levels of government to review and make recommendations to enhance the following areas: appropriate lines of authority and control, internal and external communication, planning, coordination of preparedness efforts, capabilities, deployment of resources, intelligence gathering and information sharing, and cyber security issues that could impact our ability to respond.

Staffing

Staff support for the Task Force will be furnished by the Office of the Secretary of Public Safety and Homeland Security and any other agencies or offices as designated by the Governor or the Secretary. The Task Force will complete its work by November 17, 2017, with a final report to the Governor due by December 1, 2017. All executive branch agencies shall cooperate fully with the Task Force and provide any assistance necessary.

Effective Date of the Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect unless otherwise amended or rescinded by further executive order.

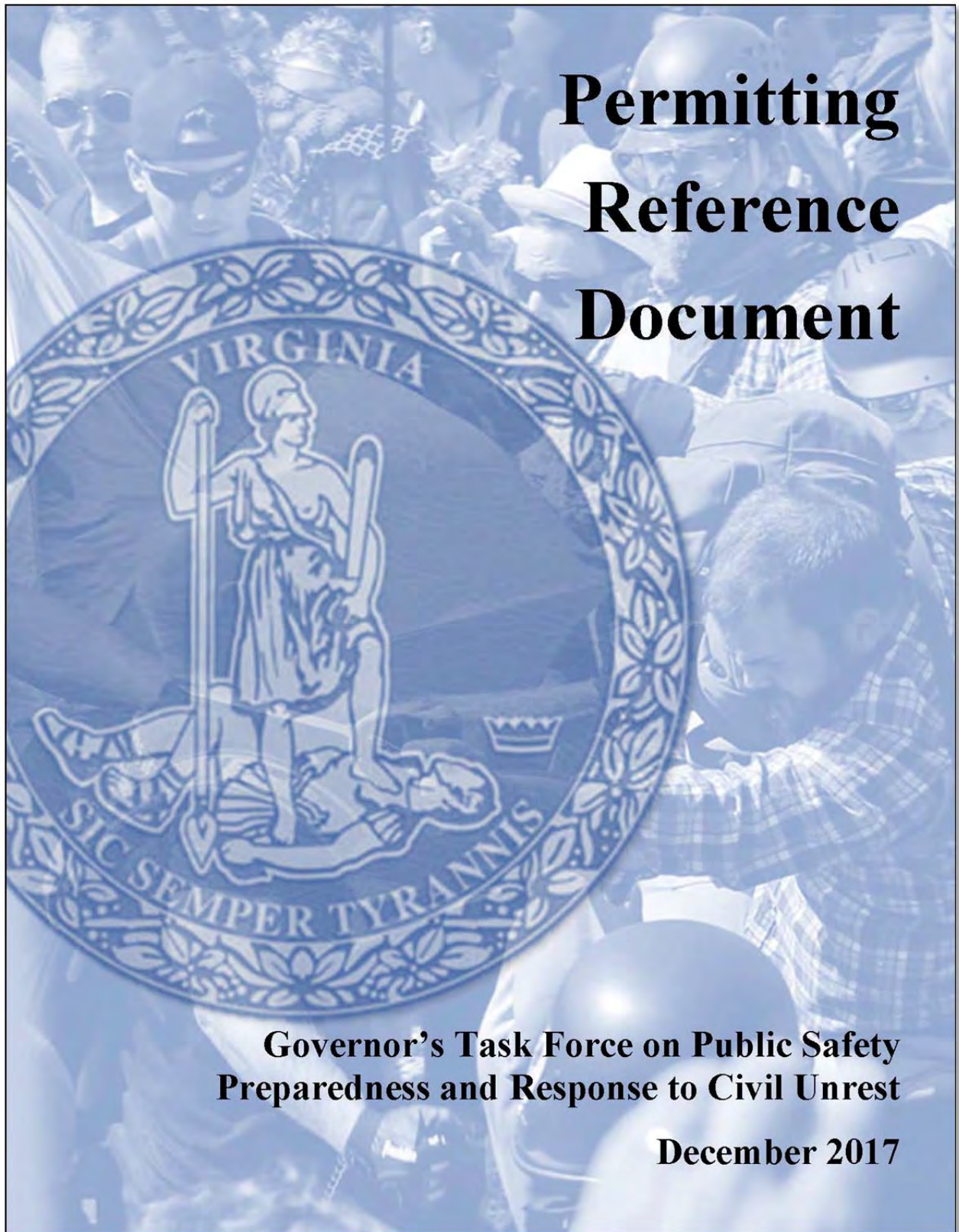
Given under my hand and under the Seal of the Commonwealth of Virginia this 24th Day of August, 2017.

Terence R. McAuliffe, Governor

Attest:

Kelly Thomasson, Secretary of the Commonwealth

Appendix F: Permitting Reference Document



Permitting Reference Document

**Governor's Task Force on Public Safety
Preparedness and Response to Civil Unrest**

December 2017

Permitting Reference Document

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Introduction

Incidents of civil unrest are becoming more prevalent and are endangering communities across the country. The Commonwealth of Virginia experienced this firsthand on August 12, 2017, when a “Unite the Right” rally in the City of Charlottesville evolved into a violent incident of civil unrest. Virginia experienced three tragic deaths on August 12: first when a domestic terrorist drove his car into a crowd, killing 32-year-old Heather Heyer and injuring dozens more, and next when a Virginia State Police helicopter assigned to monitor the rally crashed, killing Lieutenant H. Jay Cullen, III, and Trooper-Pilot Berke M.M. Bates. Governor McAuliffe took immediate action and signed Executive Orders 67 and 68 (2017) to ensure a thorough review of the events leading up to August 12 and the state’s ability to support Charlottesville’s response.

Executive Order 67 temporarily suspended permitting at the state-owned Robert E. Lee Monument, located in the City of Richmond, pending a review of the state’s permitting process by the Governor’s Task Force on Public Safety Preparedness and Response to Civil Unrest, which was established under Executive Order 68. The Task Force was chaired by Brian J. Moran, Secretary of Public Safety and Homeland Security, and was charged with reviewing state and local permitting processes, developing an emergency regulation governing permitting at the Lee Monument and developing recommendations for governments to consider with regard to permitting. In order to fulfill this charge, Secretary Moran convened a Permitting Work Group.

The Work Group met four times and was comprised of state and local officials, including a Commonwealth’s Attorney, local permitting officials, first responders, and representatives from the Virginia Association of Counties (VACo) and the Virginia Municipal League (VML). Task Force staff administered a statewide survey, with the assistance of VACo and VML, in order to collect information about how localities address many of the identified issues in this reference document.

In addition to the statewide survey, staff reviewed and presented information from secondary sources, phone interviews, state and local laws and ordinances, federal case law, and examples of permitting processes nationwide. While permitting processes varied significantly, especially with regard to First Amendment activities, several common themes and best practices emerged.

Throughout the review, the Permitting Work Group and Task Force recognized that adopting a robust permitting process is a critical component of preventing events from becoming violent, as permitting processes provide localities with advance notice and facilitate thorough planning. As such, both groups recommended that all localities have a comprehensive permitting process. The Work Group and Task Force also recommended that all state and local permitting processes consider the factors addressed in this reference document, which outlines issues that affect significant governmental interests and provides a framework for putting necessary precautions into place to minimize the risk of civil disturbance(s). The Virginia Department of General Services, the agency responsible for maintaining the Lee Monument, considered all of the issues detailed in this document when promulgating emergency regulations governing permitting at the Lee Monument.

This document, however, is not exhaustive of all factors that may be considered and is not intended to be a rulebook. Nothing within this document should be construed as legal advice. Rather, this document is a reference for developing permitting processes. Permitting processes should be based on the specific needs and characteristics of each individual locality.

Permitting Reference Document

The Permit Development and Review Process

A permitting process enables localities to create a mechanism to review information about potential events and consult with all relevant internal and external departments, as well as the applicant, to facilitate a successful event.

Public officials must begin with an understanding of a *traditional public forum*. The Supreme Court of the United States has repeatedly emphasized the right of individuals to exercise freedoms of speech and assembly in traditional public forums. A traditional public forum includes public streets, public sidewalks, and public parks. These are places that have, “been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens.”¹

In order to preserve these freedoms, governments are strictly limited in their ability to regulate speech in traditional public forums. However, governments may regulate activities in traditional public forums if the regulations are content-neutral and pertain only to the time, place, or manner of the speech. Time, place or manner regulations may be valid, provided “they are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.”²

Regulations must advance a significant governmental interest, such as maintaining public safety and public order, promoting the free flow of traffic on public streets and sidewalks, allocating public resources, regulating competing uses of public places, regulating amplified sound, and preserving public parks and places.³ State and local governments may enforce these significant interests through a well-designed permitting process.

Permits are a form of time, place and manner regulations. Governments, through the issuance of permits, may regulate when an event may start and end, where an event may be held, and the manner in which an event may occur. The Supreme Court of the United States has ruled that requiring a permit in advance of an event is constitutional because it gives authorities advance notice to train and administer proper policing, to ensure that there are no overlapping events, thus “minimizing the risk of disorder.”⁴

Localities may face legal challenges on any aspect of their permitting process, therefore, it is critical that public officials engage in a thorough, deliberative process and document all decisions. Permitting processes that eliminate opportunities for individual discretion and that provide clear, well-documented procedures in advance are more likely to withstand judicial scrutiny. Additionally, due to the intricacies of First Amendment case law, localities should

¹ *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009).

² *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Cmty. For Creative Non-Violence*, 468 U.S. 288, 293 (1984)).

³ *Jones v. Pawmley*, 465 F.3d 46, 56–57 (2d Cir. 2006).

⁴ *Cox v. New Hampshire*, 312 U.S. 569, 575–76 (1941).

Permitting Reference Document

consult with their counsel before enacting or updating their permitting process and supporting policies.

Threshold for Requiring a Permit

As noted above, there is a constitutional right of assembly in public spaces, such as parks, streets and sidewalks, that can only be limited based on significant governmental interests. The first step in developing a permitting process is adopting a threshold, or number of participants, that should require an event to be permitted based on significant governmental interests. Permitting thresholds equip localities with a clear mechanism for reviewing information about potential events and clarify when a permit is required.

Jurisdictions vary nationwide on what number triggers the need for a permit, and there is no clear formula or judicial interpretation establishing this threshold. While there is no magic number, it is clear from case law that a key factor is whether localities engage in a deliberative process to adopt a number that is clear, reasonable, and justifiable based on a number of factors.

The critical factors for determining the threshold number include, but are not limited to, maintaining public safety and public order, promoting the free flow of traffic on public streets and sidewalks, allocating public resources, regulating competing uses of public places, regulating amplified sound, and preserving public parks and places. It is important to note that courts have upheld the need for small group exceptions for First Amendment events and localities are cautioned against adopting what may be considered an unreasonably low threshold.⁵

Determining Capacity for Permitted Events in Public Spaces

Setting maximum capacity limits for public spaces allows governments to allocate sufficient resources to events in order to ensure public safety and order. For indoor events, the maximum number of occupants is established by the building official or other regulatory entity in accordance with the Virginia Uniform Statewide Building Code.⁶ Capacity limits are enforced by the state or local fire marshal in accordance with the Statewide Fire Prevention Code.⁷ However, determining capacity limits in outdoor spaces is challenging because there is no standard model or formula.

Size of the space is often the primary determining factor in calculating capacity limits. There are several formulas that may help localities identify a preliminary number, which can then be adjusted based on factors articulated below. Dr. G. Keith Still, an expert in crowd safety and risk analysis, concluded that crowds with one person per approximately 11 ft² are stable and allow for free-flowing movement within a space. He further elaborates that risk increases as crowd density increases, particularly if individuals within the crowd are moving at different rates of speed. Using this calculation, a 1,000 ft² space could hold up to 90 people. It should be noted that this number does not take into account any considerations other than the free movement of people,

⁵ *Cox v. City of Charleston*, 416 F. 3d 281, 284-287, 288 (4th Cir. 2005).

⁶ Virginia Uniform Statewide Building Code, available at <http://www.dhcd.virginia.gov/index.php/va-building-codes/building-and-fire-codes/regulations/uniform-statewide-building-code-usbc.html>.

⁷ Virginia Statewide Fire Prevention Code, available at <http://www.dhcd.virginia.gov/index.php/va-building-codes/building-and-fire-codes/regulations/statewide-fire-prevention-code-sfpc.html>.

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and localities are encouraged to consult with public safety, transportation, or other officials on the factors outlined below to adjust the limit to the specific space.

Some jurisdictions use the Herbert Jacobs method to determine maximum capacity within a space, which was developed by a journalist in the 1960s, to estimate crowd density. Jacobs determined that in a dense, static crowd, each person occupies 4.5ft² of space. It is important to note that this method was developed for the purpose of estimating density of an existing crowd and is not intended to determine how many people can safely occupy a space. As such, localities are cautioned against using the Jacobs method to determine maximum capacities for spaces. Once a locality has determined how many people *can* be in a space, they may want to consider how many people *should* be in a space. Additional considerations to inform decision making include, but are not limited to, public safety, traffic flow, and noise levels. Localities may want to consider the characteristics of each space, including whether the site is located in an urban, rural, or residential area, whether there are safe access and exit points to the space, and whether public safety officials are able to easily access the space in case of an emergency. Assessing these factors will allow localities to best determine the maximum number of people that could safely congregate in a space.

Ingress and egress should be significant considerations. In addition to routine ingress and egress, a variety of emergency scenarios should be evaluated. The Department for Culture, Media and Sport in the United Kingdom utilizes a formula to calculate evacuation times based on predictive flow rates, the desired evacuation time frame, and the number of exits. Based on this formula, it is expected that on an un-level surface, 66 people can exit out of a three-foot exit per minute, and on a level surface, 82 people can exit out of a three-foot exit per minute.⁸ The department suggests that based on the level of risk, emergency evacuation times should range from two and a half to eight minutes, and capacity or exit opportunities should be adjusted accordingly.

When determining maximum capacity limits in public spaces, localities should also balance the factors listed above with First Amendment considerations. Jurisdictions that set maximum capacities at a finite number are encouraged to review historical numbers of event sizes at particular locations, document the process, memorialize the factors used in the analysis, and be transparent with the public.

Tiered Permit Applications

Tiered permit applications allow localities to evaluate permits based on predetermined and clearly defined factors. These factors may include the size of event, the type of event (static vs. mobile), the duration of event, etc. For example, a locality may create a permitting system that requires different permit applications based on the number of expected attendees (e.g., Tier 1 = 50 or less attendees; Tier 2 = 51 to 99 attendees; Tier 3 = 100 to 250; etc.). Localities may also establish one standard application, which is then reviewed internally using a tiered structure based on fixed, predetermined criteria.

Tiered systems allow localities to neutrally apply restrictions and deploy resources based on the predetermined criteria. Localities may consider the significant governmental interests detailed

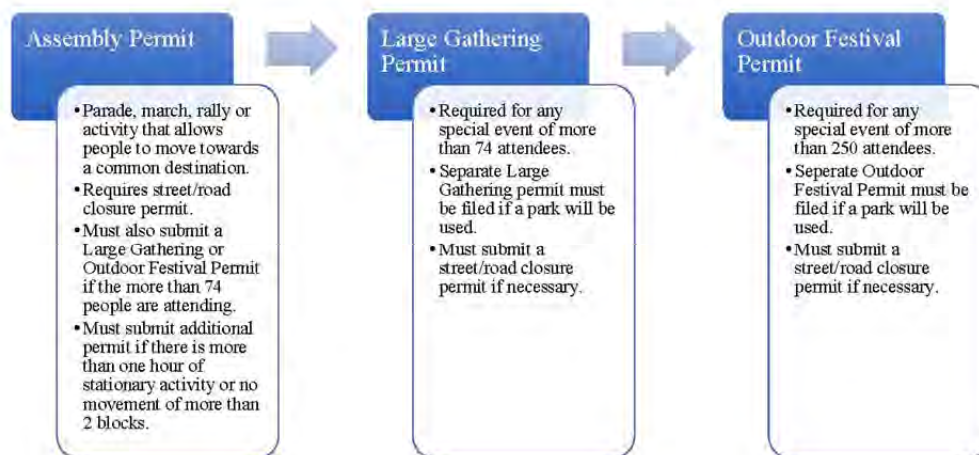
⁸ Guests= Number of 3-ft. exits / (flow rate * evacuation time)

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above when establishing the criteria for each tier. Doing so may simplify the process for the locality and the applicant by creating uniform processes that are applicable to all events within a tier, regardless of the content or purpose of the event. This system, for example, may allow first responders to determine standard crowd safety requirements for different events. It also may also help the permitting agency identify other companion permits that may be required for an event within the tier (e.g. road closure permit).

Some localities in Virginia have adopted tiered permitting processes, including the City of Blacksburg, Henrico County, and Loudoun County. Atlanta, Georgia implemented a detailed tiered permitting process and has three separate permit applications and two tiered park permits (as shown in *Figure 1*). Atlanta requires applicants to submit proof that they have applied for additional permits as necessary, such as tent, stages, generators, off-duty police.

Figure 1. The City of Atlanta’s Tiered Permitting Application System⁹



Weapons Restrictions

Each jurisdiction has the discretion to determine whether to ban weapons during permitted events based on public safety. Localities may choose to ban weaponized items that could endanger citizens, including but not limited to pepper spray, water cannons, Tasers, bricks, hammers, aerosol cans, improvised shields made of metal, plastic or wood, torches, bats, sticks, etc.

Currently, pursuant to the *Code of Virginia*, localities may not adopt restrictions on possession or carrying of firearms. However, permit applicants may choose to ban firearms at their events.

⁹ City of Atlanta Municipal Code, Article II, 10-126, available at https://library.municode.com/GA/Atlanta/codes/Code_of_Ordinances?nodeId=PTIICOORENOR_CH10ALBE_ARTIIDEMA_DIV3SPPE_S10-126TEPESPEV.

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Localities should consider engaging with applicants in advance to discuss public safety implications and potential restrictions on firearms and other weapons at their events.

Off-Duty Public Safety Officers

Certain events have the potential to strain or exceed the capabilities of normal public safety and public service functions. For example, a parade may require additional public safety officials to assist with crowd control, monitor or re-route traffic and perform other tasks. A large gathering during summer months may present the potential for heat-related injuries and illnesses that may require additional emergency medical services resources. Localities should consider requiring permit holders to hire off-duty public safety officials or other security personnel, preferably those licensed by the Commonwealth.

When making this determination, localities should consider a number of factors, including whether the cost to the permit holder is reasonable. This is especially critical for First Amendment events, as high costs and fees may be viewed as a deterrent to the speech or assembly. Localities choosing to require that applicants hire public safety officials as a condition of the permit should consider developing a predetermined matrix with costs, indicating how many personnel are required based on factors like size and location of the event, public safety concerns, whether alcohol is present, etc.

Time Restrictions

Determining when particular spaces should be open to the public is a key component of reviewing or developing general rules and permitting processes for events. During the deliberation process, localities should consider not only the hours that public spaces are available for use, but also whether restrictions should be placed on the duration of permitted events. Both issues are important to protecting public safety as well as ensuring that citizens have ample opportunities to enjoy public spaces, engage in community events, and exercise their First Amendment rights.

The time frame for which public spaces are open to citizens may be set as a general rule and apply to any use of the space. Factors influencing this determination may include, but are not limited to, public safety, whether the space is located in a residential area, whether it is located in an urban or rural environment, hours of daylight, and noise and volume. With regard to limiting the duration of permitted events, localities may want to consider the administrative and public safety factors involved in sustaining long events, including the set-up and break-down times.

Additionally, public spaces that require road closures, are located in or near residential communities, or are in high-demand may influence a locality’s decision to limit the length of an event. If a locality chooses to limit the duration of an event, it is important to engage in a deliberative, well-documented process to identify a clear, justifiable decision.

Timeline for Submitting and Reviewing Permit Applications

Each local permitting process should clearly indicate how far in advance of an event applicants must apply for a permit, as well as the time frame within which the locality must review and make a final determination to approve or deny an application. Setting clear timelines allows localities to not only effectively manage the administrative process and ensure proper planning, but also to help citizens understand the process. Jurisdictions should consider coordinating with

Permitting Reference Document

the various departments involved in managing a permitted event, particularly public safety and transportation agencies, to determine the necessary amount of advance planning and preparation.

Jurisdictions may also want to consider incorporating an exception into their process to allow for spontaneous events. The City of Fredericksburg, for example, requires all applications to be submitted at least 60 days prior to the event but will accept applications for events that are scheduled to occur in less than 60 days so long as the event organizer provides a written statement explaining why the application could not have submitted within the standard 60-day period.

Fees

A locality may determine whether it is necessary or beneficial to charge an application fee in consultation with their counsel. Governments may charge a nominal application fee to defray the administrative costs of processing special event permits, and may charge the permit holder for the cost of providing public services for the event. Governments may charge a rental fee for the use of public spaces.

However, under the First Amendment, the permit holder may not be charged for expenses related to spectators or counter-protesters. Fees, costs, and charges must be reasonable, definite and content-neutral.¹⁰ The permitting process should also contain provisions to waive fees for indigent individuals based on predetermined, content-neutral factors.¹¹ When determining whether or how to charge fees, localities should engage in a transparent, deliberative process to ensure the process is clear, well-documented, and justifiable.

Coordination

Proper coordination among relevant internal and external departments is critical to ensuring a safe and successful event. When reviewing and planning for potential permitted events, it is important to determine which departments, including state and regional partners, should be involved in the permit review process. Localities should also consider how to facilitate coordination among entities to ensure that all relevant perspectives are considered prior to the approval or denial of a permit application. While localities may include any number of departments in the process, the Work Group recommended that as a best practice, first responder agencies should always be involved in the review to ensure public safety during events.

Maintaining public safety and order during events involves many factors and resources. One important component is intelligence gathering and information sharing. Localities should consider developing processes for exchanging information with relevant neighboring localities and state agencies, as well as requesting additional resources in advance of an event, if needed.

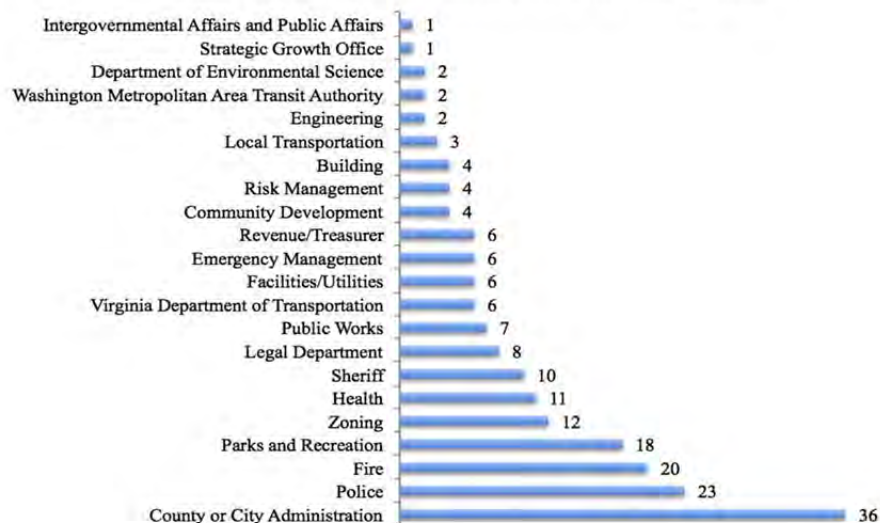
¹⁰ *Forsyth Co. v. Nationalist Movement*, 505 U.S. 123, 133 (1992).

¹¹ *Cent. Fla. Nuclear Freeze Campaign v. Walsh*, 774 F. 2d 1515, 1523 (11th Cir. 1985).

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The number and type of agencies involved in the permit review process will vary by locality and should be based on department function. Additionally, agency involvement may vary based on the type and size of event.

Figure 2. Agencies and Departments Involved in the Permitting Process



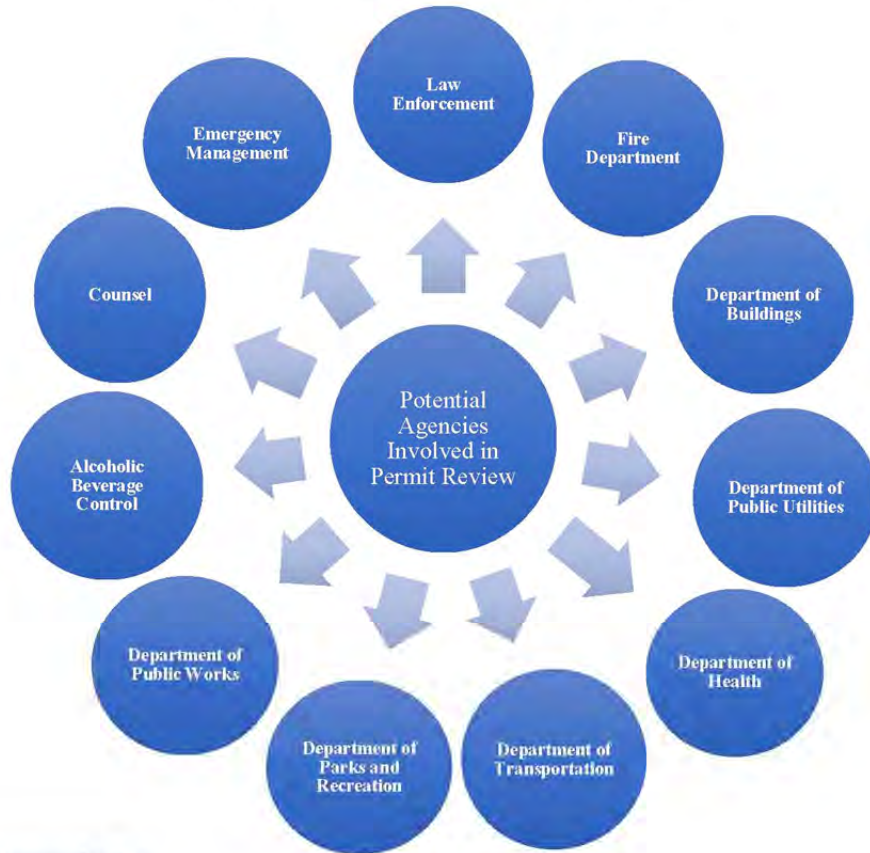
Institutionalizing a fixed system for coordinating with all entities will allow the locality and permit applicants to clearly understand the process, which is particularly important if multiple permits are required for one event. Jurisdictions nationwide use various approaches to address this issue.

Localities may choose to have applicants submit one application and then internally distribute applications to the relevant departments. Alternatively, applicants may be required to separately submit applications to each permit-issuing department. In either scenario, localities may consider developing a checklist for internal use to facilitate coordination among departments and identify a comprehensive list of permit requirements. The checklist may also be provided to the applicant so he or she is aware of all responsibilities.

Additionally, depending on the number of departments involved and the predetermined process, a jurisdiction may want to consider identifying a special events coordinator to manage the process, or creating a task force or committee to oversee the permitting process. This designated person or group would be responsible for coordinating with all necessary departments and for scheduling any necessary meetings with organizer to discuss the event.

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Figure 3. Potential Agencies Involved in the Permitting Process



Communication

Actively communicating with relevant departments and the applicant throughout the review process is critical to maintaining transparency, addressing issues that may arise throughout the review process, and ultimately, ensuring a successful event. In order to maintain transparency, localities may want to develop a guidebook, post information on their website, or otherwise provide applicants with information about the permitting process in advance. Additionally, localities may establish a process for regularly communicating with the applicant before, during and after receipt of the application. In doing so, the parties may identify additional mutually agreed upon conditions or restrictions that will enhance the safety or flow of the event.

Localities should consult with their counsel and prosecutor to highlight and review existing laws that will assist law enforcement in maintaining public safety and order, which should include a discussion about what constitutes an unlawful assembly. If an unlawful assembly occurs, possession of a firearm or other deadly or dangerous weapon is a Class 5 felony.

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Approval and Denial Process

Before receiving permit applications, all localities should consider establishing clear rules and criteria for approving or denying permit applications. Embedding these criteria into the permitting process eliminates discretion and ensures that approval or denial decisions are based solely on predetermined, content-neutral criteria. As with many factors in permitting, these criteria should be transparent, well-documented, justifiable and communicated to the applicant.

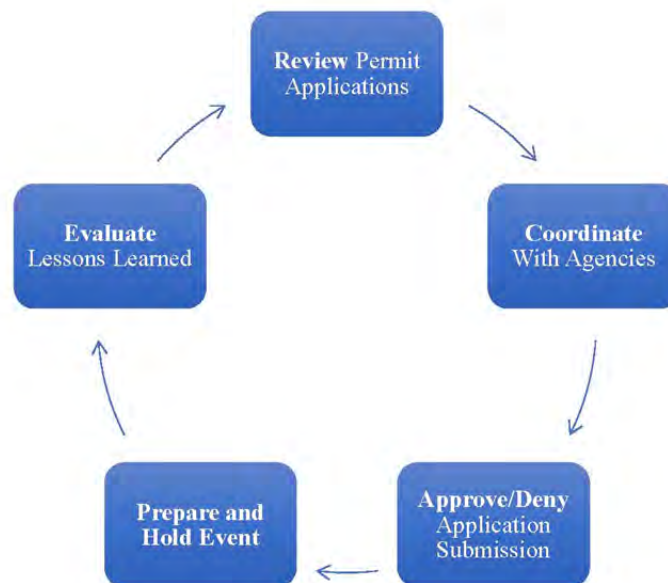
Jurisdictions have the discretion to determine an internal timeline for processing an application. The timeline should allow enough time for the locality to coordinate with all necessary agencies and departments, make arrangements, and coordinate with the applicant on any unresolved issues prior to the final determination. This timeline should also provide the applicant with adequate time to plan the event or make other arrangements if the permit is denied.

Jurisdictions are discouraged from implementing an automatic approval processes for permits. Without adequate attention and preparation, it is impossible for the locality to plan for and host a safe, secure event.

Evaluation and Feedback

At the conclusion of permitted events, localities should consider reviewing the permitting and planning process to identify any areas for improvement or gaps (see Figure 4). Ensuring that applicants and agencies understand the permitting process may eliminate future confusion or issues.

Figure 4. Permitting Improvement Cycle



Permitting Reference Document

Appendix A: Task Force Members

Brian J. Moran, (Chair), Secretary of Public Safety and Homeland Security
Curtis Brown, Deputy Secretary of Public Safety and Homeland Security
Melvin Carter, Chief of Fire and Emergency Services, City of Richmond
Tonya Chapman, Chief of Police, Portsmouth Police Department
Steven Cover, Deputy City Manager, City of Virginia Beach
Suzette Denslow, Deputy Chief of Staff to Governor McAuliffe
Fran Ecker, Director, Department of Criminal Justice Services
Quintin Elliott, Chief Deputy Commissioner, Virginia Department of Transportation
Phyllis Errico, General Counsel, Virginia Association of Counties
Colonel Steven Flaherty, Superintendent, Virginia State Police
Colonel David R. Hines, Sheriff, County of Hanover
Carlos Hopkins, Secretary of Veterans and Defense Affairs
La Bravia Jenkins, Commonwealth's Attorney, City of Fredericksburg
William Leighty, Former Chief of Staff, Governor Warner and Governor Kaine
Dr. Marissa Levine, Virginia State Health Commissioner, Virginia Department of Health
Delegate L. Scott Lingamfelter, Virginia House of Delegates, 31st District
David McCoy, Associate Vice President of Public Safety and Chief of Police, University of Richmond
Victoria Pearson, Deputy Attorney General, Office of the Attorney General
Colonel Anthony S. Pike, Chief of Police, Division of Capitol Police
James Redick, Director, Division of Emergency Management, City of Norfolk
Senator Bryce Reeves, Senate of Virginia, 17th District
Noah Simon, City Manager, City of Lexington
Dr. Jeffrey Stern, State Coordinator, Virginia Department of Emergency Management
Noah Sullivan, Counsel to the Governor
Major General Timothy Williams, Adjutant General of Virginia, Department of Military Affairs

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Appendix B: Permitting Work Group Members

Brian J. Moran, (Chair), Secretary of Public Safety and Homeland Security
Christopher Beschler, Director, Department of General Services
Steven Cobb, Deputy Attorney General, Office of the Attorney General
Suzette Denslow, Deputy Chief of Staff, Office of the Governor
Kathleen Dooley, City Attorney, City of Fredericksburg, Virginia Municipal League
Alfred Durham, Chief of Police, City of Richmond
Phyllis Errico, General Counsel, Virginia Association of Counties
Michael N. Herring, Commonwealth Attorney, City of Richmond
Brian McGraw, State Fire Marshal, Virginia Department of Fire Programs
Victoria Pearson, Deputy Attorney General, Office of the Attorney General
Colonel Anthony S. Pike, Chief of Police, Division of Capitol Police, Commonwealth of Virginia
Senator Bryce Reeves, Senate of Virginia, 17th District
Allen Rothert, Special Events Coordinator, City of Richmond
Lieutenant Colonel Tracy Russillo, Deputy Superintendent, Virginia State Police
Noah Sullivan, Counsel to the Governor
Major John Venuti, Chief of Police, Virginia Commonwealth University

E-1

Appendix G: Emergency Regulation for the Robert E. Lee Monument

Virginia Administrative Code

1 VAC 30-150-10. Purpose, Applicability, and Definitions.

The Robert E. Lee Monument, located at 1700 Monument Avenue, is the largest Monument on the City of Richmond's Monument Avenue. The 60-foot high statue, composed of a granite base and 14-foot tall bronze equestrian statue of Robert E. Lee, stands in the middle of Lee Circle, a traffic circle at the intersection of Monument Avenue and Allen Avenue. The purpose of these regulations is to establish and codify regulations governing the use of this state-owned property.

For the purposes of this regulation, the following terms are defined as follows: "Lee Monument" is defined as the statue of Robert E. Lee and the surrounding 25,000 ft² of state-owned property located at 1700 Monument Avenue in the City of Richmond. The Lee Monument does not include the abutting sidewalk or streets, which are the property of the City of Richmond.

The following regulation applies to the Lee Monument.

1 VAC 30-150-20. General Rules

The following rules apply to any person, including but not limited to permit applicants and permit holders at the Lee Monument:

- A. The Lee Monument shall be closed to the public from sunset each night until sunrise the following morning.
- B. Any event that is expected to draw ten (10) or more participants requires a Special Event Permit.
- C. The maximum occupancy of the Lee Monument is 500 persons.
- D. There shall be no motor vehicles on the Lee Monument at any time.
- E. No banners, flags, posters or other objects shall be placed on or affixed to the statue itself.
- F. No persons shall climb on the statue itself. This provision also applies to the steps of the statue.
- G. Unlawful activity is prohibited.

1 VAC 30-150-30. Rules Regarding Permitted Events

A. All permitted events must be coordinated with the City of Richmond to ensure that such event will not interfere with major vehicular traffic within the traffic circle. The areas surrounding the Lee Monument are Residential Zones. In conjunction with Code of Virginia § 18.2-419 and the City of Richmond's noise ordinance level restrictions, events

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at the grounds may only occur during the following hours, unless the times referenced below conflict with section I.B of this regulation:

1. Monday through Friday:
 - a) 9:00 a.m. to 4:00 p.m.
 - b) 7:00 p.m. to 9:00 p.m.
2. Saturday:
 - a) 9:00 a.m. to 9:00 p.m.
3. Sunday:
 - a) 2:00 p.m. to 9:00 p.m.

B. Permitted events may last a maximum of two (2) hours, with an additional 30 minutes to set-up and 30 minutes to break down the event. If the City of Richmond will require road closure, permitted events will be authorized to last one (1) hour, with an additional 30 minutes to set-up and 30 minutes to break down the event. Permitted events shall not exceed these time parameters.

C. The following items and activities are prohibited on the Lee Monument and any violation will result in an immediate revocation of the permit and removal from the Lee Monument:

1. Weapons: any pistol, rifle, shotgun or other firearm of any kind, whether loaded or unloaded, air rifle, air pistol, paintball gun, paintball rifle, explosive, blasting cap(s), knife, hatchet, ax, slingshot, blackjack, metal knuckles, mace, iron buckle, ax handle, chains, crowbar, hammer, or any club, bludgeon or any other instrumentality used, or intended to be used, as a dangerous weapon.
2. Bricks, stones, rocks, pieces of asphalt or concrete.
3. Glass bottles, glass jars or glass containers of any kind.
4. Tents, tables, scaffolding or staging.
5. Penetration of the ground by any object.
6. Stick-holding placards.
7. Solicitations, sales, collections or fundraising activities.
8. Food, alcohol or beverages of any type.
9. Auxiliary and portable lights.
10. Open air burning. Hand-held candles with drip guards are acceptable.
11. The use of unmanned aircraft systems (drones).
12. Hazardous, flammable, or combustible liquids or materials.
13. Animals, except service animals that are individually trained to do work or perform tasks for people with disabilities.
14. Fossil-fuel powered generators.
15. Any mask, hood or other device whereby a substantial portion of the face is hidden or covered unless otherwise permitted by law.

D. Nothing in this regulation shall prohibit a disabled person from carrying, possessing or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that the person may participate in a permitted event.

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E. Nothing in this regulation shall prohibit certified law enforcement officers or other public safety officials acting in their official capacity from carrying or possessing materials, weapons and/or devices used in the performance of law enforcement duties.

F. Certain portions of subsections A, B, and C of this section may not apply to established events that have been approved for more than three consecutive years within the Commonwealth or the City of Richmond permitting processes prior to the enactment of this regulation.

1 VAC 30-150-40. Special Event Permit Process

A. Requests for a special event permit must be submitted in writing, on the forms required by the Department of General Services, and must be submitted to the Director of the Division of Engineering and Buildings at least 45 days prior to the requested event date.

B. All applications shall contain at a minimum, the following information:

1. Type and purpose of event, meeting or function.
2. Name, address, telephone numbers, and email address of the Applicant.
3. Name of the organization, date of origin, status (corporation, unincorporated association, partnership, nonprofit corporation etc.), address and telephone numbers. If applicable, the federal tax ID number, registered agent's address, telephone numbers and email address.
4. Organization's primary point of contact, to include name, title, permanent address, telephone numbers and email addresses.
5. Organization's primary and alternative point of contact who will be on-site at the Lee Monument for the event, to include name, address, telephone numbers and email addresses. The organization's on-site primary point of contact shall be responsible for the conduct of participants at the event.
6. If the event is designed to be held by, or on behalf of or for, any person other than the Applicant, the Applicant shall file with the Director written documentation from the person or organization seeking to host the event, authorizing the Applicant to apply for the permit on his behalf.
7. The estimated number of participants for the event. The maximum occupancy for the Lee Monument is 500 persons.
8. Requested date and start and end times.
9. Whether the event is being advertised, to include advertising on social media platforms.
10. Proof that all needed permits have been submitted to the City of Richmond, to include a road closure permit if necessary. The Applicant understands that if the City of Richmond will require road closure, authorized events will be permitted to last one (1) hour, with an additional 30 minutes to set-up and 30 minutes to break down the event. All events will begin at the agreed upon time and must fall within the allowable time periods addressed above.
11. List of requested items or equipment to be used during the event.

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C. Notwithstanding the 45-day requirement for a special event permit, the Applicant may apply for a permit for an event that is proposed to be conducted in less than six (6) days, provided:

1. The Applicant submits a completed special event permit application in accordance with this regulation.
2. A showing by the Applicant, in writing, clearly describing why the circumstances giving rise to the proposed event did not reasonably allow the Applicant to apply for a permit within the time 45-day period.
3. The event has not been planned for more than six (6) days in advance of the proposed event.
4. Proof that all needed permits have been submitted to the City of Richmond, to include a road closure permit if necessary. The Applicant understands that if the City of Richmond will require road closure based on the size of the event, authorized events will be permitted to last one (1) hour, with an additional 30 minutes to set-up and 30 minutes to break down the event. All events will begin at the agreed upon time and must fall within the allowable time periods addressed above.

D. Permit applications may be submitted up to one year in advance of the proposed event. The Director of the Division of Engineering and Buildings shall not grant final approval until proof that a permit has been approved by the City of Richmond, to include a road closure permit if necessary.

E. The Director of the Division of Engineering and Buildings shall take action on all permit applications within (10) ten business days of receiving a special event permit application, and within three (3) business days of receiving a special event permit that is proposed to be conducted within six (6) days of the application as outlined in section III.C of this regulation. All actions by the Director are pending proof of a final determination from the City of Richmond on whether any permits, to include a road closure permit, are required by the City. If any permits are required by the City, the Applicant shall be required to furnish proof to the Director that the proper permits have been obtained.

F. The Director of Engineering and Buildings shall deny a request for a permit if:

1. Another application has been previously submitted with a request for the same date and time;
2. Upon advisement from law enforcement, the Director determines that approving the permit and allowing the event to occur would pose a significant threat to public safety;
3. Any of the conditions are not agreed to by the Applicant;
4. The Director concludes that the event could not possibly conform to the conditions prescribed in this regulation;
5. Any of the information contained in the application is found to be false or inaccurate; or
6. The City of Richmond denies a needed permit.

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G. If a Permit request is denied, the Director shall send, in writing, an explanation of why the event permit was denied and if applicable, provide the Applicant with alternative times or dates.

H. If a Permit is denied due to a pre-existing application for the same time and date, the Director shall notify the Applicant if the originally requested date and time become available.

I. Authorization for the use of the Lee Monument will be set forth in a letter addressed to the Applicant.

J. The Director or his/her designee may contact the Applicant and the event organizer at any time to discuss or clarify the contents of the application or any additional conditions or restrictions to be applied.

1-VAC-30-150-50. Permit Holder Responsibilities

A. The event organizer is responsible for providing a safe and secure event and may be required to provide general security, crowd control, and assistance to participants based on size of the event. If general security is required, it shall be provided by law enforcement personnel licensed by the Commonwealth of Virginia.

B. By submitting an application for a special event permit under this section, the Applicant understands the following statements and conditions and agrees to comply with all rules, conditions and restrictions:

1. The Applicant agrees to all prohibitions and restrictions identified in this regulation.
2. The Applicant and organization agree to indemnify the Commonwealth of Virginia against any loss or damage to the Lee Monument, which may occur in connection with the Applicant or event organizer's use of the property.
3. The Applicant agrees to leave the premises clean and orderly. The Applicant will provide a waste management plan and a point-of-contact for the plan.
4. The Applicant and participants agree to obey all state and local laws and ordinances.
5. The Applicant agrees to notify law enforcement, to include the Division of Capitol Police, if any unlawful activities occur during the permitted event. In addition to 9-1-1, the Applicant should call the Capitol Police emergency number at (804) 786-4357. For non-emergencies, Applicants should call (804) 786-2568.
6. Unlawful activities will be handled by law enforcement, to include the Division of Capitol Police.

The Applicant shall be required to notify the Director of the Division of Engineering and Buildings of any changes to the information contained in the permit application as soon as practicable.

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C. Violations of this chapter shall result in immediate revocation of the permit by the Director of the Division of Engineering and Buildings or his designee, and in the event such revocation occurs, all participants shall be required to immediately vacate the Lee Monument. Failure of any person to immediately vacate the Lee Monument after proper notice shall be considered trespassing in violation of VA Code § 18.2-119.

Appendix H: Task Force Agendas



Task Force on Public Safety Preparedness and Response to Civil Unrest

Tuesday, September 12, 2017
2:00 p.m. – 4:00 p.m.

Patrick Henry Building – West Reading Room
Richmond, Virginia

- I. Welcome and Opening Remarks**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security
- II. Overview of Executive Order 67**
The Honorable Noah Sullivan
Counsel to Governor McAuliffe
- III. First Amendment Considerations**
Rodney A. Smolla
Dean and Professor of Law, Widener University
- IV. Break**
- V. Overview of Virginia Beach Permitting Process**
Jim Cervera
Chief of Police, Virginia Beach
- VI. Closing Remarks & Next Steps**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security
- VII. Next Meeting**
Tuesday, October 3rd, 1-4pm

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest



Task Force on Public Safety Preparedness and Response to Civil Unrest

Tuesday, October 2, 2017

1:00 p.m. – 4:00 p.m.

Patrick Henry Building – West Reading Room
Richmond, Virginia

- | | |
|---------------------|--|
| 1:00-1:10 pm | Welcome and Opening Remarks
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security |
| 1:10-2:00pm | Overview of Lee Monument Regulation
Delilah Barton
Center for Naval Analysis |
| 2:00-2:10pm | Overview of State Regulatory Process
Chris Beschler
Director of the Department of General Services |
| 2:10-2:40pm | Introduction to Local Permitting
Delilah Barton
Center for Naval Analysis |
| 2:40-2:50pm | Break |
| 2:45-3:10pm | Introduction to Preparedness & Response
Delilah Barton
Center for Naval Analysis |
| 3:10-3:50pm | Unified Command: Law Enforcement Perspective
Chief Rodney Monroe |
| 3:50-4:00pm | Closing Remarks & Next Steps
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security |
| | Next Meeting
October 26th, 1-4pm |



Task Force on Public Safety Preparedness and Response to Civil Unrest

**Thursday, October 26, 2017
1:00 p.m. – 4:00 p.m.**

**Patrick Henry Building – West Reading Room
Richmond, Virginia**

- I. Welcome and Opening Remarks**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security

- II. Report from Permitting Work Group**
Delilah Barton
Center for Naval Analysis

- III. Report from Preparedness and Response Work Group**
Delilah Barton
Center for Naval Analysis

- IV. Break**

- V. Update on After Action Review**
Jim Baker
International Association of Chiefs of Police

- VI. Closing Remarks & Next Steps**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security

Next Meeting
November 15, 1-4pm



Task Force on Public Safety Preparedness and Response to Civil Unrest

Wednesday, November 15, 2017

1:00 p.m. – 4:00 p.m.

**Virginia Department of Transportation – Auditorium
Richmond, Virginia**

- I. Welcome and Opening Remarks**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security
- II. After Action Review Briefing**
Jim Baker
International Association of Chiefs of Police
- III. Break**
- IV. Recommendations from Permitting Work Group**
Kyle Olson
The Olson Group
- V. Recommendations from Preparedness and Response Work Group**
Kyle Olson
The Olson Group
- VI. Closing Remarks & Next Steps**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security

Appendix I: After-Action Review

Virginia's Response to the Unite the Right Rally

After-Action Review



Prepared by

International Association of Chiefs of Police

December 2017

Executive Summary

Saturday, August 12, 2017, was a challenging day for the City of Charlottesville, the Commonwealth of Virginia, and for the nation. The Unite the Right rally, held in downtown Charlottesville, was reportedly the largest gathering of white nationalists in more than a decade, with more than 500 protesters.¹ More than 1,000 counter protesters, including many representing far-left anti-fascist groups, also were present, along with dozens of militia members. Opposing groups arrived early, armed and ready for conflict, many traveling from across the country to participate. Violent clashes ensued between protesters and counter protesters and were well documented in the media. Tragically, three people died and dozens were injured.

In many ways, the rallies held in Charlottesville and elsewhere around the country over the past year suggest a new age of American protest requiring a new approach to managing crowds. Two key elements make the Unite the Right rally and similar events distinct from past First Amendment demonstrations:

- **The Potential for Violence:** Participants in recent rallies and demonstrations arrived armed, ready for, and sometimes intent on conflict. In many cases, these facts were well publicized in advance on social media. Crafting an effective police response that protects and respects constitutional rights while also enforcing command and control over the event can be a challenge for government and law enforcement leaders.
- **Transient Participants:** Protesters and counter protesters travel from across the country to participate in these events. Some are compensated to incite discontent in the crowd. Local organizers often hold little knowledge of or control over who shows up or their behavior. Traditional crowd-management techniques that rely on communicating and negotiating with local event organizers to establish rules and guidelines can have a negligible effect.

This shifting landscape requires law enforcement leaders and policymakers to challenge prior assumptions and conventional practices by looking for new ways to effectively manage future events.

The Commonwealth of Virginia worked closely with city officials to plan and manage its response to the Unite the Right rally, including providing hundreds of Virginia State Police troopers and National Guard members. Despite ample resources and thorough preparation in anticipation of a potentially violent event, key areas of the state’s response could be improved to ensure more coordinated and synchronous management of similar events in the future. This after-action review seeks to make an independent, objective assessment of the state’s response, identifying successes and lessons learned

¹ <https://www.usnews.com/news/us/articles/2017-08-14/hate-watch-groups-agree-rally-was-largest-in-decade-or-more>

Virginia's Response to the Unite the Right Rally

with the goal of improving future performance. This review also considers new and evolving issues to contribute to the future planning and response efforts of law enforcement broadly.

Observations and recommendations are grouped into three categories, each with several subcategories:

- Adherence to National Incident Management System (NIMS) and Incident Command System (ICS) Standards
 - Disparate Operational Plans
 - Lack of Unified Command
 - Multiple Command Posts
 - Public Information Management
 - Lack of Joint Training
- Maximizing Use of Related State Assets and Resources
 - Virginia Department of Emergency Management's Role
 - Criminal Histories of Attendees with a Record of Violence
- Inter-Governmental and Community Coordination
 - Executive Leadership's Role
 - Community Engagement
 - Defining the State's Role

The observations and recommendations included in this report should not diminish the hard work of the Commonwealth or overshadow achievements. The Commonwealth of Virginia provided significant time, resources, and expertise without hesitation to the City of Charlottesville to support the Unite the Right rally. During interviews, city officials spoke very highly of the support they received from the Commonwealth, in particular the support from the Virginia State Police. Cooperation among all parties throughout the planning stage was excellent. Everyone was intent on doing their best to prepare for a safe event. The cooperative effort resulted in a low arrest rate and little to no property damage. Despite the efforts noted, there was violence and the tragic death of Heather Heyer. That tragedy should cause all involved to pause, challenge conventional assumptions, and seriously evaluate areas for future improvement.

Introduction

The purpose of this report is to critically, objectively, and thoroughly evaluate the Commonwealth of Virginia's public safety preparation and response to the civil unrest in Charlottesville on August 11 and 12, 2017, with a focus on state assets.

This report is submitted to the Commonwealth under Virginia Governor's Executive Order No. 68 (2017), which created the Task Force on Public Safety Preparedness and Response to Civil Unrest. The task force is charged with evaluating the circumstances that led to the violent white supremacist events in Charlottesville on August 11 and 12 and assessing the Commonwealth's procedures for preparing and responding to events where civil unrest could occur.²

An after-action review (AAR) is a document intended to capture observations of an exercise and make recommendations for post-exercise improvements.³ An AAR is a process of organizational learning to capture the lessons learned from successes and failures with the goal of improving future performance.⁴

To accurately conduct the review, the IACP team acquired an understanding of the gathered intelligence and the operational planning that went into the response. The goal is to identify needed improvements in preparation, response, cooperation, funding, communication, equipment, and laws.

Scope

This review focuses on the Commonwealth of Virginia's support to the City of Charlottesville's preparation and response to the Unite the Right rally on August 12, 2017. This report is focused solely on the civil unrest of that day, not the coinciding aircraft incident or death investigation. This AAR is not directed at any singular agency, entity, or organization. The recommendations are directed at all agencies involved in the event.

Methodology

The IACP assembled a veteran team of police leaders with decades of diverse law enforcement experience, including expertise managing large crowds, demonstrations, and civil unrest. The IACP team interviewed more than 30 individuals who were involved in various stages of the state's response to the events of August 12, 2017, including planning, preparation, and execution. The team traveled to Richmond and Charlottesville three times and conducted a detailed walkthrough of the site. The team reviewed official and publicly available video, policies, legislation, standard operating procedures, operational plans, incident action plans, and publicly available news reports leading up to and following the event. The team also interviewed officials in Florida, Tennessee, and other locales about their responses to similar rallies that took place before and after the Unite the Right event.

² <https://governor.virginia.gov/media/9444/eo-68-establishing-the-task-force-on-public-safety-preparedness-and-response-to-civil-unrest.pdf>

³ <https://training.fema.gov/programs/emischool/el361/toolkit/glossary.htm>

⁴ http://www.au.af.mil/au/awc/awcgate/army/tc_25-20/tc25-20.pdf

Virginia’s Response to the Unite the Right Rally

Precipitating Events

In recent years, officials in Charlottesville, like those in other cities across the nation, have been reevaluating public displays of the Confederacy. In May 2016, the city passed a resolution forming the Blue Ribbon Commission on Race, Memorials, and Public Spaces. In February 2017, the Charlottesville City Council voted to remove a statue of Confederate Gen. Robert E. Lee from Lee Park in downtown Charlottesville. In June 2017, the City Council voted to rename Lee Park to Emancipation Park.

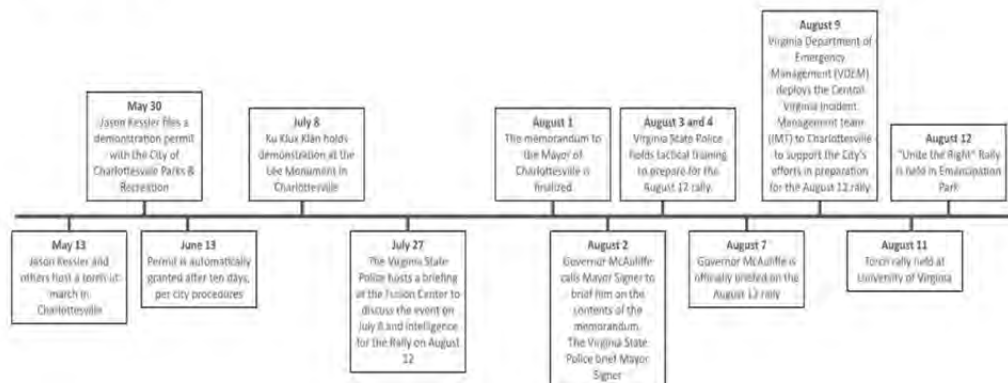


Figure 1: Statue of General Lee in Charlottesville’s Emancipation Park

In May 2017, Richard Spencer, a leader in the white nationalist movement and a University of Virginia graduate, led several dozen torch-wielding protesters in a demonstration in downtown Charlottesville against removal of the statue⁵. The protest lasted approximately 10 minutes until local police dispersed the crowd.

On July 8, 2017, the Ku Klux Klan held a rally in downtown Charlottesville protesting the city’s decision to remove Lee’s statue. The event included approximately 30 Klansmen and 1,000 counter protesters. Police response to this event, which included officers from multiple jurisdictions, resulted in more than 20 arrests and was criticized by the American Civil Liberties Union (ACLU) as being overly aggressive and militaristic.

On the evening of August 11, 2017—the eve of the Unite the Right rally—members of the alt-right led an unannounced torch march from the University of Virginia’s Nameless Field to the Rotunda. Once fights broke out, police declared an unlawful assembly and dispersed the crowd, resulting in at least one arrest and several minor injuries. Also on the evening of August 11, a Federal judge granted an injunction blocking the City’s effort to relocate the event to a larger venue outside of downtown, McIntire Park.



⁵ While Spencer led the march, Jason Kessler arranged for and held the permit for the event.

Laws and the Permitting Process

The permitting process in Charlottesville was not fully engaged for the Unite the Right rally. Although the scope of our work is focused on state assets, the permitting process was a precursor to the events that unfolded on August 12, 2017. Several interviews reported that Charlottesville officials received advice from high-ranking state officials on steps that should be taken to enhance public safety. Those recommendations were not followed in the permit, which placed no restrictions or direction on the participants. State officials had little to no ability to influence the permit process except to give advice based on prior experience and industry standards. Some of those recommendations included prohibiting firearms, sticks, or clubs; reducing the number of hours the event was permitted for; bussing protesters in; and strong messaging stating no tolerance for violence and/or property damage. The activity at Emancipation Park could have been contained had these recommendations been heeded.

This lack of early control set off a chain of events that challenged the ability to respond in accordance with industry standards. There should be an emphasis placed on the proper permitting for events such as this. In other areas of the country, effective permitting has helped create the tone for an enhanced public safety atmosphere and led to fewer acts of violence (e.g., Boston rally on August 19, 2017).

A review of the City of Charlottesville Special Events Regulations refers to special conditions that can be placed on a permit. In Section 3.5.19 (a) the ability to place reasonable conditions and limitation tied to public safety is highlighted.⁶

A separate part of the Governor’s Task Force is further evaluating the relevant laws and permitting process. However, through the course of this review, including discussions with officials in Florida and Tennessee, evidence suggests that in addition to good intelligence and an effective IAP guiding the process, a strict permitting process can set the tone for an event, thereby enhancing safety for protesters and community.

Event Overview



⁶ City of Charlottesville, Standard Operating Procedure, Policy Number 100-04, Special Events Regulations, revised 11/20/09

Virginia’s Response to the Unite the Right Rally

On August 12, 2017, the permitted Unite the Right rally was held in Emancipation Park in the City of Charlottesville, Virginia. The event was organized by local individuals who align themselves with the far-right white nationalist movement commonly referred to as the alt-right.⁷ Although the rally was scheduled to begin at noon, participants began arriving in downtown Charlottesville early that morning, before many of the law enforcement personnel. Most police had been given a 7:00 AM report time; when officers arrived, they found that alt-right group members were already in the park.

Counter protesters also gathered on the morning of the rally to include left-wing, anti-fascist groups. Many of the participants on both sides arrived with sticks, shields, pistols, and long-barrel rifles. Likewise, many of the protesters and counter protesters wore varying forms of protective gear.

A third group of individuals—militia members who were dressed in camouflage and carried semiautomatic rifles and pistols—also arrived early on the scene, at approximately 8:30 a.m., adding another level of complexity to an already complex and tense situation. The presence of militia created unease among law enforcement personnel and possibly confusion among event participants, particularly given their openly displayed weaponry and paramilitary style of dress.⁸

Emancipation Park was sectioned off with bike racks connected by zip ties to create four zones (see Figure 3). Zone One, the southwest section of the park, was designated for counter protesters. Zone Two, the southeast section of the park, was designated for Unite the Right attendees. Zone Four, on the north section of the park, was reserved for public safety personnel. On the day of the event, perhaps due to ineffective entry-control, the protest group occupied both Zones One and Two, and the counter protesters gathered on Market Street (Zone 3). It should be noted that Emancipation Park is a very small venue for a very large crowd. Although the city attempted to move the event to McIntire Park, its organizer protested the move and



Figure 2: Militia arriving at Unite the Right Rally



Figure 3: Aerial View of Emancipation Park

⁷ The Southern Poverty Law Center defines the alt-right as “a set of far-right ideologies, groups, and individuals whose core belief is that ‘white identity’ is under attack by multicultural forces using ‘political correctness’ and ‘social justice’ to undermine white people and ‘their’ civilization.”

⁸ As one senior VSP trooper remarked during interviews with the review team, “It was scary.”

Virginia’s Response to the Unite the Right Rally

sought intervention from the courts, at which point a federal judge blocked the move.

Early clashes among groups became loud and aggressive, eventually leading to a declaration of an unlawful assembly shortly before the event’s official start time at noon. The Virginia State Police Tactical Field Force (VSP TFF) cleared the park from north to south. This effort led to more conflict between the opposing groups. Members of the alt-right occupying the southeastern corner of the park attempted to exit down the steps to the street but had to mix with the counter protesters who were assembled there, creating a bottleneck. The clashes became more violent with rocks, newspaper boxes, balloons filled with unknown substances, bottles of water, and myriad other projectiles that were thrown back and forth at the stair chokepoint. The results were well documented by national news outlets staged near the point of conflict.

After gaining no headway in exiting the park through the southeast exit, demonstrators reentered the park and pushed down the bike rack originally designed to serve as barrier between Zone One, established for counter protesters, and Zone Two, established for the protest group. Although some moved toward the southwest stairs, others confronted VSP TFF members. Chemical agent was deployed and cleared the park.

Members of the National Guard then secured the park as VSP TFF moved to the street. VSP TFF teams formed up and headed in both directions, east and west, on Market Street. At this point, both groups scattered throughout the city with small skirmishes breaking out in multiple locations. This also forced groups of law enforcement personnel to monitor and shadow these groups.

The event resulted in documented violence between protesters and counter protesters. After the declaration of an unlawful demonstration and the subsequent clearing of the park and surrounding areas—at a location several blocks away, yet still within the traffic control plan—a car drove into a crowd of people, killing one person and injuring dozens more. The events of the day became more tragic when a VSP helicopter assigned to the event suffered a mechanical failure and crashed, killing two troopers.



Figure 4: Scene at Market Street and 2nd Street NE, looking north

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

Virginia's Response to the Unite the Right Rally



A New Era of Protest

Alt-right rallies and clashes between white nationalists and counter protesters have occurred in various spots throughout the country before and since the events in Charlottesville, including but not limited to Berkeley, California; Seattle, Washington; Portland, Oregon; Gainesville, Florida; and Middle Tennessee. Many of these instances turned violent or had indicators suggesting the potential for violence.

Participation of many out-of-town protesters and counter protesters is another signature of these events. Of special note, out-of-town protesters generally have no connection to the locality to which they are coming, and do not have a connection to the local protesters/groups who are making a request to demonstrate. This lack of a local connection provides a measure of anonymity that can embolden those who are intent on causing disruption.

Collectively, these events signal a new era of protest in America where participants are increasingly well armed and largely unknown to local police or local event organizers. Government officials and police leaders are increasingly challenged to maintain peaceful protest environments that respect constitutional rights—in this case, the First and Second Amendments—while also maintaining order and community safety. Dating back to 2014, widespread criticism of law enforcement’s use of military equipment to safeguard personnel and the public during instances of civil unrest further complicates current response protocols.

While most protesters and counter protesters gather peacefully with no inclination of violence, the recurring appearance of individuals convening with a stated intent to cause physical harm to others represents a new threat and a departure from traditionally non-violent First Amendment protests. The introduction of firearms, personal protective equipment, and various other weapons/projectiles—even when discouraged by event organizers—adds a great deal of complexity to these already tense situations. Police are often the least armed group on the scene, creating a new dynamic in law enforcement response that puts them at a distinct disadvantage.

Further confounding the police response is the transitory nature of modern protest and counter protest participation. An analysis of more than 200 Unite the Right rally-goers found more than 35 states represented among them.⁹ Large numbers of non-local participants can foil conventional methods for policing permitted demonstrations, such as communicating early and often with event organizers to lay out ground rules and set expectations. Such efforts have limited effect in what is becoming a new era where local organizers have little knowledge of or control over event participants. Additionally, reports suggest some rally and protest participants are compensated not only to attend, but also to deliberately agitate the crowd.¹⁰ Traditional law enforcement efforts that rely on coordinating with identified group leaders must be augmented with alternate plans to address leaderless groups from disparate locales.

This backdrop contributed to the way the events in Charlottesville unfolded.

Social Media’s Influence

The role of social media within this new era of protest cannot be overstated, or underestimated. Rally organizers and law enforcement use it in preparation for and during major events.

⁹ <https://www.adl.org/blog/have-hate-will-travel-the-demographics-of-unite-the-right>

¹⁰ Interview with Gene Spaulding, Colonel, Florida Highway Patrol, November 2, 2017

Virginia’s Response to the Unite the Right Rally

Protesters and counter protesters use the internet and social media to spread their message, attract followers, and generate broad awareness of planned rallies and protests. The wide reach of online platforms helps galvanize like-minded rally-goers from across the country. The internet also provides protesters and opposition groups with a medium for virtual training, including instruction on violent tactics and first aid. The decentralized, leaderless structure of some groups further makes social media an ideal avenue for message distribution. As a result, local events with local organizers easily become populated with travelling bands of out-of-town protesters, who often come with their own extremist agendas and methods of operation. Being in a distant city or state provides a measure of anonymity that may embolden some individuals to incite or commit violence.

At the same time, social media platforms can provide valuable intelligence information to law enforcement professionals preparing response plans for an event. Instances have been reported of opposing groups gathering and sharing intelligence on each other—including individual criminal histories—to gain tactical advantage. A recent ProPublica article examining Rise Above the Movement (RAM), a Southern California-based white supremacist organization whose members were present in Charlottesville, asserted that “many of the organization’s core members [...] have serious criminal histories, according to interviews and a review of court records. Before joining RAM, several members spent time in jail or state prison on serious felony charges including assault, robbery, and gun and knife offenses.”¹¹ Law enforcement officials must be adept at harvesting intelligence on likely agitators and should not minimize the threats these groups pose. Similarly, police agencies must be adept in leveraging social media during events, both for communications with the public and for monitoring the tenor of events in real time. Police must expand media monitoring to include not only traditional mainstay media outlets but also information transferred via social media.

State Preparation and Response

The Commonwealth of Virginia took significant steps to plan and prepare for the Charlottesville event, including allocation of unprecedented resources:

- The Virginia State Police (VSP) dedicated approximately 600 sworn members to the event, the largest deployment in decades.
- The Virginia National Guard assigned approximately 115 quick-response personnel in Charlottesville with another 400 on standby in the local area.
- The Virginia Fusion Center led a robust intelligence effort.
- The Virginia Department of Emergency Management (VDEM) provided support and logistics.
- VDEM interacted with City of Charlottesville officials and activated a full incident management team (IMT) in support.
- Other state agencies provided various levels of logistical support. (Department of Transportation, Department of Health, etc)

¹¹ Thompson, A.C., “Racist, Violent, Unpunished: A White Hate Group’s Campaign of Menace,” ProPublica, October 29, 2017.

Virginia’s Response to the Unite the Right Rally

VSP spent a great deal of time planning and dedicating resources to support the Charlottesville event. This included written plans, activation of large numbers of human assets, analysis of information, tactical training of VSP TFF teams, and engaging senior leaders in the planning process. Because the City of Charlottesville Police Department (CPD) was the lead agency, VSP played a support role: The VSP Unite the Right Operations Plan states that the state police mission is “to assist the Charlottesville Police Department and to provide general security and safety of persons and protection of property in and around Emancipation Park (formerly Lee Park) and McIntire Park in the City of Charlottesville [...] Our primary objective is to provide support to the Charlottesville Police Department, prevent any acts of violence, and to prevent any group or individual from disrupting the scheduled and permitted rally.”¹²

VSP and CPD collaborated throughout the planning process. The lead planner and liaison for VSP was the first sergeant commander of the station-level barracks, Division Three, Area 18, which includes Charlottesville. Weekly planning meetings were held involving VSP area commanders and a division commander with CPD. As August 12 approached, meetings at the executive and command levels occurred with greater frequency. Leadership at the highest levels of local and state government was engaged in the conversation and aware of the seriousness of the event.

The Virginia Fusion Center led a focused effort to gather and share information and intelligence in anticipation of the protest. As a result of this thorough analysis, VSP and CPD were aware of and prepared for the potential for violence. Operations plans for both VSP and CPD acknowledge “both alt-right/affiliates and groups in opposition have made it known that violence is an option for self-defense. Many individuals (on both sides) have indicated they will be openly carrying firearms.”¹³

VSP’s presence in Charlottesville was substantial. In addition to Incident Command staff, VSP provided a significant concentration of personnel to venue security at Emancipation Park, the Downtown Mall, and McIntire Park. Tactical Teams and Investigations also contributed personnel.

- One-hundred troopers were assigned to Emancipation Park, organized into four zones.
- McIntire Park and the Downtown Mall were covered with 35 troopers each.
- The Tactical Field Force comprised more than 200 personnel organized into four platoons.
- The Tactical Team consisted of 29 troopers.
- The Bureau of Criminal Investigations (BCI) contributed more than 70 troopers.

Appendix A illustrates the organizational chart of VSP personnel in response to the Unite the Right rally.

Without the presence of such a large, well-trained, well-equipped contingent of state assets and close, collaborative planning among entities, arguably the outcome of the event could have been far worse. The deaths of Heather Heyer, Trooper-Pilot Berke Bates, and Lt. H. Jay Cullen are truly tragic and our sincere condolences go out to their family members. However, the actions of on-the-ground personnel in Charlottesville saved lives and safeguarded property. The potential for even greater injury, death, and property damage as a result of the demonstration was avoided because of the combined work of these agencies.

¹² Virginia State Police Operations Plan: Unite the Right Rally, p. 4

¹³ Virginia State Police Operations Plan: Unite the Right Rally, pg 4-5 and Charlottesville Police Department Operational Plan, dated August 4, 2017, pg 2

Observations and Recommendations

Despite extensive preparations in anticipation of a potentially violent event, adequate resources, and a sound internal organizational structure, key areas of the state’s response could be improved to ensure more coordinated and synchronous management of similar events in the future. These areas include:

- Adherence to National Incident Management System (NIMS) and Incident Command System (ICS) Standards
- Maximizing Use of Related State Assets and Resources
- Inter-Governmental and Community Coordination

Adherence to NIMS and ICS Standards

Interviews and observations by the review team suggest that elements of NIMS and ICS were partially employed during preparation and response to the Charlottesville rally. Incomplete execution of these frameworks, which are designed to coordinate incident responses across participating entities, led to breakdowns in leadership and organization.

Ineffective application of NIMS is evidenced in five key areas:

- Disparate Operational Plans, a.k.a. Incident Action Plans (IAPs), in NIMS
- Lack of Effective Unified Command
- Multiple Command Posts
- Information Management
- Lack of Joint Training

Disparate Operational Plans

Although units of state government dedicated to the event prepared individual operational plans, those plans were apparently done in isolation of one another. Although executive-level state actors at some point approved plans, it appears that there was not centralized planning across these multiple units. Therefore, there was no coordination or consolidation of those plans, nor did they adhere to National Incident Management System (NIMS) standards for incident action plans (IAPs).

VSP compiled a 134-page Operations Plan that included written plans of all participating state agencies and the City of Charlottesville.

The VSP Operations Plan includes an operations section covering topics such as incident command, arrest procedures, rules of engagement, media contacts, and assignments; and an administrative section covering topics like conduct, appearance, lodging, and compensation. Appended to the Operations Plan are a Communications Plan, an Emergency Medical Support Plan, Fusion Center Risk Assessments, and

National Incident Management System

NIMS guides all levels of government, nongovernmental organizations (NGOs), and the private sector to work together to prevent, protect against, mitigate, respond to, and recover from incidents. NIMS provides stakeholders across the whole community with the shared vocabulary, systems and processes to successfully deliver the capabilities described in the National Preparedness system.

NIMS defines operational systems, including the Incident Command System (ICS), Emergency Operations Center (EOC) structures, and Multiagency Coordination Groups (MAC Groups) that guide how personnel work together during incidents. NIMS applies to all incidents, from traffic accidents to major disasters. (For more information, see Appendix B, NIMS.)

the Charlottesville Police Department Operations Plan dated August 4, 2017. (CPD issued a revised Operations Plan on August 7 but changes, including the addition of a fifth zone, were not reviewed and discussed with VSP.)

The result is a disparate set of documents, each with its own merits, but not a cohesive plan guiding and coordinating the actions of all participants and participating agencies.

Further, a review of these combined plans indicates that each followed a different structure and format, with inconsistent adherence to the NIMS industry standard. An effective NIMS IAP is a singular document built from IAPs of all supporting agencies that identifies and provides essential guidance for event response, including but not limited to goals and objectives, tactics and rules of engagement, incident organization, resource allocation, work assignments, safety, and weather. Ideally, any representative from any participating agency should be able to review the event IAP and quickly identify and understand their respective role in the context of the overall incident plan. Because the Charlottesville incident did not adhere to a conventional operations plan, VSP and CPD operations plans were not integrated until two days prior, leaving no time to deconflict with leadership.

An IAP should define incident objectives and outline agreed upon tactics to achieve the stated objective.¹⁴ The IACP’s National Law Enforcement Policy Center recommends “all personnel engaged in crowd management or control should be made aware of the ground rules for the use of force as part of their briefing prior to deployment and any terms that may have been negotiated between law enforcement and demonstration organizers. Officers providing support from other agencies should always be briefed on policy related to use of force and crowd control prior to deployment.”¹⁵

The CPD Operations Plan clearly identified that “officers should make arrests when appropriate for unlawful behavior and should use issued flex cuffs as restraints.”¹⁶ Meanwhile, the VSP Operations Plan states that the “Department’s Use of Force Policy set forth in General Order OPR 05.01 of the State Police Manual will remain in effect for the duration of this event. The response to unlawful behavior will be in accordance with this policy.”¹⁷

Incident Action Planning

Coordinated incident action planning guides incident management activities. IAPs represent concise, coherent means of capturing and communicating incident objectives, tactics, and assignments for operational and support activities.

Every incident should have an action plan; however, not all incidents need written plans. The necessity for written plans depends on incident complexity, command decisions, and legal requirements. Formal IAPs are not always developed for the initial operational period of no-notice incidents. However, if an incident is likely to extend beyond one operational period, becomes more complex, or involves multiple jurisdictions and/or agencies, preparing a written IAP becomes increasingly important to maintain unity of effort and effective, efficient, and safe operations.

For more information, See Appendix C, IAPs.

¹⁴ https://www.fema.gov/media-library-data/20130726-1822-25045-1815/incident_action_planning_guide_1_26_2012.pdf

¹⁵ See IACP’s Model Policy and Concepts and Issues Paper on Crowd Management and Control

¹⁶ Charlottesville Police Department Operational Plan, dated August 4, 2017, p. 12

¹⁷ Virginia State Police Operations Plan: Unite the Right Rally, p. 14

While this differing guidance is not necessarily contradictory, it does not provide all response personnel with a clear, unified message communicating the same shared understanding and expectations. Despite ongoing communication and collaboration between VSP and CPD, deconfliction of these varying interpretations of the rules of engagement did not take place and ultimately led to hesitation and the appearance of inaction in the field. A best-practice consideration is to convene incident commanders of participating groups to review the final IAP and clarify any grey areas. From there, the final IAP should be reviewed and signed off by executive-level leadership of each participating entity. Tabletop training exercises based on the approved plan should be arranged involving all participating agencies.

Recommendations:

- *In future events, planners should strive to consolidate operational plans for individual participating entities into one guiding IAP, which follows the NIMS incident action planning process, identifying goals for the event, agreed upon rules of engagement, clearly defined roles and responsibilities, and a clear chain of command for all parties involved. This should be a collaborative process, completed prior to submission of the IAP to the executive level (chief and colonel) for final approval.*
- *Leadership of all organizations involved should convene to review and approve the final plan.*
- *In the future, additional consideration should be given to commissioning an independent review of the resulting Operations Plans/IAPs.*

Lack of Unified Command

The operations plans described above were developed in isolation and were subsequently executed in a similar fashion, with little on-the-ground collaboration. The assessment revealed that the concept of Unified Command within the National Incident Management System (NIMS) was not fully applied and was not effective.

While commonly applied to natural disaster scenarios, NIMS provides a best-practice, all-hazards approach to incident management regardless of the incident’s size or type, including those with a distinct law enforcement focus. NIMS facilitates collaboration across levels of government and disciplines to provide a synchronized, efficient, and effective response.¹⁸ When the components of NIMS are applied early on during the initial planning stages, the resulting plan ensures all players know their role on scene. NIMS respects the role of local jurisdictions as the primary service providers and outlines the support roles of other governmental players.

Unified Command

The individuals designated by their jurisdictional or organizational authorities (or by departments within a single jurisdiction) jointly determine priorities and objectives, allocate resources, and work together to ensure the execution of integrated incident operations and maximize the use of assigned resources.

The Incident Command System (ICS) is a management system within the NIMS framework. It includes five functional areas: Command, Operations, Planning, Logistics, and Administration. At the top lies the incident commander (IC). The concept of Unified Command applies ICS to incidents involving multiple

jurisdictions or agencies, enabling these organizations with different legal, geographic, and functional responsibilities to coordinate, plan, and interact effectively. Under Unified Command, incident commanders from the various jurisdictions/organizations work together to operate from a common playbook with situational awareness across entities.¹⁹

Both VSP and CPD operations plans cite incident commanders as well as ground commanders for Emancipation Park and McIntyre Park. The roles and responsibilities of these various individuals, particularly who was in charge, is not clear from the operations plans. Implementation of an agreed upon Unified Command structure early in the planning process can provide clarity of leadership, helping alleviate confusion about who holds ultimate decision-making authority over the incident.

Recommendations:

- *In multi-agency responses, Unified Command should be established as policy/practice.*
- *The structure of Unified Command should be identified early in the planning process.*
- *Leadership should identify good models of Unified Command to review and emulate, such as those in coastal states (e.g., Florida) with routine experience activating NIMS in response to natural disasters.*

Multiple Command Posts

Although the intent of public safety officials was to operate in a Unified Command mode with a singular Incident Command Post, interviews suggest that did not occur. Further, interviews suggest a chaotic scene within the designated Unified Command at the Market Street Wells Fargo Building, adjacent to Emancipation Park.

Under NIMS, the Incident Command Post “is a physical location that administers the on-scene incident, command and the other major incident management functions.”²⁰ One function of Incident Command is centralization of key decision makers controlling on-the-ground operational resources. Disparate hubs of resource control can lead to lack of good-quality information flow across agencies, disciplines, and policy makers.

In Charlottesville, interviews suggest not all key personnel were operating from the site designated by the city as Unified Command at the Wells Fargo Building overlooking the demonstration site. Several satellite posts, including the Fire Branch, were working in support of the event but apart from the Unified Command. Additionally, the physical arrangement within the Unified Command building with multiple rooms and multiple floors, was not conducive for communication and information transfer across key units within the Unified Command.

There are two examples of how disparate command posts affected operations. The first was the feedback from on-the-ground staff who reported delays in getting communications into and out of the Unified Command post. Multiple command posts limited timely decision making and transmission of

¹⁹ See more on ICS at the FEMA Emergency Management Institute ICS Resource Center, <https://training.fema.gov/emiweb/is/icsresource/index.htm>

²⁰ <https://www.fema.gov/pdf/emergency/nims/nimsfaqs.pdf>

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decisions to teams. The other is the state's activation of a drone without the knowledge of the Unified Command. Interviews indicate this decision was made at the state level, in isolation from events on the ground. The drone was launched after the helicopter crash and the review team understands the rationale. However, this action did not follow the process of Unified Command. Incident commanders had no awareness of the drone or access to any intelligence it may have generated.

Additionally, interviews with personnel indicate that higher levels of leadership, including the chief of police, state police colonel, state public safety secretary, and others were also on the scene in the Unified Command Center at the Wells Fargo Building. Such infusion of varying levels of leadership into the Unified Command can result in mixed messages and further confound defined roles and responsibilities. While ranking/executive personnel may at times enter the command post to be provided with situational awareness, their presence should not



Figure 5. Unified Command at Wells Fargo Building

interfere with the operation if the incident commander has been clearly identified and his or her decision-making authority has been clearly established. It does not appear that this was done in Charlottesville. The NIMS ICS framework also advocates for an off-site Emergency Operations Center (EOC) that can serve as a location where executives monitor events and communicate with the Unified Command post.

Concerns were raised about the location of the Unified Command post and its proximity to the venue. While location of the post is a concern, the presence of multiple command posts is of greater concern.

Recommendation:

- *Agencies should strive to adhere to NIMS, with implementation of a single Incident Command post housing all the functions of an Incident Command System (ICS) and an Emergency Operations Center for coordination of additional resources.*

Public Information Management

Unified Command organization calls for a Joint Information Center (JIC) with a designated public information officer (PIO) to serve as the voice of the Unified Command. An event such as this, with many different agencies, demands a JIC. Assistant PIOs from the various organizational elements serve in the JIC and advise on messaging, but there is only one official spokesperson.

Like the Unified Command issue, both VSP and CPD designated media contacts in their operations plans. Absent a unifying IAP to clearly specify roles and assign responsibilities, the public face of the law enforcement response in Charlottesville was unclear. As a result, messaging to the media and the public was delayed. It is worth noting that a joint press conference with the chief of police and the state police

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Colonel was planned after the park was cleared but was canceled after the car crash occurred on the downtown mall. Another press conference was arranged, but was preempted by the helicopter crash.

Recommendation:

- *As part of the Unified Command structure, and following best practices, designate a public information officer, giving due consideration to the value of a uniformed representative in this role or as the spokesperson.*

Lack of Joint Training Before the Event

Steps should be taken to ensure all key personnel are trained in NIMS/ICS **and** in the operations plan guiding event response.

VSP conducted internal training exercises based on very credible and reliable information that the event was going to be violent. However, that training was limited to the tactical response and did not involve joint participants. Further, as noted previously, little evidence surfaced indicating that training was based on research of known behaviors and specific tactics of alt-right or antifa groups.

Failure to involve state and local response personnel in a joint field training exercise on the plan's execution contributed to the lack of a synchronous response on the day of the event. Tabletop exercises, including red team scenarios, can help responders prepare for the unexpected.²¹ Similarly, onsite dry runs and walkthroughs at the event venue can provide valuable situational awareness. There was no indication that this occurred.

Further, the structure and format of the varying agency operations plans suggest training is needed in NIMS/ICS frameworks, including Unified Command. VDEM, as the state's coordinator of emergency response, is a valuable training resource for law enforcement agencies throughout the Commonwealth. FEMA offers a variety of in-person and online training on all aspects of NIMS and ICS that can provide personnel with a baseline understanding of these frameworks.

Recommendations:

- *Brief and train all personnel to the same operations plan/IAP.*
- *All assets assigned to support large-scale events should be trained and exercised in the proper functioning of the Unified Command concept as outlined in National Incident Management System (NIMS).*
- *In future events of this nature it is recommended that joint field training exercises be held with all resources dedicated to the event.*
- *Joint tabletop exercises should be utilized to test response to varying scenarios.*
- *Decision makers and others who staff a command post should be trained on command post operations.*

²¹ "Red team" refers to an internal group or activity designed to test and challenge the assumption of a proposed plan for purposes of exposing potential vulnerabilities or areas of risk.

Maximizing Use of State Assets and Resources

The state’s response did not maximize the full capacity of state public safety resources—namely, the full logistical and planning support available from the Virginia Department of Emergency Management and Virginia Fusion Center access to criminal histories of known rally participants. Further, there was confusion about the official process for state activation of the National Guard.

VDEM’s Role

The Virginia Department of Emergency Management (VDEM) played a role in the planning process, but its full capacity was underutilized. The regional incident management team (IMT) was not requested until four days prior to the event. While VDEM quickly deployed the team within 24 hours of this request, it was too late to be truly effective. Opportunities to leverage VDEM’s logistical support role—to include coordination of first responder meals, water, lodging, and transportation—likewise were not fully maximized. VDEM also has expertise in development and synthesis of incident action plans that could have been helpful in merging disparate plans noted previously. The IMT attempted to do so but was severely challenged given the limited timeframe.

VDEM personnel offer expertise in incident management and NIMS protocols and should be engaged and entrusted early in the planning process. Interviews suggest some key personnel may hold a limited view of the capacity and value of VDEM, particularly for a law enforcement-focused incident. Such historical and cultural misconceptions can lead to duplication of effort and inefficient use of resources.

Recommendation:

- *The logistical support of VDEM—to include assisting in consolidation of IAPs, providing logistical support teams, and coordination of supplies—should be fully utilized in future events.*
- *Joint training between VSP and VDEM is recommended to review roles and responsibilities and how the two organizations can work together effectively, particularly in response to high-profile events with a law-enforcement focus.*

Criminal Histories

Charlottesville and state fusion center analysts worked well together, gathering and sharing intelligence related to the event. However, criminal histories of known offenders were not fully exploited or leveraged for tactical advantage.

The Virginia Fusion Center led a focused effort to gather information, intelligence, and background information in anticipation of the protest. The information gathered led seasoned and experienced analysts to believe that the parties scheduled to participate were planning to be aggressive and violent. This analysis was shared with city officials and state leaders, including the governor. On August 11, Gov. McAuliffe issued a statement in which he acknowledged intelligence suggesting “extremist groups [...] may seek to commit acts of violence against rally participants or law enforcement officials.”²²

²² <https://governor.virginia.gov/newsroom/newsarticle?articleId=20895>

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Details on known potentially violent participants, including their criminal backgrounds and photographs, were not evident in the Operational Plans or other documents supporting this event. Interviews indicated that VSP’s interpretation of privacy policies and the lack of a clear nexus to crime prohibited the running of criminal history checks on known, potentially violent attendees. However, when intelligence suggests the potential for violence, every effort should be employed to mitigate the threat of potential in-state and out-of-state offenders. Many event participants often make their intentions known online via social media. Opposing groups have been known to gather and post intelligence on each other in preparation for an event. Press reports have cited rally-goers with a documented history of protest participation around the country, often with associated criminal records. Leveraging the Interstate Identification Index and National Law Enforcement Telecommunications System to obtain criminal history information where appropriate can provide tactical on-the-ground commanders with improved situational awareness.

Further, document reviews surfaced little evidence of shared intelligence related to common tactics of known groups and participants, including lessons learned from similar events in Berkeley, Portland, and other cities. Understanding how these groups tend to operate and behave is key to planning an effective response.

Additionally, interviews noted intelligence information from the Federal Bureau of Investigation cited five individuals of significant interest; however, this information reached state officials only two days prior to the event, leaving insufficient time to research and prepare a plan of action.

Recommendations:

- *Maximize online research of possible attendees, particularly those with serial nationwide participation.*
- *Run criminal histories on known or suspected attendees, where appropriate, providing results to incident commanders.*
- *Develop the information to provide situational awareness to line officers*
- *Research the training and tactics of known groups for integration into tactical response training.*

Inter-Governmental Coordination and Community Engagement

While state and city police officials collaborated in planning and response to the events surrounding the Unite the Right rally, additional measures are needed to ensure application of best practices for protest crowd management.

Executive Leadership’s Role

The significance of the Charlottesville Unite the Right rally was known early on. An event of this magnitude warrants involvement and collaboration of executive-level leadership from all entities. The chief executives of the involved law enforcement agencies were in regular communication and were reportedly in sync. Local commanders—a captain from CPD and a first sergeant from VPD—met frequently in advance. Despite these collaborations, the results of the day’s events do not suggest all parties were on the same page.

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Interviews through the course of this after-action review suggest that during planning meetings between VSP and CPD, state officials made recommendations and suggestions to the city on how to best prepare for a protest of this type and scale. State leaders also made recommendations directly to the mayor of Charlottesville. It is reported that many of the recommendations of the state to the city were rejected. Many of those recommendations followed industry best practices.

While it is important for law enforcement leaders to convene in advance of a significant event to review and agree on a plan of action, it is also incumbent upon government leaders to collaborate and work out any misunderstandings about roles and responsibilities. In the end, all leaders should understand and agree on the final plan.

Recommendation:

- *Prior to major events involving multidisciplinary resources, executive leadership from all entities, including political leadership, should meet to review the IAP, discuss role definition, deconflict response protocols, and ensure everyone agrees on goals, objectives, and rules of engagement.*

Community Engagement

Messaging to and collaboration with local business and community groups in advance of the rally could have been improved and aided the police response to the event.

Restricted access to nearby public and private spaces for law enforcement limited effective police response. Response plans include use of a nearby public library and church parking lot as staging areas for law enforcement mobile field forces, but access was denied. Loss of these staging areas resulted in loss of time and caused responding officers to be out of sync in clearing the park, thus slowing the response. Use of these spaces would have aided in separation of the opposing groups.

The broader issue of community engagement by law enforcement in advance of an event of this nature also bears consideration. Interviews indicated there was a disconnect between VSP and CPD on messaging to downtown businesses impacted by the rally. As a result, there was widespread confusion and uncertainty among community member and business owners about the plan for the day’s event.

As a state agency contributing significant resources to a local event, VSP needs an understanding of the community’s perspective and expectation. VSP should be engaged in the community outreach process, in full collaboration with local authorities, and have a seat at the table for any community briefings leading up to an event of this magnitude. Moreover, a coordinated and consistent message must be developed and deployed to all impacted parties (e.g., businesses, community groups, etc.). Early communication stressing the potential for violence and danger would be helpful in allaying concerns and gaining local cooperation. Findings from the review team indicate that community engagement, particularly with the downtown Charlottesville business community, was limited, bifurcated between city and state law enforcements, and may have played into inaccessibility of select properties.

Recommendations:

- *Public safety officials should prioritize engagement of community members and business owners who are likely to be impacted by a planned rally or protest.*

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- *Law enforcement should work collaboratively to inform community groups and solicit their support and cooperation. Consideration should be given to hosting a community business briefing with state agency representation prior to similar events to communicate key information, including the importance of cooperating with the police to protect property.*
- *Explore what legal authority is available to the state or locality to commandeer and use private property for the purposes of public safety when a state of emergency is declared.*

Defining the State’s Role

Despite front-end collaboration and significant dedication of state resources, the planning leaders of the state agencies had limited control over physical planning on the ground in Charlottesville.

The City of Charlottesville was the lead on planning for the event. State assets were supplied in support of the city’s public safety effort. This stance is the established doctrine of VSP, consistent with the Code of Virginia and the Virginia Emergency Operations Plan (ESF#13), which state that local authorities have primary responsibility in states of emergency and Commonwealth assets are deployed to supplement local resources.²³ This framework was clearly in place during the preparation and execution of the Charlottesville event and echoed by state leadership:

Governor McAuliffe’s August 11 statement on the planned rally in Charlottesville states that VSP “will be on the scene in a support capacity before, during, and after the planned rally.”²⁴ After the event, in the establishment of the task force, the governor stated:

“While I ordered unprecedented state resources to assist Charlottesville in responding to the Unite the Right demonstration, current law dictated that the state play only a supporting role, with local government officials holding key decision-making authority over permitting and command of the police response. I never again want to be in a position where state resources are again needed to protect public safety, but the state is not vested with control over the events that ultimately could lead to a public safety emergency.”²⁵

Desire to maintain this support role is understandable. Local control of local events is to some extent a tenet of American democracy. However, maintenance of a state’s supporting role to local jurisdictions becomes tenuous when: 1) state assets vastly outnumber local assets, 2) the incident command infrastructure is nebulous, and 3) state and local leaders are out of step on roles and responsibilities. Such was the case in Charlottesville.

As noted previously, improved collaboration at the executive level would help clarify roles and define rules of engagement.

Observation: *The IACP stops short of providing a clear recommendation on this point but urges further exploration of this topic. The state should reevaluate the extent to which it is comfortable remaining in a*

²³ Code of Virginia, § 44-146.21 and Commonwealth of Virginia Emergency Operations Plan, Emergency Support Function #13, August 2012

²⁴ <https://governor.virginia.gov/newsroom/newsarticle?articleId=20895>

²⁵ <https://governor.virginia.gov/newsroom/newsarticle?articleId=21017>

support role to local jurisdictions, particularly following a declared state of emergency and when large numbers of state resources are allocated.

Event Funding

All needed financial support on the state level was given to prepare and respond to this event. There were no reports of need as the result of lacking financial support. The prevailing attitude was that cost was not a barrier to provide the needed resources. Nothing demonstrated that more than the VSP commitment of resources to the event. It should be noted that leadership in the VSP was adamant that the state cost for events that are locally centered should not be passed onto localities. That concept of charging localities for the deployment of state resources would have a chilling effect on managing events in a safe and responsible manner.

Equipment Considerations

VSP personnel were well equipped overall with no major equipment issues; however, several potential areas of need were identified that may improve future responses.

- Equip all VSP with demonstration management equipment.
- Explore lighter equipment where practicable.
- Explore the potential for using bike response teams to steer and contain crowds.
- Prioritize earpiece mics over shoulder mics to secure communications of tactical personnel.
- Manage mobility of tactical teams with busses or vans to limit demands of walking distances in heavy gear and equipment.
- Ensure personnel have easy access to food, water, shade, and rehab vehicles.
- Leverage technology, including GPS, to better monitor and utilize resources and provide situational awareness of on-the-ground resources.

Interoperability

Limited communications interoperability was an issue and a concern raised repeatedly through the review process. The issue of effective communication is historically a challenge in major operations. The ability to establish an interoperable communication is part of planning leading up to the event and should be included in IAP. The goal is to establish the ability for all similar functions to communicate on the same radio frequency, despite what agency is involved. In the interview process it was learned that this was not accomplished. There were assumptions by those interviewed in Charlottesville that as result of the same issue being present in the July 8, 2017, KKK rally that the issue was going to be resolved in the planning process for the August 12, 2017, rally. That did not occur and the result was at times information had to be relayed two to three times in order to reach those who needed the information or needed to make a decision. The process of relaying information and not receiving it directly can lead to distortion of information. This also highlights the importance of the law enforcement organization having control of and adequate funding for voice and data communications.

Promising Practices in Preparation for Civil Unrest

Demonstrations like the Unite the Right rally are occurring with some frequency and appear to be gaining momentum. By necessity, the police response is quickly evolving, with each locality eager to learn from the last. Through the course of this review, the team interviewed several police leaders who have planned for and responded to similar events, both before and since Charlottesville. This, combined with the IACP’s prior work on crowd control and management, yields the beginning of a set of promising practices for preparing law enforcement response to demonstrations and civil unrest. While not all of these actions are feasible or appropriate in every case, depending on local laws and situations, each bears some measure of consideration.

Pre-Event

- Prohibition of firearms/weapons of any sort within a 10-block area
- Prohibition of signs, poles, or any items that could be used as weapons
- Reducing the time allowance for the event
- Blocking access to the event venue up to 24 hours prior, including use of K9 sweeps
- Strong messaging from government officials calling for peaceful demonstrations and stating zero tolerance for violence or criminal activity
- Joint training, including onsite walkthroughs the day prior
- Maintain open lines of communication with affected community groups and business owners
- Early declaration of emergency where appropriate, particularly when violence is anticipated

During Event

- Limit parking to designated areas, separate for each group
- Bus protesters and counter protesters to and from the demonstration area
- Employ layers of hard and soft barriers and checkpoints, allowing multiple “looks” by officers
- Use metal detectors where feasible
- Strict enforcement of timelines, including prohibition of early access to the venue
- Quick identification and removal of early agitators, where practicable
- Quick arrests of unlawful actors

Conclusion

The Commonwealth of Virginia recognized the significance of the Unite the Right rally and provided ample resources to respond to anticipated violence. The state also respected its role as a support entity augmenting the City of Charlottesville, the primary lead.

There was much done that was positive. The Commonwealth of Virginia provided a large amount of personnel and other resources/assets. State representatives spent a great deal of time on the planning process. The state provided the experience and expertise that Charlottesville needed to address the demonstration. That support cannot be understated. In interviews with various officials in Charlottesville they spoke very highly of the support received from the Commonwealth, in particular the support from the Virginia State Police. There was very good cooperation in the planning stage and

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everyone was doing what they thought was the absolute best in preparing and planning for the event. Nothing that is highlighted for recommendation should diminish the hard work that was done by the state. Although the cooperative effort resulted in low arrest and little to no property damage, it did not prevent the death of Heather Heyer and the injury to more than a dozen individuals. That tragedy should cause all of those who were involved in the planning and execution of the plan to pause and seriously evaluate how that could have been prevented. This AAR is not directed at any singular agency, entity, or organization. It is not speaking to just the Commonwealth of Virginia. The recommendations are directed at all agencies involved in the event.

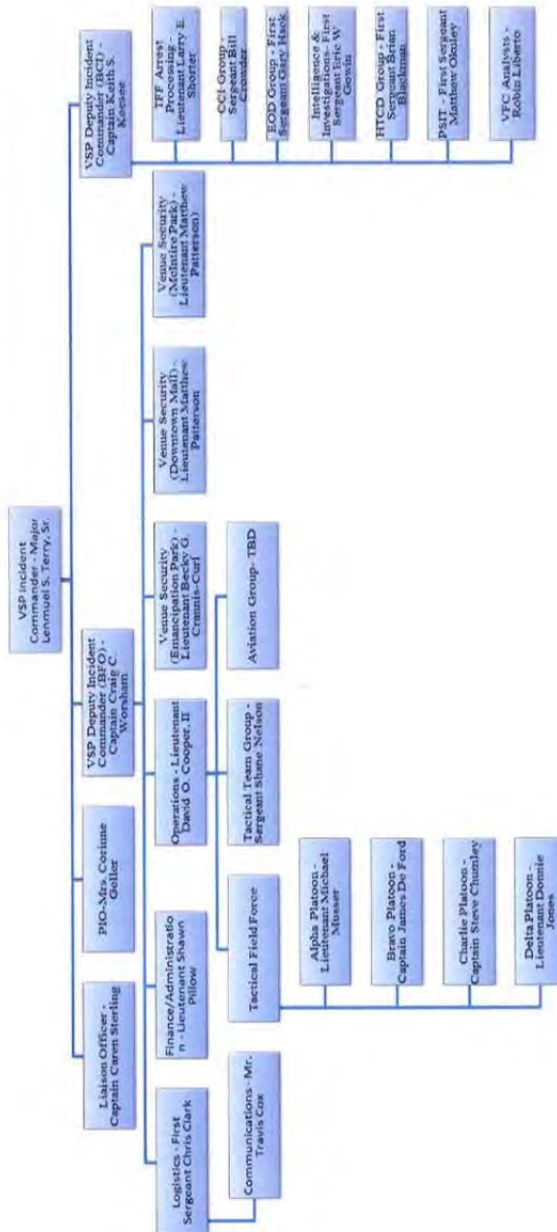
As was stated in the body of the after-action review, the ground is shifting when it comes to demonstrations. That shift will require policymakers to challenge some of the prior assumptions and practices and look for new best practices to effectively manage these events in the future in order to safeguard lives and property while ensuring First Amendment rights.

Virginia’s Response to the Unite the Right Rally

APPENDIX A

VSP Organizational Chart for the Unite the Right Rally

Source: VSP Unite the Rally Operations Plan



APPENDIX B

Source: FEMA NIMS (Third Edition, 2017)
Incident Command System (ICS)

ICS is a standardized approach to the command, control, and coordination of on-scene incident management that provides a common hierarchy within which personnel from multiple organizations can be effective. ICS specifies an organizational structure for incident management that integrates and coordinates a combination of procedures, personnel, equipment, facilities, and communications. Using ICS for every incident helps hone and maintain skills needed to coordinate efforts effectively. ICS is used by all levels of government as well as by many NGOs and private sector organizations. ICS applies across disciplines and enables incident managers from different organizations to work together seamlessly. This system includes five major functional areas, staffed as needed, for a given incident: Command, Operations, Planning, Logistics, and Finance/Administration.

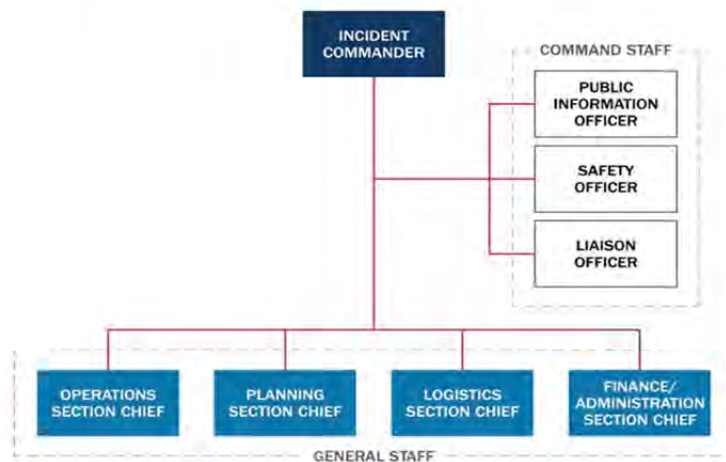
Incident Command and Unified Command

Incident command is responsible for the overall management of the incident. A single Incident Commander or Unified Command conducts the command function on an incident. Command and General Staff support the incident command to meet the incident’s needs.

Single Incident Commander

When an incident occurs within a single jurisdiction and without jurisdictional or functional agency overlap, the appropriate authority designates a single Incident Commander who has overall incident management responsibility. In some cases where incident management crosses jurisdictional and/or functional agency boundaries, the various jurisdictions and organizations may still agree to designate a single Incident Commander. Figure 3 depicts an example organizational structure for an ICS organization with a single Incident Commander.

Figure 1: Example of an ICS Organization with a Single Incident Commander



Unified Command

Unified Command improves unity of effort in multijurisdictional or multiagency incident management. The use of Unified Command enables jurisdictions and those with authority or functional responsibility for the incident to jointly manage and direct incident activities through the establishment of a common set of incident objectives, strategies, and a single IAP. However, each participating partner maintains authority, responsibility, and accountability for its personnel and other resources, and each member of Unified Command is responsible for keeping other members of Unified Command informed.

Responsibilities of the Incident Commander and Unified Command

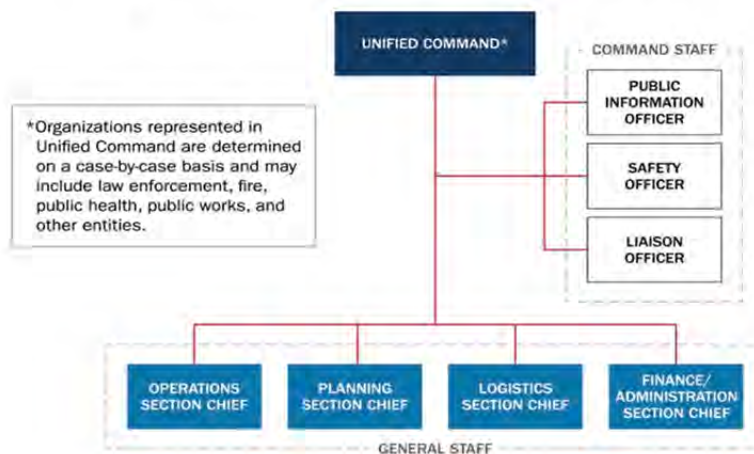
Whether using a single Incident Commander or a Unified Command, the command function:

- Establishes a single ICP for the incident;
- Establishes consolidated incident objectives, priorities, and strategic guidance, and updating them every operational period;
- Selects a single section chief for each position on the General Staff needed based on current incident priorities;
- Establishes a single system for ordering resources;
- Approves a consolidated IAP for each operational period;
- Establishes procedures for joint decision making and documentation; and
- Captures lessons learned and best practices.

Unified Command Composition

The exact composition of the Unified Command depends on factors such as incident location (i.e., which jurisdictions or organizations are involved) and the nature of the incident (i.e., which agencies from the jurisdiction(s) or organization(s) involved are needed). Figure 4 depicts a sample Unified Command structure. The organizations participating in the Unified Command use a collaborative process to establish and rank incident priorities and determine incident objectives.

Figure 2: Example of an ICS Organization with Unified Command



APPENDIX C

Source: FEMA NIMS (Third Edition, 2017)

Incident Action Planning

The incident action planning process and Incident Action Plans (IAPs) are central to managing incidents. The incident action planning process helps synchronize operations and ensure that they support incident objectives. Incident action planning is more than producing an IAP and completing forms—it provides a consistent rhythm and structure to incident management.

Personnel managing the incident develop an IAP for each operational period. A concise IAP template is essential to guide the initial incident management decision process and the continuing collective planning activities. The IAP is the vehicle by which leaders on an incident communicate their expectations and provide clear guidance to those managing the incident. The IAP:

- Informs incident personnel of the incident objectives for the operational period, the specific resources that will be applied, actions taken during the operational period to achieve the objectives, and other operational information (e.g., weather, constraints, limitations, etc.);
- Informs partners, EOC staff, and MAC Group members regarding the objectives and operational activities planned for the coming operational period;
- Identifies work assignments and provides a roadmap of operations during the operational period to help individuals understand how their efforts affect the success of the operation;
- Shows how specific supervisory personnel and various operational elements fit into the organization; and
- Often provides a schedule of the key meetings and briefings during the operational period.

The Incident Action Planning Process

The IAP provides clear direction and includes a comprehensive listing of the tactics, resources, and support needed to accomplish the objectives. The various steps in the process, executed in sequence, help ensure a comprehensive IAP. These steps support the accomplishment of objectives within a specified time.

The development of IAPs is a cyclical process, and personnel repeat the planning steps every operational period. Personnel develop the IAP using the best information available at the time of the Planning Meeting. Personnel should not delay planning meetings in anticipation of future information.

During the initial stage of incident management, the Incident Commander typically develops a simple plan and communicates the plan through concise oral briefings. In the beginning of an incident, the situation can be chaotic and situational awareness hard to obtain, so the Incident Commander often develops this initial plan very quickly and with incomplete situation information. As the incident management effort evolves, additional lead time, staff, information systems, and technologies enable more detailed planning and cataloging of events and lessons learned. The steps

of the planning process are essentially the same for the first responders on scene determining initial tactics and for personnel developing formal written IAPs.

Planning “P”

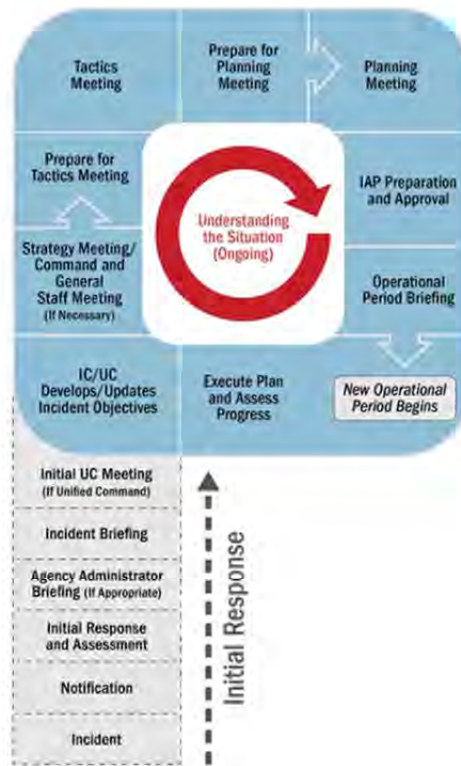
Many incident management organizations use a formal planning cycle with established meetings and deliverables to mark their progress through the planning process and enable coordination of the entire team. The Planning P, illustrated in Figure A-12, is a graphical representation of the sequence and relationship of the meetings, work periods, and briefings that comprise the incident action planning cycle. Other versions of the Planning P may be used as training and operational aids. The leg of the “P” describes the initial stages of an incident, when personnel work to gain awareness of the situation and establish the organization for incident management. Incident personnel perform the steps in the leg of the “P” only one time. Once they are accomplished, incident management shifts into a cycle of planning and operations, informed by ongoing situational awareness and repeated each operational period.

Initial Response and Assessment

The responder(s) who is first to arrive at the incident scene conducts the initial assessment and takes whatever immediate response actions are appropriate and possible. The initial or rapid assessment is essential to gaining and maintaining situational awareness. It enables the Incident Commander to request additional resources and/or support, develop, and implement initial tactics. Jurisdiction officials might decide to activate an EOC based on the initial assessment.

Agency Administrator Briefing

The Agency Administrator Briefing is a presentation to the personnel who will be managing or supporting the incident by the administrator or other senior official of the jurisdiction, agency, or organization affected by the incident. This briefing occurs when the Incident Commander or Unified Command are assuming duties outside their normal responsibilities or are from an entity or jurisdictional area that does not possess authority to manage the incident they are being assigned. In such cases, the briefing provides supporting details to the delegation of authority or other document that the jurisdiction, agency, or organization typically provides to the Incident Commander or Unified Command.



Operational Period Planning Cycle

During the briefing, the agency administrator or a designee provides information, guidance, and direction—including priorities and constraints—necessary for the successful management of the incident. The briefing is intended to ensure a common understanding between the jurisdiction, agency, or organization and the incident personnel regarding such things as the environmental, social, political, economic, and cultural issues relevant to the incident and its location.

Incident Briefing

The incident briefing marks the transition from reactive to proactive incident management. The initial responder(s) typically delivers the briefing to the incoming Incident Commander or Unified Command. This meeting enables the incoming Incident Commander or Unified Command to initiate planning for the next operational period.

Initial Unified Command Meeting

If a Unified Command is managing the incident, the Initial Unified Command Meeting allows members of the Unified Command to meet in private to discuss each jurisdiction or organization’s priorities and objectives as well as any limitations, concerns, and restrictions. During the Initial Unified Command Meeting, members of the Unified Command generally accomplish the next step by developing the initial joint incident objectives.

Objectives Development/Update

The Incident Commander or Unified Command establishes the incident objectives for the initial operational period. After the initial operational period, the Incident Commander or Unified Command reviews the incident objectives and may validate them, modify them, or develop new objectives. Incident objectives are based on incident priorities and other requirements. Clearly communicated priorities and objectives support unity of effort among incident personnel and enable the development of appropriate strategies and tactics. When the members of the team clearly understand the intent behind their instructions, they are better equipped to act decisively and make good decisions.

Strategy Meeting/Command and General Staff Meeting

After developing or revising the incident objectives, the Incident Commander or Unified Command typically meets with the Command and General Staff, and sometimes others, to discuss the incident objectives and provide direction. This meeting may be called the Strategy Meeting or the Command and General Staff Meeting and is held as needed to determine how best to meet the incident objectives. The initial Strategy Meeting, which is held the first time through the planning cycle, is particularly important, because it allows team members to share information and jointly determine the initial approach to response operations. The initial Strategy Meeting may include the initial Incident Commander and a representative from the Agency Administrator.

Preparing for the Tactics Meeting

Once the approach to achieving or working toward achieving the incident objectives is determined, the Operations Section Chief and staff prepare for the Tactics Meeting by developing tactics and determining the resources that will be applied during the operational period.

Tactics Meeting

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The Tactics Meeting is a forum for key players to review the proposed tactics developed by the Operations Section staff and to conduct planning for resource assignments. The Operations Section Chief leads the Tactics Meeting, and key participants include the Logistics Section Chief, Safety Officer, a representative from the Planning Section—typically, the Resources Unit Leader—and other technical specialists or team members invited by the Operations Section Chief, Logistics Section Chief, or Safety Officer. The team uses ICS Forms 215 and 215A, the Operational Planning Worksheet and the Incident Action Plan Safety Analysis, to facilitate and document decisions they make during the meeting.

Preparing for the Planning Meeting

Following the Tactics Meeting, preparations begin for the Planning Meeting. Team members collaborate between the Tactics Meeting and the Planning Meeting to identify support needs and assign specific operational resources to accomplish the operational plan.

Planning Meeting

The Planning Meeting serves as a final review and approval of operational plans and resource assignments developed during and after the Tactics Meeting. Ideally, the Planning Meeting involves no surprises and simply serves as a review of a plan that the Command and General Staff have collaboratively developed and agreed upon. At the end of the Planning Meeting, Command and General Staff, and any agency officials involved, confirm that they can support the plan.

The table below lists the elements responsible for completing each form for inclusion in the IAP.

Component	Normally Prepared By ICS
Incident Objectives (ICS Form 202)	Incident Commander or Unified Command
Organization Assignment List or Chart (ICS Forms 203, 207)	Resources Unit
Assignment List (ICS Form 204)	Resources Unit
Incident Radio Communications Plan (ICS Form 205) Or Communications List (ICS Form 205A)	Communications Unit
Medical Plan (ICS Form 206)	Medical Unit
Incident Maps	Situation Unit
General Safety Message/Site Safety Plan (ICS Form 208)	Safety Officer
Other Potential Components (Incident Dependent)	
Air Operations Summary	Air Operations
Traffic Plan	Ground Support Unit
Decontamination Plan	Technical Specialist
Waste Management or Disposal Plan	Technical Specialist
Demobilization/Deactivation Plan	Demobilization Unit
Site Security Plan	Law Enforcement, Technical Specialist, or Security Manager
Investigative Plan	Intelligence/Investigations Function
Evacuation Plan	As needed
Meeting Schedule (ICS Form 230)	Situation Unit
Sheltering/Mass Care Plan	As needed
Other (as needed)	As needed

Based on concurrence from all elements at the end of the Planning Meeting, the Incident Commander or Unified Command approves the plan. After this final approval, the Planning Section staff assemble the plan and ensure that it is ready for use during the Operational Period Briefing.

A written IAP is composed of a series of standard forms and supporting documents that convey the intent of the Incident Commander or Unified Command, as well as the Operations Section Chief for the operational period. The Incident Commander or Unified Command determines which ICS forms and attachments to include in the IAP; the Planning Section Chief ensures that staff in the appropriate sections, branches, or units prepare the forms and attachments. The Incident Commander or Unified Command gives final approval of the written IAP before Planning Section staff reproduce and disseminate it. IAPs may be distributed electronically, in hard copy, or both.

Operational Period Briefing

Each operational period starts with an Operational Period Briefing. Incident supervisory and tactical personnel receive the IAP during the briefing. During this briefing, various members of the Command and General Staff present the incident objectives, review the current situation, and share information related to communications or safety. Following the Operational Period Briefing, supervisors brief their assigned personnel on their respective assignments as documented in the IAP. During longer operational periods, shift change briefings may be conducted within an operational period.

APPENDIX D

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE (IACP)

The International Association of Chiefs of Police (IACP) is the world’s largest and most influential professional association for police leaders. With more than 30,000 members in 150 countries, the IACP is a recognized leader in global policing. Since 1893, the association has been speaking out on behalf of law enforcement and advancing leadership and professionalism in policing worldwide.

The IACP is known for its commitment to shaping the future of the police profession. Through timely research, programming, and unparalleled training opportunities, the IACP is preparing current and emerging police leaders—and the agencies and communities they serve—to succeed in addressing the most pressing issues, threats, and challenges of the day.

The IACP is a not-for-profit 501c(3) organization headquartered in Alexandria, Virginia. The IACP is publisher of *The Police Chief* magazine, the leading periodical for law enforcement executives and host of the IACP Annual Conference, the largest police educational and technology exposition in the world. IACP membership is open to law enforcement professionals of all ranks, as well as non-sworn leaders across the criminal justice system. Learn more about the IACP at www.theIACP.org.

IACP TEAM

Mr. James W. Baker is the director of advocacy at the IACP. Mr. Baker is the retired colonel/director of the Vermont State Police where over his 31 years of service held many positions and roles that had direct oversight of major events. He also served as executive director of the Vermont Criminal Justice Training Council and chief of police in the City of Rutland, Vermont.

Mr. Gil Kerlikowske was the commissioner of U.S. Customs and Border Protection. He also served as the Director of the White House Office of National Drug Control Policy. He was the deputy director of community-oriented policing services in the Department of Justice. He has been a police chief in four cities, including Seattle for nine years, where he was responsible for the response to many protests and disturbances, and Buffalo for five years. He is currently a professor of practice in the School of Criminal Justice at Northeastern University.

Dr. Ronal Serpas is a professor at Loyola University New Orleans. Dr. Serpas had a lengthy career in law enforcement to include serving as the chief of the Washington State Patrol, the chief of police in Nashville, and the superintendent of the New Orleans Police Department in New Orleans, Louisiana, where he oversaw countless major events, including crowd control at Mardi Gras.

Maj. Marc Partee of the Baltimore City Police Department is a visiting fellow at the IACP. Maj. Partee holds a master’s degree in criminal justice and was one of the field commanders during the civil unrest in Baltimore after the death of Freddie Gray.

Tracy Phillips is a program manager at the IACP responsible for research, writing, and data analysis/synthesis on a variety of association projects and services. Ms. Phillips has nearly 20 years of project management experience with state, local, and nonprofit organizations, including the Fayetteville (North Carolina) Police Department and the Georgia Department of Audits. She holds a master’s degree in public administration from the University of Georgia.

Addendum

Notes from Chairman Brian J. Moran, Secretary of Public Safety and Homeland Security

It has been my honor to serve as Chairman of Governor McAuliffe’s Task Force on Public Safety Preparedness and Response to Civil Unrest, which was established under Executive Order 68 (2017) on August 24, 2017. The Commonwealth and the nation are facing a new era of civil unrest. I have witnessed firsthand several of these types of events here in Virginia, which have been organized by alt-right, white supremacist groups. While responses to most events have been successfully executed by local and state agencies adhering to national best practices, the “Unite the Right” rally in Charlottesville on August 12, 2017, was an anomaly due to the level of violence and loss of life.

As such, I took personally the Governor’s charge to review the events of that weekend and to make recommendations on how tragedies of this nature can be prevented in the future. This report contains the final recommendations made by the Task Force and contains an After-Action Review (AAR) prepared by an independent contractor, the International Association of Chiefs of Police (IACP).

The “Unite the Right” rally was a reprehensible gathering of hate groups whose members traveled from over 35 states to the City of Charlottesville, which has a population of less than 50,000. The rally drew approximately 1,000 protestors and counter-protestors, many of whom were armed. Their stated goal was to exercise their First Amendment rights to protest the removal of the Robert E. Lee statue in what is now Emancipation Park. Their actual goal was much more expansive and nefarious in nature, as their rally had far more to do with advancing extremist views and inciting violence than exercising their rights to free speech and peaceful assembly.

The purpose of the Task Force was not to second-guess decision-makers or assign blame, but to look forward with the goal of preventing such violence from occurring in the future. As a result, this report contains numerous recommendations.

Permitting

First, the Task Force recommended that all state and local governments adopt robust permitting processes, just as Governor McAuliffe called for when he ordered a review of the state’s permitting process and promulgation of Emergency Regulations for the Robert E. Lee Monument in Richmond under Executive Order 67 (2017). A common misconception exists that governments cannot adopt permitting processes for, or in any way regulate First Amendment activities or gatherings in public spaces. However, reasonable restrictions on activities in public spaces are permissible if First Amendment rights are appropriately balanced with public safety and other significant governmental interests.

Permitting practices were discussed at great length during Task Force and Permitting Work Group meetings, as Charlottesville’s inability to effectively leverage their permitting process

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significantly hindered law enforcement’s planning and response efforts. The City of Charlottesville did not impose any public safety restrictions on the permit for the “Unite the Right” rally. This report highlights that important deficiency and contains a guidance document that we developed in consultation with First Amendment experts and public safety officials to inform permit development and review processes of the critical issues that should be addressed.

Our review clearly indicated that jurisdictions around the nation are beginning to look at this crucial issue and review their permitting practices, including localities throughout Virginia. We understand that these jurisdictions are looking to our Task Force for guidance, and I am confident that our work will substantially benefit their efforts.

Intelligence Gathering and Information Sharing

The Virginia Fusion Center’s intelligence gathering efforts and the Virginia State Police’s (VSP) decision to share information with the City of Charlottesville is highlighted as a major success in this report. When Jason Kessler submitted a permit application with the city in May 2017, VSP began gathering information about the rally and identified the potential for violence. VSP regularly communicated and shared information with the City of Charlottesville’s leadership and me in order to enhance public safety preparations. On July 27, Governor McAuliffe’s Chief of Staff, Paul Reagan, joined me in the Virginia Fusion Center for a briefing on the Ku Klux Klan rally that was held in Charlottesville on July 8 and the upcoming “Unite the Right” rally on August 12.

In the weeks leading up to the event, VSP Superintendent Steven Flaherty became increasingly concerned about the intelligence reports, which further demonstrated not only the potential for violence, but the likelihood of it. Upon sharing that intelligence with the City of Charlottesville, he was concerned about certain actions not being taken by the city. At that time, I directed VSP to prepare a memorandum specifying the state’s concerns and recommendations so that the Governor could share them with city leadership. The memorandum, attached as part of this addendum, contained numerous suggestions based on best practices for this type of an event.

After Governor McAuliffe communicated these concerns and recommendations with the Mayor of Charlottesville on August 2, VSP also briefed the Mayor, City Manager and members of City Council that same day. The recommendations contained in the memorandum and communicated to the city were not followed. When asked why the Governor’s recommendations were not followed during our final Task Force meeting, the International Association of Chiefs of Police indicated that interviews suggested that advice from the city’s legal counsel played a role.

Unprecedented State Support

Nevertheless, in light of the intelligence provided by VSP, and pursuant to Governor McAuliffe’s direction, the state undertook unprecedented preparations.

On August 3-4, VSP held tactical trainings for officers in preparation for the rally. Then, on August 7, state public safety agencies, including VSP, the Virginia Department of Emergency Management (VDEM), and the Virginia National Guard briefed the Governor on the rally. At that meeting, Governor McAuliffe took decisive action and authorized Superintendent Flaherty to activate and deploy as many personnel as he deemed necessary to support the city’s public safety response. Additionally, he authorized the relocation of Virginia National Guard military

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police officers from their training in Manassas to the Charlottesville area. Finally, the Governor authorized the State Coordinator of Emergency Management to activate the Virginia Emergency Operations Center to facilitate and coordinate additional preparations for the rally.

In the following days, Governor McAuliffe received regular updates on the event and directed me to call Teresa Sullivan, President of the University of Virginia (UVA) and Frank Conner, Rector of the UVA Board of Visitors. I spoke with President Sullivan and Rector Conner to offer the state's support and ensure that UVA was aware of the intelligence we had received.

In addition, according to VDEM officials, after reaching out to the City of Charlottesville in the weeks leading up to August 12 to offer its services, VDEM received a request for a full Incident Management Team (IMT) on August 8 and began preparations to deploy the team. IMTs provide logistical and planning support and work with all agencies involved to consolidate plans and facilitate coordination. This issue was raised by the Task Force and is addressed in the AAR, as the late request prohibited VDEM's IMT from fully integrating and consolidating the plans. Also on August 8, in accordance with standard practice leading up to an anticipated incident, VDEM began drafting an Executive Order so that a state of emergency declaration could be issued, if necessary, without delay on August 12.

On August 11, our public safety team briefed the Governor again. At that time, he officially mobilized the National Guard in preparation for the event, an historic act which had not occurred since the 1930s. He also directed the National Guard to report directly to Superintendent Flaherty, and authorized VSP to increase the number of deployed troopers to over 600, which represents the largest deployment of VSP assets to one event in agency history. Later in the day, he issued a statement, attached, urging residents to stay away from the area so that law enforcement could more effectively do their jobs. Finally, he directed me to travel to Charlottesville to provide him with situational awareness during the weekend. The Governor and I were in agreement that my role was only to provide situational awareness and that all tactical decision-making would be left to law enforcement experts.

The state deployed unprecedented personnel and resources to Charlottesville on August 12. In addition to Incident Command staff, VSP provided a tremendous number of personnel to help secure venues at Emancipation Park, the Downtown Mall, and McIntire Park, to include Tactical Field Force (TFF) members and Bureau of Criminal Investigations (BCI) troopers. More specifically:

- VSP dedicated approximately 600 sworn members to the event;
- The Virginia National Guard assigned approximately 115 quick-response personnel in Charlottesville with another 400 on standby in the local area;
- The Virginia Fusion Center led a robust intelligence effort and analysts were deployed to the Command Center;
- VDEM provided logistical support and activated a full IMT
- The Department of Corrections provided transportation for VSP TFF from the John Paul Jones Arena to downtown Charlottesville;
- The Virginia Department of Transportation provided traffic control;
- The Virginia Department of Health contributed planning and support, including preparations to provide mass care; and

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- The Virginia Department of Criminal Justice Services (DCJS) provided a variety of victims services to Charlottesville in the weeks following August 12.

Lines of Authority

The second major finding of the Task Force and AAR, which will require further study, is the role of the state during a local event: How does the state integrate its assets into local planning, response and execution?

Despite weekly meetings, continued information sharing, and the considerable deployment of state resources, state planning leaders had limited control over physical planning on the ground in Charlottesville and the AAR discusses the lack of overall coordination between VSP and the Charlottesville Police Department.

However, the notion of local control is not unusual, as national emergency management doctrine proclaims that “all incidents begin and end locally,” and local governments serve as the lead for all planning, preparation and execution while the state maintains a support role. This is not only a long-standing VSP doctrine, but is also consistent with the Commonwealth of Virginia Emergency Operations Plan, which holds that local authorities have primary responsibility in states of emergency and that state assets are deployed to supplement local resources. It is clear from the AAR that this approach was embraced by VSP leading up to and during the Charlottesville event.

While this is common practice, and to some extent a tenet of American democracy, the balance of decision-making authority becomes tenuous when state assets vastly outnumber local assets. This issue was evident in Charlottesville, as many decisions about planning and response had already been made prior to the state's support. This was discussed repeatedly throughout Task Force and Preparedness and Response Work Group meetings, and while this report stops short of making a clear recommendation, it does suggest that the issue of state vs. local control under these circumstances warrants further study. I would agree.

State and Local Collaboration

I cannot stress enough the countless examples in which our state agencies have worked hand-in-hand with our partners in local jurisdictions to respond to any variety of situations, including potential incidents of civil unrest. VSP's Tactical Field Force of specially trained officers supported 26 requests for assistance related to potential civil disturbances in local jurisdictions so far in 2017 and 27 requests in 2016. Many of these go unreported in the media due to their successful execution. The recent unpermitted event in the City of Richmond on September 16 stands out.

Though the presence of combatants and level of violence in no way compares to what I witnessed on August 12, much can be learned from City of Richmond's effective response to the September 16 event organized by out-of-state white supremacist groups. In sharp contrast to the “Unite the Right” rally, the City of Richmond successfully collaborated with state agencies, and together, they effectively responded to an unpermitted event on September 16. Many of the recommendations Governor McAuliffe suggested to the City of Charlottesville were adopted by the City of Richmond in advance of the event, demonstrating that Virginia has already learned a great deal from what occurred on August 12.

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The strong and unequivocal messaging by the Richmond mayor and police chief set the tone for the event that criminal behavior would not be tolerated and would result in a swift public safety response. Additionally, sufficient assets were deployed, significant measures were taken to separate the protestors and counter-protestors, communications were effectively coordinated, and the Incident Command Center was fully operational and properly led. The City of Richmond's leadership fully supported the needs of the Richmond Police Department, and like Governor McAuliffe, provided all necessary support to ensure a successful response.

Importantly, this Task Force report and the accompanying AAR clearly indicate that concerns about funding to support Charlottesville on August 12 were never an issue, reinforcing that public safety has always been Governor McAuliffe's number one priority and he will spare no expense to protect it. It should also be noted that VSP leadership assured the Cities of Charlottesville and Richmond that the state's cost to support these types of events would not be passed onto their localities.

Additional Actions

As I noted above, the Commonwealth has already demonstrated that we are learning from what occurred on August 12. Since that tragic day, Governor McAuliffe has taken every step possible to facilitate this learning process, address the issues that need improvement and continue looking ahead.

In addition to signing Executive Orders 67 and 68, he sent letters to Attorney General Jefferson Sessions and Acting Secretary of Homeland Security, Elaine Duke, urging them to preserve critical counterterrorism funds at the federal level that address domestic terrorism, as well as right-wing and white supremacist extremist groups. Both letters are attached.

Governor McAuliffe also directed DCJS to make grant funds available to support emergency response training programs to combat extremism and domestic terrorism. On September 26, 2017, he announced \$1.5 million in grants funds available to law enforcement agencies and other stakeholders for these programs and to support the development of regional plans and cooperative agreements to help localities coordinate resources to deal with incidents related to civil unrest. That release is attached.

Conclusion

This event represented one of the largest, most horrific outpourings of hatred and violence in modern history, with an unprecedented number of hate groups descending upon the City of Charlottesville. Even under the best of circumstances, this type of incident would be extremely challenging to prepare for.

Though this report highlights the unprecedented state support allocated to the events in Charlottesville on August 12, it is imperative that the Commonwealth continues to improve our ability to integrate our support and resources into local jurisdictions' preparedness and response efforts. While our efforts will never bring back the three honorable Virginians we lost, the lessons we have learned in the wake of these tragic events can save lives in the future.

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

Finally, I would be remiss if I did not thank our men and women in uniform who risk their lives to protect us each day when they put their uniforms on. I also want to thank the hard-working members of the Task Force and two work groups, as well as Task Force staff who dedicated countless hours to this important issue. I am confident that our work will serve as a model for others around the nation in preparing for and responding to incidents of civil unrest.

Attached to this Addendum are:

- The memorandum developed by VSP that Governor McAuliffe communicated to the City of Charlottesville;
- Governor McAuliffe's August 11 statement urging Virginians to stay away from the City;
- Governor McAuliffe's Executive Order 66 (2017) declaring a state of emergency on August 12;
- Governor McAuliffe's letters to Attorney General Jefferson Sessions and Acting Secretary of Homeland Security, Elaine Duke; and
- Governor McAuliffe's announcement of \$1.5 million in grant funds to support emergency response training and programs to identify and combat extremism and domestic terrorism.

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

August 1, 2017, Memorandum to Governor McAuliffe

Date: August 1, 2017

To: Governor McAuliffe

Through: Paul Reagan, Chief of Staff

From: Brian Moran, Secretary of Public Safety and Homeland Security

RE: Conversation with Mayor Michael Signer regarding protests on August 12

Background:

The recommended call is to request that Mayor Signer take aggressive action to fully leverage the City of Charlottesville's permitting authority to ensure the safety and security of protestors and law enforcement. Additionally, the request includes a request for specific messaging from the City of Charlottesville to the groups protesting and general public to outline expectations for civil behavior prior to the event.

The "Unite the Right" rally is scheduled to take place August 12, 2017 from 12PM to 5PM at Lee Park in Charlottesville, Virginia. The rally comes after a particularly divisive spring and summer in Charlottesville, following the City Council's vote to remove the Robert E. Lee statue from the downtown park. The event plans to feature multiple "alt-right" and right wing speakers, including Richard SPENCER, Jason KESSLER, Matthew HEIMBACH, Michael HILL, and many others. These groups have espoused beliefs that promote violence. Per social media and other open source information, over 1,000 (some potentially armed) individuals representing the "alt-right" movement may attend the rally. Conversely, groups opposing the "alt-right" groups (i.e. Black Lives Matter Charlottesville, BlackLivesMatter757, Antifa Seven Hills (ASH), Lynchburg Virginia Antifa, Southern Virginia Antifa, and Showing Up for Racial Justice – Charlottesville) are organizing counter-protests. There have been civil disturbances and acts of violence across the nation at similar events, including in Virginia (July 7).

Talking Points:

1) Request the City of Charlottesville enhance the requirements/conditions of the permit already provided to the protesting groups, to include:

- Permit should **not** allow firearms/weapons of any sort within 10 block vehicular restriction area. **Please note:** This requirement could draw attention from pro-second amendment groups, so discussion is needed;
- Designated parking areas;

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

- Bussing protestors to and from protest area. **Please note:** This could set precedent for any future protests;
- Consider reducing time allowance from 5 hours to 3 hours for safety reasons;
- Prohibit signs, poles, items that could be used as weapons;
- Mandatory meetings prior to protest between Law Enforcement and organizers.

2) Coordinated messaging prior to the event, to include:

- Consistent message from Charlottesville Government leadership:
 - In support of Law Enforcement
 - Violence will not be tolerated/No criminal activity
 - Failure to follow laws will result in immediate arrest
- Elected Leadership and Law Enforcement supports First Amendment Rights for everyone, which means protesting within bounds of the permit.
 - Charlottesville citizens and visitors will be in vicinity enjoying Charlottesville attractions, unruly protests will affect them and could lead to negative experiences, injuries, business disruption.
- Denial of permits for any additional demonstrations on August 12.
- Stress to Mayor, City Manager, Council Members the necessity of meeting with Law Enforcement leadership for situational briefing to understand the potential dynamics of multiple protests in one area.

Governor McAuliffe Statement on Planned Rally in Charlottesville

For Immediate Release: August 11, 2017

Contacts: Office of the Governor: Brian Coy, Brian.Coy@governor.virginia.gov

Governor McAuliffe Statement on Planned Rally in Charlottesville

RICHMOND – Governor McAuliffe released the following statement on the planned rally in Charlottesville, VA on Saturday, August 12th:

“This morning, I was briefed for the second time this week by public safety officials in my cabinet, the Virginia State Police, the National Guard, and the Department of Emergency Management on their preparations for tomorrow’s rally in Charlottesville. I have directed them to coordinate with federal and local authorities and take every precaution necessary to ensure the safety of their personnel, the Charlottesville community and rally attendees. Virginia State Police is leading the Commonwealth’s planning and response for these events and will be on the scene in a support capacity before, during and after the planned rally. At my direction, personnel from the Virginia National Guard are also standing by to respond if needed.

“Virginia is the birthplace of the rights to freedom of speech and peaceful assembly that make our country great. I expect that most of the individuals who participate in tomorrow’s events will honor that proud legacy by expressing their views safely and respectfully. However, in advance of tomorrow’s rally there have been communications from extremist groups, many of which are located outside of Virginia, who may seek to commit acts of violence against rally participants or law enforcement officials. In the event that such violent or unlawful conduct occurs, I have instructed state public safety officials to act quickly and decisively in order to keep the public and themselves safe.

“Finally, as we prepare for tomorrow’s events, I want to urge my fellow Virginians who may consider joining either in support or opposition to the planned rally to make alternative plans. Many of the individuals coming to Charlottesville tomorrow are doing so in order to express viewpoints many people, including me, find abhorrent. As long as that expression is peaceful, that is their right. But it is also the right of every American to deny those ideas more attention than they deserve. Men and women from state and local agencies will be in Charlottesville tomorrow to keep the public safe, and their job will be made easier if Virginians, no matter how well-meaning, elect to stay away from the areas where this rally will take place.”

###

Executive Order Number 66



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER SIXTY SIX (2017)

DECLARATION OF A STATE OF EMERGENCY FOR THE COMMONWEALTH OF VIRGINIA DUE TO CIVIL UNREST

Importance of the Issue

On this date, August 12, 2017, I am declaring a state of emergency to exist for the Commonwealth of Virginia due to civil unrest leading up to, resulting from, and subsequent to the Unite the Right rally and counter-protests in the City of Charlottesville. The actions of the event participants have caused numerous injuries, damage to local infrastructure, and severe damage to public and private property.

The health and general welfare of the citizens of the Commonwealth require that state action be taken to help alleviate the conditions caused by this situation. The effects of this incident constitute a disaster wherein human life and public and private property are imperiled, as described in § 44-146.16 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued on this date, August 12, 2017, whereby I am proclaiming that a state of emergency exists, and I am directing that appropriate assistance be rendered by agencies of both state and local governments to alleviate any conditions resulting from the incident, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions in so far as possible. Pursuant to § 44-75.1(A)(3) and (A)(4) of the *Code of Virginia*, I am also directing that the Virginia National Guard and the Virginia Defense Force be called forth to state active duty to be prepared to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia Department of State Police with the Governor's authority to arrest individuals for felonies committed in their presence, to arrest individuals for offenses against public safety (riot, unlawful assembly, etc), to take action necessary to protect lives and preserve property, and to

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perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety and Homeland Security, may find necessary. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and are not subject to the civilian authorities of county or municipal governments.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures to meet this threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the *Code of Virginia*, I hereby order the following protective and restoration measures:

- A. Implementation by state agencies of the Commonwealth of Virginia Emergency Operations Plan (COVEOP), as amended, along with other appropriate state agency plans.
- B. Activation of the Virginia Emergency Operations Center (VEOC) and the Virginia Emergency Support Team (VEST) to coordinate the provision of assistance to local governments. I am directing that the VEOC and VEST coordinate state actions in support of affected localities, other mission assignments to agencies designated in the COVEOP, and others that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety and Homeland Security, which are needed to provide for the preservation of life, protection of property, and implementation of recovery activities.
- C. The evacuation of areas threatened or stricken by effects of the civil unrest, as appropriate: Following a declaration of a local emergency pursuant to § 44-146.21 of the *Code of Virginia*, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response, or recovery effort, pursuant to § 44-146.17(1) of the *Code of Virginia*, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the VEOC, acting on behalf of the State Coordinator of Emergency Management, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination. Also, in those localities that have declared a local emergency pursuant to § 44-146.21 of the *Code of Virginia*, if the local governing body determines that controlling movement of persons is deemed necessary for the preservation of life, public safety, or other emergency mitigation, response, or recovery effort, pursuant to § 44-146.17(1) of the *Code of Virginia*, I authorize the control of ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein upon such timetable as the local governing body, in coordination with the State Coordinator of Emergency Management and the VEOC, shall determine. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.
- D. The activation, implementation, and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to § 44-146.17(5) and § 44-146.28:1 of the *Code of Virginia*, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the *Code of Virginia*.

- E. The authorization of the Departments of State Police, Transportation, and Motor Vehicles to grant temporary overweight, over width, registration, or license exemptions to all carriers transporting essential emergency relief supplies, livestock or poultry, feed or other critical supplies for livestock or poultry, heating oil, motor fuels, or propane, or providing restoration of utilities (including, but not limited to: electricity, gas, phone, water, wastewater, and cable) in and through any area of the Commonwealth in order to support the disaster response and recovery, regardless of their point of origin or destination. Weight exemptions are not valid on interstate highways or on posted structures for restricted weight unless there is an associated Federal emergency declaration.

All over width loads, up to a maximum of 12 feet, and over height loads up to a maximum of 14 feet must follow Virginia Department of Motor Vehicles (DMV) hauling permit and safety guidelines.

In addition to described overweight/over width transportation privileges, carriers are also exempt from vehicle registration with the Department of Motor Vehicles. This includes vehicles en route and returning to their home base. The above-cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

- F. This Emergency Declaration implements limited relief from the provisions 49 CFR 390-399. Accordingly, the State Coordinator of Emergency Management recognizes the exemption for hours of service by any carrier when transporting essential emergency relief supplies, passengers, property, livestock, poultry, equipment, food, feed for livestock or poultry, fuel, construction materials, and other critical supplies to or from any portion of the Commonwealth for purpose of providing direct relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the *Code of Virginia* and Title 49 Code of Federal Regulations, Section 390.23 and Section 395.3.
- G. The foregoing overweight/over width transportation privileges as well as the regulatory exemption provided by § 52-8.4(A) of the *Code of Virginia*, and implemented in § 19 VAC 30-20-40(B) of the "Motor Carrier Safety Regulations," shall remain in effect for 30 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety and Homeland Security in consultation with the Secretary of Transportation, whichever is earlier.
- H. The implementation and discontinuance of provisions authorized in paragraphs F through H above shall be disseminated by the publication of administrative notice to all affected

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and interested parties. I hereby delegate to the Secretary of Public Safety and Homeland Security, after consultation with other affected Cabinet Secretaries, the authority to implement this order as set forth in § 2.2-104 of the *Code of Virginia*.

- I. The authorization of appropriate oversight boards, commissions, and agencies to ease building code restrictions and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting, and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties.
- J. The authorization of a maximum of \$600,000 in state sum sufficient funds for state and local governments mission assignments authorized and coordinated through the Virginia Department of Emergency Management that are allowable as defined by The Stafford Act. This funding is also available for state response and recovery operations and incident documentation. Out of this state disaster sum sufficient, \$250,000, or more if available, is authorized for the Department of Military Affairs for the state's portion of the eligible disaster-related costs incurred for salaries, travel, and meals during mission assignments authorized and coordinated through the Virginia Department of Emergency Management. \$350,000, or more if available, is authorized to cover the disaster-related costs incurred for salaries, travel, and meals during mission assignments of any defined specialty teams and the Virginia Emergency Operations Center.
- K. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28(b) of the *Code of Virginia*. § 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.
- L. Designation of members and personnel of volunteer, auxiliary, and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters, Citizen Corps Programs such as Medical Reserve Corps (MRCs), Community Emergency Response Teams (CERTs), and others identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23(a) and (f) of the *Code of Virginia*, in the performance of their specific disaster-related mission assignments.
- M. The activation of the statutory provisions in § 59.1-525 *et seq.* of the *Code of Virginia* related to price gouging. Price gouging at any time is unacceptable. Price gouging is even more reprehensible during a time of disaster after issuance of a state of emergency. I have directed all applicable executive branch agencies to take immediate action to address any verified reports of price gouging of necessary goods or services. I make the same request of the Office of the Attorney General and appropriate local officials. I further request that all appropriate executive branch agencies exercise their discretion to the extent allowed by law

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

to address any pending deadlines or expirations affected by or attributable to this disaster event.

N. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in preparations and response to this incident and in alleviating the human suffering and damage to property.
2. Pursuant to §§ 44-146.17, 44-146.28(d), and 44-75.1(A)(3) of the *Code of Virginia*, the Virginia National Guard shall prepare for and assist the Virginia State Police throughout the duration of the Unite the Right Rally in Charlottesville, Virginia on August 12, 2017. The Virginia National Guard will be mobilized on Friday August 11, 2017, to prepare and provide assistance through the conclusion of the event. Assistance shall include, but not be limited to:
 - Providing for safe movement of traffic and pedestrians;
 - Assisting with the safety and security of event attendees and law enforcement officers;
 - Providing crowd control;
 - Assisting with arrests;
 - Providing security to arrestees during detainment;

The members of the Virginia National Guard activated for this Rally shall be authorized, under Virginia Code Section 44-75.1(A)(3), to do all acts necessary to accomplish the above assistance, and to enforce the following laws, to include the power of arrest: All violations of Chapter 9, Article 1 of Virginia Code Section 18.2 (Crimes Against Peace and Order; Riot and Unlawful Assembly), and such other acts necessary to protect lives, preserve property, and in defense of self and others.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and are not subject to the civilian authorities of county or municipal governments. Any bonds and/or insurance required by § 52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.
4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

- a. Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,
 - b. The same benefits, or their equivalent, for injury, disability, and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the *Code of Virginia*, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.
5. The following conditions apply to service by the Virginia Defense Force:
- a. Virginia Defense Force personnel shall receive pay at a rate equivalent to a National Guard soldier of like rank, not to exceed 25 years of service.
 - b. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;
 - c. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for the expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with § 44 54.12 of the *Code of Virginia*;
 - d. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the *Code of Virginia*, other than costs defined in the paragraphs above pertaining to the Virginia National Guard and pertaining to the Virginia Defense Force, in performing these missions shall be paid from state funds.

Effective Date of this Executive Order

This Executive Order shall be effective August 12, 2017, and shall remain in full force and effect until August 17, 2017, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 12th day of August, 2017.

Terence R. McAuliffe, Governor

Attest:

Kelly Thomasson, Secretary of the Commonwealth

Letter to Attorney General Jefferson Sessions



COMMONWEALTH of VIRGINIA

Office of the Governor

August 28, 2017

Terence R. McAuliffe
Governor

The Honorable Jefferson Sessions
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Sessions:

The horrendous attack in Charlottesville on August 12, 2017 demonstrates the immense need for the federal government, and specifically the Department of Justice, to focus on the threat of domestic terrorism, and the discriminatory ideologies that are fueling these heinous acts.

Our Commonwealth and nation are still reeling from one of the largest outpourings of hatred and violence we have experienced in recent history. I appreciate your recognition of this event as domestic terrorism and commend the significant resources your department has dedicated to the investigation. I am pleased to see the involvement of both the FBI counterterrorism division and the civil rights division to ensure all potential actions and charges are considered. I hope that as the investigation progresses the Department will continue to work with us and our local partners.

We have the arduous task now of healing our community and confronting the discriminatory ideologies that exist in our communities and in our nation. Although proper recognition and prosecution are a start, these alone are not enough. The systemic issues that perpetuate hate and violence must be addressed. The Justice Department must be a partner in addressing these issues. Every action the Department takes, from its position on voter-identification laws to affirmative action practices, must promote civil rights and eliminate discrimination. To do otherwise is to perpetuate the problem.

The Justice Department must maximize the resources at its disposal to counter domestic terrorism. In this current environment, it is extremely concerning that the administration has not requested any funding for the State and Local Anti-Terrorism Training program and is dissolving the program. Training state and local law enforcement agencies on how to identify terrorists and

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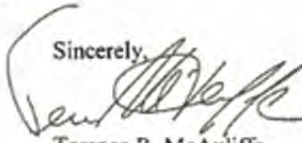
General Jefferson Sessions
August 28, 2017
Page 2

their progression towards carrying out an attack is critical to preventing an attack. I respectfully request you do everything in your power to revive this long-standing, vital program.

Moving forward, it is also crucial that the Domestic Terrorism Executive Committee and the Domestic Terrorism Counsel work with state and local partners to further their objectives. There is very little known about the efforts of the counsel or the committee. Increased communication and collaboration with state and local partners is critical if we are going to prevent further domestic terrorist attacks.

To that end, the Justice Department and the FBI must dedicate additional focus and resources to preventing members of domestic terrorist organizations from mobilizing to commit acts of violence and prosecuting those who do. It is time to rebalance efforts and acknowledge the magnitude of the threat posed by domestic terrorism. I hope that you will advocate for additional funding or authorities in order to do so.

As Attorney General, we rely on you to take every precaution necessary to ensure the safety of the American people. My team is available to assist in any way necessary. May we each continue to do our part to protect this great nation.

Sincerely,

Terence R. McAuliffe

Letter to Acting Secretary of Homeland Security Elaine C. Duke



COMMONWEALTH of VIRGINIA

Office of the Governor

Terence R. McAuliffe
Governor

August 28, 2017

The Honorable Elaine C. Duke
Secretary of Homeland Security
Washington, D.C. 20528

Dear Secretary Duke:

The horrendous attack in Charlottesville, Virginia on August 12, 2017 demonstrates the immense need for the federal government, and specifically the Department of Homeland Security, to focus on the threat of domestic terrorism.

Our Commonwealth and nation are still reeling from one of the largest outpourings of hatred and violence we have experienced in recent history. As evidenced by the attack in Charlottesville, the threat posed by right-wing extremism, specifically white supremacist extremism, is very real. The Joint Intelligence Bulletin issued on August 21, 2017 by your department and the FBI also clearly demonstrates cause for concern. The federal government should not be ignoring this threat and refusing promised funding to organizations like Life After Hate and UNC-Chapel Hill, both of which were originally awarded Countering Violent Extremist grants to fund projects countering online white supremacist recruitment and propaganda.

I respectfully request that you do everything in your power to advocate for the Countering Violent Extremism task force and the grants they disperse. In this current environment, it is extremely concerning that the administration has proposed eliminating the program when we should instead be providing additional funding.

It is equally concerning that it appears the focus of the Countering Violent Extremism task force has shifted away from all forms of violent extremism. I would appreciate your assurance that this is not the case. We must prevent the threat of lethal violence from all terrorists and violent extremists, including those who espouse ideologies other than Islamist extremism. The recent attempted bombing in Oklahoma City has demonstrated just how important it is to dedicate appropriate resources to stopping domestic terrorists. The Department needs to dedicate

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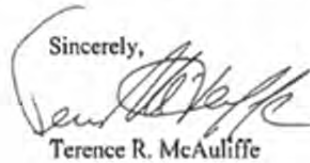
Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest

Secretary Elaine Duke
August 28, 2017
Page 2

additional focus and resources to preventing members of domestic terrorist organizations from mobilizing to commit acts of violence.

As Secretary of Homeland Security, I urge you to take every precaution necessary to ensure the American people are safe from domestic terrorists. My team is available to assist the Department in any way necessary. May we each continue to do our part to protect this great nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Terence R. McAuliffe", is written over a light blue circular stamp. The signature is fluid and cursive.

Terence R. McAuliffe

Governor McAuliffe Announces \$1.5 Million in Department of Criminal Justice Services Grant Funding Available

For Immediate Release: September 26, 2017

Contacts: Office of the Governor: Brian Coy, Brian.Coy@governor.virginia.gov

Governor McAuliffe Announces \$1.5 Million in Department of Criminal Justice Grant Funding Available

~Grants to Support Emergency Response Training; Programs to Identify and Combat Extremism and Domestic Terrorism~

RICHMOND - Governor Terry McAuliffe today announced that he is making \$1.5 million in grant funding available through the Department of Criminal Justice Services (DCJS) to law enforcement agencies and other stakeholders to fund programs combating domestic terrorism and violent extremism. The grants will also support the development of regional plans and cooperative agreements to help localities coordinate resources to deal with incidents related to civil unrest, violent extremism or domestic terrorism.

"The Trump Administration has proposed significant cuts to counterterrorism programs that respond to the threat of violent extremism and domestic terrorism in our communities," **said Governor McAuliffe**. "That is why, in addition to urging Attorney General Sessions and the Department of Homeland Security to protect these federal funds, I have directed my public safety team to identify and make funds available to ensure that this need continues to be addressed in Virginia. These grants will help make Virginia an even safer place to live by working from the community-level up to combat extremism before it turns violent."

The funds will be administered by the Department of Criminal Justice Services (DCJS) through the federal Edward Byrne Justice Assistance Grant Program. Grant funds are being offered in the following areas:

- law enforcement training and development of cooperative planning and response;
- law enforcement/community training in awareness of indicators of potential violence to include domestic terrorism, domestic extremism, hate groups, and community threat assessments;
- development and updating of online training to be offered by regional law enforcement academies on countering violent extremism and domestic terrorism; and
- violence-focused crime and information analysis
- projects to increase cultural exposure and promote community resilience in youth
- community engagement programs to reduce radicalization, domestic extremism, and youth and young adult violence;

"Violent extremism and domestic terrorism pose significant public safety threats to our communities," **said Brian Moran, Secretary of Public Safety and Homeland Security**. "These funds will provide our law enforcement agencies, emergency response partners and stakeholders

Governor’s Task Force on Public Safety Preparedness and Response to Civil Unrest

with the necessary training to identify, prevent and respond to any potential violent acts, and will support programs to prevent our youth from becoming involved with extremist groups.”

Applications for the grants announced today will be due to DCJS no later than November 6, 2017. Details and grant application instructions are available on the DCJS website, at www.dcjs.virginia.gov.

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