

RNC Update: Report Faults Police on Media Planning; Legal Fallout Continues

St. Paul officials continue to face fallout from the September 2008 Republican National Convention (RNC).

On Jan. 14, 2009, former U.S. Attorneys Tom Heffelfinger and Andy Luger released the conclusions of a commission appointed to review the planning and execution of RNC policing and public safety measures. The report called city and police planning for the event “successful . . . in many respects,” but it also said that officials failed to adequately prepare residents and visitors for the possibility of violence and disruption in the streets of downtown St. Paul, struggled with communication and collaboration plans for the various law enforcement agencies involved, and called “treatment of the media during the RNC . . . uneven and uncoordinated.”

Heffelfinger and Luger were appointed to head the seven-member commission, formally known as the Republican National Convention Public Safety and Implementation Review Commission, by St. Paul Mayor Chris Coleman. The St. Paul *Pioneer Press* and Minneapolis *Star Tribune* reported January 15 that the report cost \$130,000. The commission included former St. Paul Mayor George Latimer, former Golden Valley Police Chief Robert Hernz, University of Minnesota law professor and juvenile justice expert Barry Feld, private investigator and former police officer Mary Ann Vukelich, and St. Paul business leader Linda White, who formerly worked for the Minnesota Department of Human Rights. Commission members unanimously endorsed the report’s findings. The report said that members “conducted dozens of interviews, reviewed thousands of pages of documents and scores of photographs and watched hundreds of hours of video coverage of the convention,” including “coverage from bloggers, independent media sources, the police, network news outlets and amateur videographers.” The full report, an executive summary, and numerous supporting documents, photographs, and videos are available on the St. Paul city Web site at <http://www.stpaul.gov/index.asp?nid=2901>.

Overall, the commission praised law enforcement for its conduct throughout the four days of the convention. The report called police conduct “restrained and professional,” and described the decisions to use heavy riot police

presence and crowd control measures such as smoke grenades, tear gas, and pepper spray as “justified” in response to violence and property damage that occurred on the first day of the convention, and in light of intelligence that suggested that more violence was likely during subsequent days of the convention. However, the report also said “several specific incidents or situations of potential inappropriate conduct, including the improper uses of pepper spray and potential mass arrests . . . warrant further review.”

The commission also said that the city’s preconvention message that the St. Paul RNC would be a “different convention” with a “softer police presence” raised citizens’ expectations that police would be “a Endangered Journalists RNC Update: Report Faults Police on Media Planning; Legal Fallout Continues supportive rather than a threatening force,” and were “unrealistic . . . given the real prospect of violent activities.”

“Because of the high expectations created for this convention, the public was unprepared to witness riot gear outfitted officers and to see the use of pepper spray, smoke and other chemical devices to clear crowds of anarchists from the streets of Saint Paul, [and] unprepared for the amount and appearance of the security fencing surrounding the Xcel Energy Center. . . . [T]he city and [St. Paul Police Department] should have communicated a more balanced message regarding the prospects for the RNC,” the report said.

The commission was also critical of planning for media coverage of convention events outside of the Xcel Energy Center, which it said “created mixed expectations and misunderstandings that could have been avoided.”

The report said that problems with media planning began in the months before the convention. Although city and law enforcement officials met with members of the media numerous times prior to the convention, “the expectations of journalists and [police] were not always the same,” the report said.

For example, representatives of the media told the commission that, based on their prior experiences with St. Paul police, they expected police would afford journalists “some grace to cover news events and believed that journalists caught up during demonstrations would be protected and not treated as part of the problem.” Members of the media also complained that during RNC events and media arrests they received conflicting messages from within law enforcement about how police would handle journalists. Meanwhile, police officials told the commission that they went into the RNC with the belief that journalists did not

enjoy any special rights of access or immunity from arrest by virtue of their role as members of the media.

The report also said that representatives of the St. Paul police, Mayor Coleman's office, and the Ramsey County and City Attorney's Offices met with attorneys representing the Reporters Committee for Freedom of the Press (RCFP) on several occasions before the convention to discuss concerns about prompt processing if police detained or arrested journalists during demonstrations, and how to expedite the return of their equipment if it was seized. The commission reported that RCFP attorneys said they expressed concerns about police improperly arresting journalists covering a disturbance because police misunderstood their presence at the scene, requested that identifiable and verifiable journalists be cited rather than arrested and subjected to lengthy booking processes, and were told that mass arrests were not expected and that police would only arrest journalists if they engaged in illegal activity. Meanwhile, government officials interviewed by the commission expressed frustration that the media lawyers did not appear to have a clear understanding of what they wanted, and said that the RCFP lawyers never provided a draft protocol or plan for implementing their requests.

The commission cited the lack of a protocol as a key failing that led to the "uneven and uncoordinated" treatment of media during the RNC.

The report specifically cited a discrepancy between how members of the media were treated during the arrests of large groups of people in a park on Shepard Road on September 1 and on the Marion Street Bridge on September 4. In the September 1 incident, more than a hundred protesters, members of the media, and bystanders who gathered in a small park near the Mississippi River were encircled by riot police and told they were under arrest. Self-identified journalists and some bystanders were allowed to leave without being cited or arrested, the report said.

In contrast, on the evening of September 4, a group of protesters and media were directed onto the Marion Street Bridge, where they were surrounded and told they would be arrested. In that case, the journalists were not permitted to leave and many were arrested. The report said that some journalists acknowledged to the commission that they should have been arrested for staying within an unlawful assembly, but others believed that they were essentially forced to join the crowd on the bridge by law enforcement and then were improperly detained and charged.

One Twin Cities reporter later told local ABC affiliate KSTP that he was mistreated by police on the night of September 4. Seth Rowe, a reporter for Sun Newspapers, which publishes 42 weekly newspapers in the suburbs of Minneapolis and St. Paul, told KSTP in a March 8, 2008 interview that he was arrested on the Marion Street Bridge, booked, and released at 3 a.m. with a small group of arrestees that were driven by police to an unfamiliar part of town and dropped off.

Rowe told KSTP he asked, “How do I get back to my car?” and they didn’t answer. They just got back into the paddy wagon, slammed the door and took off.” KSTP reported that Rowe filed a complaint, and said he would consider joining a class action suit if one is filed.

The commission report did not discuss in detail every complaint that it received from journalists who said they were arrested or detained, explaining that its “scope of review [did] not include our rendering findings or conclusions relating to specific incidents.” However, it said the commission “heard testimony, reviewed videos, and received documents describing the arrests of professional journalists with RNC credentials covering the violence in downtown Saint Paul.”

The report specifically cited the September 1 arrest of Matt Rourke, an Associated Press (AP) photographer with RNC press credentials, at the intersection of Ninth and Jackson Streets in downtown St. Paul, calling it “troubling.” The AP told the commission Rourke was arrested and held for about 10 hours before being released. Meanwhile, Evan Vucci, another RNC-credentialed AP journalist present at the same location and time as Rourke, was tackled and his camera destroyed before being promptly released. In a footnote, the report said the Rourke arrest “may warrant further review or investigation.”

The commission also said it heard complaints that police confiscated journalists’ notebooks and equipment and that there were administrative delays in returning them. “Some media representatives characterized the arrests of journalists and temporary loss of their equipment as a form of prior restraint that prevented on-going coverage of events,” the report said.

The report said more than 40 journalists were arrested and detained. For more on those arrested, which included reporters, photographers, and videographers from Twin Cities television stations WCCO and KARE-11, the national MyFox television chain, the *Pioneer Press*, The Associated Press (AP), several local and national news Web sites and blogs, and student newspapers

from around the country, see “Dozens of Journalists Arrested at Republican National Convention in St. Paul” in the Fall 2008 *Silha Bulletin*.

On Sept. 19, 2008, Coleman announced that St. Paul would not prosecute journalists who were arrested and charged with misdemeanors for being present at an unlawful assembly during the RNC, saying “the city attorney’s office will use a broad definition and verification to identify journalists.” St. Paul City Attorney John Choi told the *Bulletin* that as of November 12, his office had reviewed citations against 42 journalists and had declined to prosecute 34 who were charged only with misdemeanor presence at an unlawful assembly and whose status as journalists was confirmed. According to an “RNC Update” posted on the City Attorney’s office Web site at <http://www.ci.stpaul.mn.us/index.asp?nid=2757> and dated February 20, the City Attorney dismissed 39 cases against individuals because they were identified as journalists.

The January 14 commission report concluded that the “St. Paul Police Department’s decision not to draft a protocol for the arrest or detention of journalists led to the uneven treatment of journalists and the unnecessary arrest and detention of members of the media. While the Commission recognizes that the drafting of such a protocol is complicated and requires law enforcement to make difficult choices regarding who constitutes a journalist, SPPD should have had a protocol in place. As part of the protocol, the SPPD should have placed trained officers at the scene of large arrests to identify journalists and to assist them to locate and protect their equipment and maintain contact with their news organizations. This should not have been the responsibility of one Public Information Officer.”

“As a result,” the report said, “the message of peaceful protesters was substantially drowned out by the extensive media coverage of anarchist violence and the attention paid to arrested journalists.”

Erin Dady, director of marketing and convention planning at the St. Paul Mayor’s office told the *Bulletin* April 13 that the city is reviewing police policy for dealing with the media.

The *Star Tribune* reported February 26 that seven lawsuits alleging police misconduct during the RNC were filed February 26 in U.S. District Court in St. Paul. The Web site Minnesota Independent reported February 27 that the civil suits accuse officials of physical and sexual abuse, illegal searches and seizure of property, and wrongful detainment.

Minnesota Independent reported that three of the lawsuits came from journalists who claim the actions of police officers prevented them from doing their work. Wendy Binion, an Oregon resident who works with the Web site Portland IndyMedia, was arrested on the second day of the convention near Mears Park. Her lawsuit claims that she was “battered, assaulted, subjected to excessive, unreasonable force, unreasonably seized, falsely arrested and falsely imprisoned” by St. Paul police officers. She also alleges that officers confiscated her video camera, ATM card, and other personal property and did not return it for two months.

New York residents Vladimir Teichberg and Olivia Katz of the group the Glass Bead Collective claim they were stopped by police officers while walking in northeast Minneapolis five days before the convention began. They claim the officers detained them for at least 30 minutes and held their possessions — including a laptop computer, cell phones and cameras — for 14 hours. The Minnesota Independent reported that the lawsuit claims Teichberg and Katz were not charged with a crime, and most of their property was returned except for a \$100 bill and Katz’s driver’s license.

The *Star Tribune* reported February 26 that more suits were likely as the American Civil Liberties Union of Minnesota prepares suits for 21 clients and conducts internal discussions about broader litigation, and attorneys for the Minnesota chapter of the National Lawyers Guild anticipate at least 100 more people will sue the city and its police department.

— Patrick File
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