

## Community Review Board on Police Practices

### Policy Committee Online Teleconference Meeting

**Friday, June 12, 2020**  
**3 p.m. – 5 p.m.**

### Agenda

This meeting will be available live and online on YouTube. Click [here](#) to view this meeting at its scheduled time.

- I. Welcome/Call to Order
- II. Roll Call
- III. Approval of the Minutes from the March 10, 2020 Policy Committee Meeting
- IV. Non-Agenda Public Comment
- V. Unfinished Business (All tabled to address new business)
  1. Procedure & Guideline for SDPD Complaint Intake of Informal/Formal Complaints (**Committee Chair Brandon Hilpert**)
  2. Modify SDPD Procedure 1.49: Axon Body Worn Cameras –Section Q 7(N) – Issue is some complainants are not allowed to bring person of choice for support when viewing his/her BWC video. (**Committee Chair Brandon Hilpert**)
  3. Development of Third-Party Mediation (**Nancy Vaughn**) – **This item is tabled until after the November 2020 Election.**
  4. Best Practices Research for Law Enforcement Investigations Involving Discrimination Allegations (**Patrick Anderson**)
  5. Complaint Process Guide Card Issued to All Sworn Personnel (**Committee Chair Brandon Hilpert**)
  6. Prohibit Officers from Viewing Body Worn Camera Video of Others

At its April 24, 2018 open meeting, the CRB made a recommendation to SDPD that SDPD establish a policy that would prohibit officers from

viewing surveillance videos or body worn camera videos of other officers prior to being interviewed by Internal Affairs.

**Action Item Status:** SDPD has reached a decision on this recommendation.

7. Require a defined SDPD Policy and Procedure and possibly a guide card to provide hearing impaired individuals and SDPD officers for officers to use in the field (**Committee Chair Brandon Hilpert**)
8. Revise SDPD Procedure 1.49 1.b to require that officers do not turn off his/her body worn cameras until all officers exit an individual's residence (**Committee Chair Brandon Hilpert**)

#### VI. New Business (Discussion/Action)

1. Policy recommendation on use of force during protest activities
  - a. Process for declaring an unlawful assembly
  - b. Level of force, weapons and tactics used to disperse a crowd
  - c. Notice given before using force to disperse a crowd
  - d. Use of military-style equipment
  - e. Community involvement in planning and debriefing the police response
  - f. Response to the blocking of roadways
  - g. Arranging medical assistance for protesters

#### VII. Adjourn

##### **Materials Provided:**

- Draft 3.10.20 Policy Committee Meeting Minutes
- Seattle PD Crowd Management Policy
- Fresno Procedure on Demonstrations
- Oakland Crowd Control & Crowd Management Policy
- Washington DC Metropolitan Police Mass Demonstration Policies

**Comment on Agenda Items** must be submitted using [webform](#), checking the appropriate comment type box, and indicating the agenda item number they wish to submit their comment for. Instructions for word limitations and deadlines are noted on the [webform](#). On the [webform](#), members of the public should select Community Review Board on Police Practices (even if the public comment is for a Community Review Board on Police Practices Committee meeting). Only comments submitted no later than 4:00 p.m. the day prior to the meeting using the public comment form will be eligible to be read into the record. If you submit more than one form per item, only one will be read into the record for that item. **Comments received after 4:00 p.m. the day prior and before 8:00 a.m. the day of the meeting** will be provided to the Board and posted online with the meeting materials. All comments are limited to 200 words. Comments received after 8:00 a.m. the day of the meeting but before the item is called will be submitted into the written record for the relevant item.

**Non-Agenda Public Comment** must be submitted using [webform](#) and checking the appropriate comment type box in order to be eligible to be read into the record. The City staff will read the first 30 comments received by 4:00 p.m. the day before the meeting. However, if there are less than 30 comments submitted by 4:00 p.m. the day before the hearing, the City will read comments submitted by 8:00 a.m. on the day of the meeting up to a total of 30 comments. The maximum number of comments to be read into the record on a single issue will be 16. Comments submitted by 8:00 a.m. the day of the meeting will be provided to the Board or Commission, made a part of the record, and posted with the meeting materials. All comments are limited to 200 words. Comments received after 8:00 a.m. the day of the meeting but before Non-agenda comment is called will be submitted into the written record for the meeting.

If you attach any documents to your comment, it will be distributed to the Board in accordance with the deadlines described above.

## **COMMUNITY REVIEW BOARD ON POLICE PRACTICES**

### **POLICY COMMITTEE MEETING MINUTES**

**Tuesday, March 10, 2020**

**4:00-5:00 PM**

**Mission Valley Branch Library**

**2123 Fenton Parkway, San Diego, CA 92108**

#### **Committee Members Present**

Committee Chair Brandon Hilpert

Chair Joe Craver

Doug Case

Pauline Theodore

Nancy Vaughn

#### **Committee Members Absent**

Patrick Anderson

Greg Daunoras

Poppy Fitch

#### **Staff Present**

Sharmaine Moseley, Executive Director, CRB on Police Practices

#### **SDPD Staff Present**

Mike Holden, Captain, San Diego Police Department

Charles Lara, Lieutenant, San Diego Police Department

- I. **Call to Order:** Policy Committee Chair Brandon Hilpert called the meeting to order at 4:12 p.m.
- II. **Purpose of the Policy Committee:** Committee Chair Hilpert waived the reading of the purpose of the Policy Committee since no one from the public was in attendance.
- III. **Non-Agenda Public Comment:** None
- IV. **Approval of February 11, 2020 Committee Meeting Minutes**  
Community Review Board on Police Practices (CRB) Chair Joe Craver moved for the Policy Committee to approve the meeting minutes of February 11, 2020. Committee Member Pauline Theodore seconded the motion.

**The motion passed with a unanimous vote of 5-0-0.**

**Yays: Hilpert, Case, Craver, Theodore, and Vaughn**

**Nays: None**

**Abstention(s): None**

**Absent: Anderson, Daunoras, and Fitch**

**V. Unfinished Business (Discussion/Action)**

**a. Procedure & Guideline for SDPD Complaint Intake of Informal/Formal Complaints (Committee Chair Brandon Hilpert)**

Committee Chair Brandon Hilpert reported that the revisions of SDPD Procedure 1.10, which encompasses the complete intake process which includes informal and formal complaints was working its way through the Municipal Employee Association (MEA), as well as the Police Officer's Association (POA). The Committee was waiting for an update from Lieutenant Charles Lara. Lieutenant Lara reported that he will follow up on this item.

This item was tabled.

**b. Modify SDPD Procedure 1.49: Axon Body Worn Cameras (BWC) – Section Q 7(N) (Committee Chair Brandon Hilpert)**

Committee Chair Hilpert reported that this item was a community related request and assigned to 2<sup>nd</sup> Vice Chair Taura Gentry. 2<sup>nd</sup> Vice Chair spoke to the individual. The Committee feels that the existing policy and procedure is sufficient. This was a one-time specific issue. Put on the next agenda as an action item to close out this item.

This item was tabled.

**c. Development of Third-Party Mediation (Nancy Vaughn)**

The Committee agreed to put this on the next agenda as an action item for removal.

**d. Best Practices Research for Law Enforcement Investigations Involving Discrimination Allegations (Patrick Anderson)**

Committee Chair Hilpert reported that Executive Director Sharmaine Moseley sent out an email to NACOLE to gather feedback from other agencies. Executive Director Moseley reported that she received responses from Washington DC, and Seattle. The CRB intern will be compiling responses. Executive Director Moseley reached out to IA in Albany, NY as well, so we are in the process of compiling responses. She will follow-up with Oakland and San Francisco oversight agencies.

This item was tabled.

**e. Complaint Process Guide Card Issued to All Sworn Personnel (Taura Gentry)**

Committee Chair Hilpert reported that 2<sup>nd</sup> Vice Chair Taura Gentry was going to revise the card to include formal, informal, and miscellaneous complaints. He will clean it up and provide a draft to the Committee. The goal is to explain what happens next in the complaint process.

This item was tabled.

**f. Prohibit Officers from Viewing Body Worn Camera Video of Other Officers (Committee Chair Brandon Hilpert)**

At its April 24, 2018 Open Meeting, the CRB made a recommendation to SDPD that SDPD establish a policy that would prohibit officers from viewing surveillance videos or body worn camera videos of other officers prior to being interviewed by Internal Affairs.

**Action Item Status:** SDPD has reached a decision on this recommendation. Captain Holden will draft a memorandum for officers not to be allowed to see other officer's videos. It will be in the IA Operations Manual directing Sergeants to prohibit officers from seeing other officers BWC video and video that is found during the investigation. Captain Holden will present the memorandum to the Committee.

This item was tabled.

**g. Require a defined SDPD Policy and Procedure and possibly a guide card to provide hearing impaired individuals and SDPD officers for officers to use in the field (Committee Chair Brandon Hilpert) –** Committee Chair Hilpert reported the Committee received a copy of SDPD policy 1.37 that is already in place. The Committee does not think that having a card will be efficient for officers out in the field.

Lieutenant Charles Lara will look into if the training officers have a card they use in the field.

This item was tabled.

- h. Revise SDPD Procedure 1.49 1.b to require that officers do not turn off his/her body worn cameras until all officers exit an individual's residence (Committee Chair Brandon Hilpert)** – The Committee looked at C & B of the Policy. The Board has made a lot of recommendations over the years but has not made any recommendations on when to turn off the BWC. CRB Team 1 agreed to look into this item and draft a recommendation.

This item was tabled.

**VI. New Business (Discussion/Action):** None

**VII. Adjourned:** 4:32 p.m.

## Fresno Police Department Procedures Manual

### Demonstrations/ Special Events/ Operations

Corresponding Policy 409: Special Events/Operations  
CALEA Chapter 46

#### A. Demonstrations and Labor Disputes

In dealing with demonstrations and/or labor disputes officers should familiarize themselves with PC §§148, 302, 402, 403 through 410, 415 through 418, 647c, 726 and 727.

#### B. Authority on State/Federal Property

Members have the authority to take action and make arrests for State offenses committed on local, State (e.g., college campuses) and Federal Government property.

#### C. Procedures on Arrival

At a demonstration or unplanned event:

- The first unit to arrive shall survey the situation and shall advise the responding supervisor of the approximate size of the crowd, its actions and any possible weapons and will then report to a staging area as directed by the supervisor in charge;
- The supervisor shall determine the need for additional units and will advise the ComCen of the staging area where officers are to meet and immediately notify the Traffic and Special Services Commander for consideration of a layered response.
- The vehicles of responding officers shall be parked together, with officers assigned to guard the vehicles;

The primary duty of officers is to preserve the peace. Officers shall make de-escalation of the demonstration a priority and adopt a guardian mindset toward the demonstrators.

- The district, or field commander or Traffic and Special Services Commander is responsible for initiating requests for mutual aid from other agencies, when needed. When the district, or field commander or Traffic and Special Services Commander determines that all available on duty personnel from the Department and assisting agencies cannot handle the situation, he/she shall notify the CSU duty officer to initiate emergency call-up procedures.

#### D. Labor Disputes

Prior to receipt of a court order, the Department will remain neutral and serve only to preserve the peace and investigate or arrest for crimes committed.

Upon receipt of a valid court order, it shall be read to those assembled in English and, when necessary, in a secondary language (e.g., Spanish, Hmong, Lao, etc.).

- After reading the full order, the ranking officer will declare the assembly unlawful, again in English and appropriate secondary language.
- Officers shall verify the clarity of the reading of the order as provided under pre-arrest procedures below.
- Duplicate copies of the order should be acquired to provide to participants involved in the civil disorder.



The members of the tactical squad will maintain notes and make a police report on their observations of the individuals under surveillance at the conclusion of each day or upon completion of their assignment.

**E. Crowd Control / Crowd Dispersal**

All efforts to disperse a crowd or to make arrests should be conducted in appropriate formation. Officers shall remain in the squad formation unless ordered to do otherwise.

When a demonstration becomes riotous and the police are unable to restrain attendees or after sufficient time is provided to allow dispersal, those who remain may be taken into custody under PC §409.

The order to disperse shall follow the below format and shall be read three times in English and when necessary, an appropriate secondary language, at approximately 30 second intervals:

"I, (name), am a peace officer of the State of California, and a police officer for the City of Fresno. I declare this to be an unlawful assembly in violation of the law, and I command you in the name of the People of the State of California to immediately disperse and leave the area of this unlawful assembly. If you fail to do so, you will be arrested."

(Spanish)"Yo, (name), soy un oficial de paz del estado de California, y oficial de policia en el departamento de policia de la ciudad de Fresno. Yo les ordeno en el nombre de los habitantes del estado de California, que inmediatamente se dispersen y abandonen este lugar en que se lleva al cabo esta junta ilicita. Si ustedes no abandonan este lugar, ustedes seran arrestados."

**F. Pre-Arrest Procedures**

When it is determined that arrests are to be made, officers shall:

- Position a public address system facing the crowd with the volume adjusted so that it can be heard in all areas to which a dispersal order may be directed. Officers shall be stationed at the farthest reaches of the crowd to determine that the system and subsequent announcements can be heard;
- Ensure that video and audio recordings of the activities of the participants of the civil disorder are made during and after the reading of the orders; and
- Read the nuisance declaration and dispersal order and verify with perimeter officers that all readings were audible to all areas. When any part of the dispersal order was inaudible, the order shall be re-read so that all persons in the area are able to hear the order.

When the orders were audible, arrest procedures may be started.

**G. Physical Arrest**

The individuals arrested should be taken to a waiting bus or holding area. A picture of the arrested individual, along with the arresting officer, shall be taken. The arrestee will hold a placard containing his/her name, date of arrest and other pertinent information.

## **I. Special Event/Operation**

### **Definitions:**

- **Special Event or Operation** – Any anticipated or planned event including parades, entertainment/sports events, funerals, motorcades, or other events that require a coordinated law enforcement response to ensure the safety of the public.
- **Event Coordinator** – A designated staff officer of supervisor, depending upon the anticipated size of the event, with the responsibility and authority for decisions related to the assignment and coordination of resources at the event.

### **Request for Service**

The Chief of Police and/or the Support & Special Services Division Commander will determine whether or not a special event will be coordinated by the Special Events Section. The criteria will be determined by the type and size of event.

All Commanders requesting the Special Events Section to coordinate the policing of an event will submit a request through their chain of command to their division chief. Once an event has been assigned to the Special Events Section, the approval of all permits, planning and coordination of services will be directed through the Special Events Section. District resources will be provided to the Special Events Section Commander to assist with the policing of the events, and those resources will remain under his/her control until the conclusion of the event.

Reoccurring events (Veterans Day Parade, Mardi Gras, etc.) will require a request to the Special Events Section Commander a minimum of thirty days in advance, or will not be considered. Large scale events that develop rapidly (Protests, Presidential escorts, etc.) will not fall under the thirty day restriction.

#### Event Coordination

Events that are not coordinated by the Special Events Section will be staffed at the District level. The Chief of Police and/or a Division Commander will designate a staff officer or supervisor, depending upon the anticipated size of the event, as the Event Coordinator. The Event Coordinator shall have responsibility and authority for decisions related to the assignment and coordination of resources at the event.

#### After Action Report

The Event Coordinator shall prepare an After Action Report for submission through their chain of command. The report shall identify an overview of the operation, summarize any unusual incidents which occurred during the event, and provide any information that would assist in future operations of a similar nature.

# TRAINING



# BULLETIN

Date of Issue / Revision  
28 Oct 05

Index Number: III-G  
Alpha Index: Crowd Control and  
Crowd Management

Evaluation Coordinator: Commander  
Automatic Revision Cycle: Years

*"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."*

## **OPD Crowd Control and Crowd Management Policy**

The purpose of this Training Bulletin is to set forth policy and procedures regarding crowd management and crowd control.

### **I. Policy**

The Oakland Police Department crowd management and crowd control policy is to

- apply the appropriate level of direction and control to protect life, property, and vital facilities;
- maintain public peace and order; and
- uphold constitutional rights of free speech and assembly while relying on the minimum use of physical force and authority required to address a crowd management or crowd control issue.



## **II. Definitions**

### **A. Crowd Management**

Crowd management is defined as techniques used to manage lawful public assemblies before, during, and after an event for the purpose of maintaining the event's lawful status. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.

### **B. Crowd Control**

Crowd control is defined as those techniques used to address unlawful public assemblies, including a display of formidable numbers of police officers, crowd containment, dispersal tactics, and arrest procedures.

### **C. First Amendment Activities**

First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression.

Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, use of puppets to convey a message, street theater, and other artistic forms of expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution (First Amendment) and the California Constitution (Article 1, Sections 2 & 3).

All persons have the right to march, demonstrate, protest, rally, or perform other activities protected by the First Amendment of the United States Constitution and the California Constitution.

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 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.

### **D. Demonstration**

Demonstration is used generically in this Training Bulletin to include a wide range of First Amendment activities which require, or which may require, police traffic control, crowd management, crowd control, crowd dispersal, or enforcement actions in a crowd situation.

As used in this Training Bulletin, the term, demonstration, means a public display of a group's or individual's feeling(s) toward a person(s), idea, cause, etc and includes, but is not limited to, marches, protests, student walk-outs, assemblies, and sit-ins. Such events and activities usually attract a crowd of persons including participants, onlookers, observers, media, and other persons who may disagree with the point of view of the activity.



## **E. Crowd Event or Crowd Situation**

This Training Bulletin covers all crowd events or crowd situations, including sporting events, festivals, concerts, celebratory crowds, and demonstrations as defined above.

## **III. General Principles**

The Oakland Police Department's Crowd Management/Crowd Control Policy consists of the general principles discussed below.

### **A. Planning**

1. Command staff shall be notified immediately of large or potentially disruptive demonstrations and/or crowd events.
2. The Incident Commander shall be responsible for the development of a written operations plan.
3. The Incident Command System shall be used for managing crowds and acts of civil disobedience.
4. OPD shall make every effort to follow the principle of establishing contact and communication with the event or demonstration planners.

Stakeholder involvement is critical to the overall success of managing crowd events and/or civil disobedience during demonstrations. If knowledge exists that a demonstration or crowd event may happen or will happen, OPD shall proactively and repeatedly make every reasonable attempt to establish and to maintain communication and cooperation with representatives or leaders of the demonstration or crowd event, without regard to whether a permit has been applied for or issued.

When planning for and responding to demonstrations, crowd events, and civil disobedience situations, Incident Commanders assigned to these incidents shall facilitate the involvement of stakeholders. If and when communication is established, personnel shall make every effort to identify representatives or leaders of the event and identify a primary police liaison. The primary police liaison should be requested to be in continuous contact with an assigned police representative, preferably the Incident Commander or someone with continuous access to the Incident Commander.

A group's failure to respond to OPD attempts to establish communication and cooperation prior to a demonstration shall not mitigate OPD's efforts to establish liaison and positive communication with the group as early as possible at the scene of the demonstration or crowd event.



5. Spontaneous demonstrations or crowd events, which occur without prior planning and/or without prior notice to the police, present less opportunity for OPD planning and prevention efforts. Nonetheless, the same policies and regulations concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder apply to a spontaneous demonstration or crowd event situation as to a planned demonstration or crowd event. Incident Commanders shall involve representatives of demonstrators or crowd events when planning and responding to both planned and spontaneous events.

## **B. Deployment**

- I. Decisions about crowd dispersal and general strategies about crowd containment or crowd redirection, multiple simultaneous arrests, planned individual arrests, or planned use of force shall be made at the level of the Incident Commander or higher.
  - a) If such decisions are made by higher ranking off-site OPD officials, it is required that the Incident Commander first be consulted about the state of affairs in the field and the potential consequences of the decision.
  - b) All such decisions shall be documented in writing with regard to time, the identity of the person making the decision, and the precise decision and directions given. Such documentation shall be made at the time of the decision or as soon thereafter as possible and included in an After Action Report.

This directive shall not preclude individual commanders, supervisors, and officers from defending themselves or others from imminent danger when the delay in requesting permission to take action would increase the risk of injury.

1. OPD recognizes that the designated police liaison may change during the course of an event and that leadership of certain groups may not exist nor desire to be identified. No retaliatory practices or adverse action shall be taken by OPD against a group because it has failed or refused to appoint a police liaison or otherwise establish lines of communication with OPD.
2. Communication with the identified police liaison shall continue even if enforcement actions commence.
3. As staffing permits, officers should be deployed to the best available vantage points to observe and report crowd actions.
4. Lines of control should be established, especially in events that involve protesters with opposing views. Whenever possible, hostile factions should be separated.
5. Considering the type of crowd involved is an important factor in responding properly to its behavior.
6. Crowds may vary from cooperative or celebratory to non-compliant, hostile, and combative. Organized demonstrations in which some engage in coordinated, nonviolent civil disobedience should be distinguished, to the extent possible, from crowds in which substantial numbers of people are engaged in other types of unlawful acts.



### C. Policing a Crowd

1. Sufficient resources to make multiple simultaneous arrests should be available at demonstrations where such arrests are a reasonable possibility. However, this need must be balanced against the fact that a large and visible police presence may have a chilling effect on the exercise of free speech rights.

Where additional resources are needed, they should be deployed to the greatest extent possible so they are not readily visible to the crowd. When possible, officers should be at their posts well in advance of arriving participants. If possible, officers should be positioned at a reasonable distance from the crowd to avoid a perception of intimidation.

2. In general, OPD officers shall work together in squads or platoons when policing a demonstration.
3. Each officer shall wear a badge, nameplate, or other device on the outside of his or her uniform or on his or her helmet which bears the identification number or the name of the officer, as required by Penal Code § 830.10.

The number or name shall be clearly visible at all times. The letters or numerals on helmets, jackets, and vests shall be clearly legible at a distance sufficient to provide a measure of safety for both officers and demonstrators/observers and, in no case, shall be less than two inches in height on helmets.

4. Crowd control and crowd dispersal, as well as a show of force in crowd control situations, should be accomplished whenever possible using specialized units of OPD rather than on-duty patrol officers.
5. Regardless of whether a parade permit has been obtained, OPD officers will try to facilitate demonstrations that may temporarily block traffic and/or otherwise use public streets subject to time, place, and manner of circumstances, by regulating and/or rerouting traffic as much as practical.

For a demonstration without a pre-planned route, the Incident Commander shall evaluate the size of the crowd with regard to whether demonstrators should be required to stay on the sidewalk or whether demonstrators should be allowed to be in one or more lanes of traffic.

This directive does not mean demonstrations must be allowed to deliberately disrupt commuter traffic and/or bridge approaches.

The Incident Commander shall balance the level of disruption to traffic against the OPD policy of facilitating First Amendment activity, the practicality of relegating the crowd to sidewalks or an alternate route, the expected duration of the disruption, and the traffic disruption expected in making a mass arrest if demonstrators refuse to leave the street.

OPD shall seek to communicate with organizers through their police liaison to resolve a problem if possible. Traffic control may also be essential at varying points in a demonstration and may help accomplish crowd containment, crowd isolation, or crowd dispersal.





6. It is essential to recognize that all members of a crowd of demonstrators are not the same.

Even when some members of a crowd engage in violence or destruction of property, other members of the crowd are not participating in those acts. Once some members of a crowd become violent, the situation often turns chaotic, and many individuals in the crowd who do not want to participate in the violent or destructive acts may be blocked from leaving the scene because the crowd is so large or because they are afraid they will move into a position of heightened danger.

This understanding does not mean OPD cannot take enforcement action against the crowd as permitted under this policy, but OPD shall seek to minimize the risk that force and arrests may be directed at innocent persons.

7. OPD officers shall avoid negative verbal engagement with members of the crowd.

Verbal abuse against officers shall not constitute a reason for an arrest or for any use of force against such individuals.

8. Officers must not be affected by the content of the opinions being expressed nor by the race, gender, sexual orientation, physical disabilities, appearances, or affiliation of anyone exercising their lawful rights.
9. Department personnel must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members. Unprofessional police behavior can inflame a tense situation and make control efforts more difficult and dangerous.

Strong supervision and command are essential to maintaining unified, measured, and effective police response. A response incorporating strong leadership and based upon teamwork is crucial to maintaining control and safety. Impulsive or independent actions by officers are to be avoided.

10. Officers in non-violent crowd situations shall not display weapons before a dispersal order is given or other enforcement action is implemented.
11. OPD officers shall not be sent into an obviously hostile crowd solely for the purpose of communication. OPD officers shall not penetrate a crowd for an individual arrest unless the targeted individual is involved in serious criminal conduct and the decision to move into the crowd is made by a supervisor or commander.
12. The Incident Commander and supervisors shall make every effort to ensure that the police mission is accomplished as efficiently and unobtrusively as possible with the highest regard for the human dignity and liberty of all persons and with minimal reliance on the use of physical force.

The use of force shall be restricted to circumstances authorized by law and to the degree reasonably necessary in light of the circumstances confronting members. This directive does not preclude police officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and employ the physical force necessary to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.



## **IV. Responses to Crowd Situations**

### **A. Spontaneous Event or Incident**

1. The Watch Commander shall respond to the scene of spontaneous events, when practical, and take command of the incident as the Incident Commander until relieved by a ranking officer.
2. The Incident Commander shall declare over the police radio that he or she has assumed command of the incident. When practical, a command post shall be established as soon as possible.
3. An immediate assessment of the situation is essential for effective police response. The Incident Commander must ascertain the following information at the earliest possible time:
  - a. The location and type of event.
  - b. First Amendment activities will be evaluated by the Incident Commander to determine lawfulness of the actions by groups and individuals.
  - c. The approximate number of specific individuals engaged in unlawful conduct.
  - d. The likelihood that unlawful behavior will spread to other crowd participants (mimicking).
  - e. Immediate threats to the safety of the public and/or police officers.
  - f. The number of structure(s) or vehicle(s) involved.
  - g. The size of the involved area.
  - h. The number of additional officers and police resources needed as well as requirements for specialized units (Traffic, Tactical Operations Team, Crime Reduction Teams, etc.).
  - i. The appropriate manner of response (Code 2 or 3).
  - j. The staging area.
  - k. The location for a media staging area.
  - l. The ingress and egress routes.
  - m. Additional resources needed (paramedic, fire department, outside agencies, etc.).



**B. Planned Event Involving Potentially Large Crowds**

1. Upon notification, the Special Operations Division Commander or designee (Incident Commander) shall develop a written operations plan.

The Incident Commander of planned events shall be responsible for the overall coordination of the event as well as for crowd control and management.

Operations plans for large events requiring the redeployment of personnel from regular assignments shall be approved by the Deputy Chief of Field Operations.

2. The following factors shall be considered and addressed in developing the operations plan for a large crowd event, including but not limited to:
  - a. What type of event is to occur?
  - b. Who are the organizers? What is their past record of conduct (peaceful, violent, cooperative, etc.)?
  - c. Will outsiders visibly and/or physically oppose the planned event?
  - d. Will the event involve the use or abuse of alcohol or other substances?
  - e. Where is the event to occur? Consider the size, location, and ingress and egress points.
  - f. What is the optimal site for a command post as well as staging areas?
  - g. Have the appropriate permits been issued?
  - h. Have other agencies, bureaus, and divisions been notified and included in the planning process (paramedics, fire department, Communications, Intel, etc.)?
  - i. Will the EOC be needed? Is Mutual Aid needed?
  - j. Will off-duty personnel be involved? Has the commander of any off-duty personnel been made part of the planning process?
  - k. Is it possible and appropriate to coordinate with group organizers and explain the Department's mission, preparation, and potential responses?

Information considered sensitive or confidential shall not be released to group organizers if it will jeopardize the safety or effectiveness of police personnel.
  - l. Have the proper number of personnel been scheduled to safely handle the event? Should a reserve force be available?
  - m. Has an enforcement policy been formulated and communicated to affected personnel?



3. The **OPD** Event Coordinator shall perform the following tasks.
  - a. Gather and analyze intelligence information about future crowd events, including review of information from both internal and external sources.
  - b. Coordinate with Special Events regarding permits and various Department sections, including bureaus, divisions, and specialized units, to prepare for a planned special event.
  - c. Meet in advance with event sponsors and group leaders to exchange information and to present the Department's philosophy and intent. Details of the department plan and preparation shall not be disclosed except when necessary to ensure success of the operation.
  - d. Coordinate with affected bureaus, divisions, police service areas, and special units to prepare and coordinate the development of an operations plan for a given event that details assignments, traffic and crowd flow, communications, tactics, and training.
  - e. Prepare operations plan as requested.
  - f. Coordinate inspection of protest/event area prior to an event to locate any pre-positioned equipment staged by demonstrators.
  - g. Ensure that appropriate equipment and supplies are available.
  - h. Ensure that a video team(s) is established and required video equipment is available (see Section IX).
  - i. Establish protocols and procedures for the processing of arrestees and collection of evidence.
4. Personnel creating an operations plan to address a large crowd event should anticipate a variety of scenarios and devise a police response for each. Such scenarios and responses should be made part of the final plan and communicated to the affected personnel.
5. When practical, personnel preparing for a large event with the potential for violence shall be retrained; training to include physically practicing various aspects of crowd management and crowd control.

Topics may include but are not limited to Mobile Field Force (MFF), multiple simultaneous arrest procedures, functioning in a tear gas environment, use of specialty impact munitions, applicable ordinances and statutes, protected speech, etc.

6. Personnel shall be briefed on the operations plan and their particular assignments before deployment.

Specific instructions covering topics such as applicable laws, community concerns, appropriate enforcement actions, chain of command, tactics, traffic patterns, etc., shall be clearly presented to personnel. All personnel shall be given a copy of the operations plan.



## **V. Permissible Crowd Control and Crowd Dispersal Techniques**

- A.** In the event of a declared unlawful assembly, it is the general policy of the OPD to use multiple simultaneous arrests to deal with a non-violent demonstration that fails to disperse and voluntarily submits to arrest as a form of political protest rather than dispersing the demonstrators by using weapons or force beyond that necessary to make the arrests.
- B.** The Incident Commander shall make the final decision as to what control action, if any, will be taken to address a given crowd situation.

Crowd size and available Department resources will also factor into the police response. The following factors will be considered prior to determining what action to take:

1. Will police action likely improve the situation?
  2. Will targeting specific violent or disruptive individuals for arrest be more effective or appropriate than applying control tactics to the entire crowd?
  3. Are sufficient resources available to effectively manage the incident?
  4. Have clear and secure escape routes been established for both the crowd and the police?
  5. Has the dispersal order been given (loudspeaker, personal contact, etc.)?
  6. Have contingency plans been established in the event initial police efforts are ineffective?
- C.** Commanders shall constantly reassess and adjust tactics, as necessary, as the crowd's actions change.
  - D.** The Incident Commander shall consider and take reasonable and appropriate steps to ensure the safety of bystanders.
  - E.** When officers take action to move or disperse a crowd, steps should be taken to ensure that the crowd is not moved into a position or place that could be dangerous to persons in the crowd or bystanders, such as pushing them up against glass windows.



## **F. When an Unlawful Assembly May Be Declared**

1. The definition of an unlawful assembly has been set forth in Penal Code Section 407 and interpreted by court decisions. The terms, "boisterous" and "tumultuous," as written in Penal Code Section 407, have been interpreted as "conduct that poses a clear and present danger of imminent violence" or when the demonstration or crowd event is for the purpose of committing a criminal act.

The police may not disperse a demonstration or crowd event before demonstrators have acted illegally or before the demonstrators pose a clear and present danger of imminent violence.

2. The mere failure to obtain a permit, such as a parade permit or sound permit, is not a sufficient basis to declare an unlawful assembly. There must be criminal activity or a clear and present danger of imminent violence.
3. The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts on prior occasions or demonstrations is not grounds for declaring an assembly unlawful.
4. Unless emergency or dangerous circumstances prevent negotiation, crowd dispersal techniques shall not be initiated until after attempts have been made through contacts with the police liaisons and demonstration or crowd event leaders to negotiate a resolution of the situation so that the unlawful activity will cease and the First Amendment activity can continue.
5. If after a crowd disperses pursuant to a declaration of unlawful assembly and subsequently participants assemble at a different geographic location where the participants are engaged in non-violent and lawful First Amendment activity, such an assembly cannot be dispersed unless it has been determined that it is an unlawful assembly and the required official declaration has been adequately given.

## **G. Declaration of Unlawful Assembly**

1. When the only violation present is unlawful assembly, the crowd should be given an opportunity to disperse rather than face arrest.

Crowd dispersal techniques shall not be initiated until OPD has made repeated announcements to the crowd, asking members of the crowd to voluntarily disperse and informing them that, if they do not disperse, they will be subject to arrest.

These announcements must be made using adequate sound amplification equipment in a manner that will ensure that they are audible over a sufficient area. Announcements must be made from different locations when the demonstration is large and noisy. The dispersal orders should be repeated after commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. The announcements shall also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced.

It is the responsibility of the on-scene OPD commanders to ensure that all such announcements are made in such a way that they are clearly audible to the crowd.



2. Unless an immediate risk to public safety exists or significant property damage is occurring, sufficient time will be allowed for a crowd to comply with police commands before action is taken.
3. Dispersal orders should be given in English and in other languages that are appropriate for the audience.
4. The Incident Commander should ensure that the name of the individual making the dispersal order and the date/time each order was given is recorded.
5. Dispersal orders should not be given until officers are in position to support/direct crowd movement.
6. Personnel shall use the following Departmental dispersal order:

I am (rank/name), a peace officer for the City of Oakland. I hereby declare this to be an unlawful assembly, and in the name of the people of the State of California, command all those assembled at     to immediately leave. If you do not do so, you may be arrested or subject to other police action, including the use of force which may result in serious injury. Section 409 of the Penal Code prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of Section 409. The following routes of dispersal are available (routes). You have minutes to leave. If you refuse to move, you will be arrested.

\*If you refuse to move, chemical agents will be used. (Provide the chemical warning only if use is anticipated).

7. When a command decision is made to employ crowd dispersal techniques, attempts to obtain voluntary compliance through announcements and attempts to obtain cooperation through negotiation shall both be continued. At any point at which a crowd is dispersing, whether as a reaction to police dispersal techniques, through voluntary compliance, or as a result of discussion or negotiation with crowd leaders, OPD dispersal techniques shall be suspended and the crowd shall be allowed to disperse voluntarily. This directive does not preclude a command decision by OPD to reinstate dispersal techniques if crowd compliance ceases.

#### **H. Approved Tactics and Weapons to Disperse or Control a Non-Compliant Crowd**

If negotiation and verbal announcements to disperse do not result in voluntary movement of the crowd, officers may employ additional crowd dispersal tactics, but only after orders from the Incident Commander or designated supervisory officials.

The permissible tactics to disperse or control a non-compliant crowd include all of the following (not in any specific order of use):

The use of these crowd dispersal tactics shall be consistent with the Department policy of using the minimal police intervention needed to address a crowd management or control issue.



1. Display of police officers (forceful presence).

Once this tactic is selected, officers should be assembled in formation at a location outside the view of the crowd. The formation may be moved as a unit to an area within the crowd's view. This tactic should not be used unless there are sufficient personnel to follow through with dispersal. Do not bluff a crowd. If a display of police officers, motorcycles, police vehicles, and mobile field forces, combined with a dispersal order, is not effective, more forceful actions may be employed.

Generally, officers should be assigned to squads of sufficient size to be effective. At larger events, the crowd can be divided (with a commander in charge of each squad).

2. Encirclement and Arrest

If the crowd has failed to disperse after the required announcements, officers may encircle the crowd or a portion of the crowd for purposes of making multiple simultaneous arrests (see Section VII).

Persons who make it clear (e.g., by sitting down, locking arms) that they seek to be arrested shall be arrested and not subjected to other dispersal techniques, such as the use of batons or chemical agents.

Arrests of non-violent persons shall be accomplished by verbal commands and persuasion, handcuffing, lifting, carrying, the use of dollies and/or stretchers, and/or the use of control holds including the bent-wrist control hold and twist-lock control hold (See Training Bulletin III-I.1, "Weaponless Defense," at pages 28-31.).

Control holds should only be used when a Supervisor or Commander determines that control holds are necessary to accomplish the policing goal after other methods of arrest have failed or are not feasible under the circumstances and when the use of control holds would be a lawful use of force.

In the event control holds are necessary, precautions should be taken to assure that arrestees are not injured or subjected to unnecessary or excessive pain (T.B. III-1).1).

A decision to authorize control holds and the reasons for said decision should be documented.

3. Police Formations and Use of Batons

- a. If a crowd refuses to disperse after the required announcements, the police may use squad or platoon formations (skirmish line, wedge, echelons, etc.) to move the crowd along.
- b. Batons shall not be used for crowd control, crowd containment, or crowd dispersal except as specified below.





- c. Batons may be visibly displayed and held in a ready position during squad or platoon formations.

When reasonably necessary for protection of the officers or to disperse individuals in the crowd pursuant to the procedures of this policy, batons may be used in a pushing or jabbing motion. Baton jabs should not be used indiscriminately against a crowd or group of persons but only against individuals who are physically aggressive or actively resisting arrest. Baton jabs should not be used in a crowd control situation against an individual who is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle.

- d. Batons shall only be used as set forth in General Order K-3 and Department Training Bulletin III-H.2, "Use of the Long Baton."

Officers shall not intentionally strike a person with any baton to the head, neck, throat, kidneys, spine, or groin or jab with force to the left armpit except when the person's conduct is creating an imminent threat of serious bodily injury or death to an officer or any other person. Batons shall not be used against a person who is handcuffed.

#### 4. Non Hand-Held Crowd Control Chemical Agents

- a. Crowd control chemical agents are those chemical agents designed and intended to move or stop large numbers of individuals in a crowd situation and administered in the form of a delivery system which emits the chemical agent diffusely without targeting a specific individual or individuals.
- b. Chemical agents can produce serious injuries or even death. The elderly person or infant in the crowd or the individual with asthma or other breathing disorder may have a fatal reaction to chemical agents even when those chemical agents are used in accordance with the manufacturer's recommendations and the Department's training. Thus, crowd control chemical agents shall be used only if other techniques, such as encirclement and multiple simultaneous arrest or police formations, have failed or will not accomplish the policing goal as determined by the Incident Commander.
- c. Members shall use the minimum amount of chemical agent necessary to obtain compliance.
- d. Indirect delivery or crowd dispersal spray and/or discharge of a chemical agent shall not be used in demonstrations or other crowd events without the approval of a supervisor or command officer.
- e. Chemical agents shall not be used for crowd control or dispersal without first giving audible warning of their imminent use and giving reasonable time to the crowd, media, and observers to disperse.
- f. If chemical agents are contemplated in crowd situations, OPD shall have medical personnel on site prior to their use and shall make provision for decontamination and medical screening to those persons affected by the chemical agent(s).



5. Hand-thrown chemical agents or pyrotechnic gas dispersal devices
  - a. Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall not be used for crowd control or crowd dispersal without the approval of a supervisor or command officer.
  - b. The use of hand-thrown chemical agents or pyrotechnic gas dispersal devices may present a risk of permanent loss of hearing or serious bodily injury from shrapnel. Said devices shall be deployed to explode at a safe distance from the crowd to minimize the risk of personal injury and to move the crowd in the direction that will accomplish the policing objective.
  - c. Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall not be used for crowd control without first giving audible warnings to the crowd and additional reasonable time to disperse.
  - d. Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall be used only if other techniques such as encirclement and mass arrest or police formations have failed or will not accomplish the policing goal as determined by the Incident Commander.

## **VI. Weapons Prohibited for Crowd Control and Crowd Dispersal Purposes**

### **A. Lethal Force**

The use of lethal force by OPD members is governed by the Department's Use of Force Policy. Nothing about a crowd control situation eliminates or changes any of the constraints and criteria governing the use of lethal force in the Department's Use of Force Policy.

### **B. Canines**

Canines shall not be used for crowd control, crowd containment, or crowd dispersal.

### **C. Horses**

Horses shall be used only for purposes of crowd control in the event of a riot involving substantial numbers of people actively engaged in violence or serious property destruction. Horses shall never be used to disperse non-violent crowds, including persons who are seated or lying down.

Horses may be used for crowd management during festivals and sporting events.

### **D. Fire Hoses**

Fire hoses shall not be used for crowd control, crowd containment, or crowd dispersal.



## **E. Motorcycles**

The technique referred to as the Basic Use of Motorcycle Push Technique (B.U.M.P.) outlined in Special Order No. 7088 is prohibited (See Special Order No. 8135 prohibiting said technique enacted April 5 2004.). Motorcycles and police vehicles may not be used for crowd dispersal but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a crowd event.

## **F. Specialty Impact Less-Lethal Weapons**

1. Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) are prohibited.
  - a. Any and all less-lethal specialty impact weapons designed to be skip fired or otherwise deployed in a non-directional non-target specific manner, including but not limited to the Multiple Wood Baton Shell (264W) manufactured by Armor Holdings, Inc. shall not be used at all by OPD during demonstrations or crowd events (See Special Order No. 8135 prohibiting indirect fired less-lethal munitions and withdrawing said ammunition, enacted April 5, 2004.).
  - b. The use of the Stinger Grenade containing rubber pellets designed to be deployed in a non-directional non-target specific manner is also prohibited for all crowd control use.
2. Uses of Direct Fired Specialty Impact Less-Lethal Munitions (SIM).

Direct Fired SIM are less-lethal specialty impact weapons that are designed to be direct fired at a specific target, including but not limited to flexible batons ("bean bags"), and shall not be used for crowd management, crowd control or crowd dispersal during demonstrations or crowd events. Direct Fired SIM may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.

- a. Direct Fired SIM may be used against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to himself or herself, officers, or the general public or who is engaging in substantial destruction of property which creates an imminent risk to the lives or safety of other persons. In such instances, Direct Fired SIM shall be used only when other means of arrest are unsafe and when the individual can be targeted without endangering other crowd members or bystanders (See Special Order No. 8135 enacted April 15, 2004.).
- b. The use of Direct Fired SIM must cease when the violent or destructive actions cease. These weapons must not be used for the purpose of apprehension or to otherwise prevent escape unless escape would present a substantial risk of continued imminent threat to loss of life or serious bodily injury.
- c. Members shall only deploy Direct Fired SIM during a demonstration or crowd event under the direction of a supervisor.



- d. When circumstances permit, the supervisor on the scene shall make an attempt to accomplish the policing goal without the use of Direct Fired SIM as described above, and, if practical, an audible warning shall be given to the subject before deployment of the weapon.
- e. Any person struck by a round shall be transported to a hospital for observation and any necessary treatment. Ambulance service, if required, shall be ordered per General Order I-4. First aid, when necessary, shall be administered per Training Bulletin III-K.
- f. No member shall use Direct Fired SIM without formal training.
- g. Direct Fired SIM shall not be used against a person who is under restraint.
- h. Members shall not discharge a Direct Fired SIM at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.

#### **G. Electronic Immobilizing Devices (EID's)**

EID's such as tasers, stun guns, and stun shields shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events.

#### **H. Aerosol Hand-held Chemical Agents**

Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.

Members shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.

Officers must be familiar with OPD Training Bulletin V-F.2, "Use of Oleoresin Capsicum," and, specifically, the risk factors associated with aerosol chemical agents and the treatment for individuals subjected to them.

Aerosol chemical agents shall not be used in a demonstration or crowd situation or other civil disorders without the approval of a supervisor or command officer.

When possible, persons should be removed quickly from any area where hand-held chemical agents have been used. Members shall monitor the subject and pay particular attention to the subject's ability to breathe following the application of OC. As soon as practical, members and employees shall obtain professional medical treatment for all persons who have had OC applied to them. Paramedics in the field may administer treatment if no other medical treatment is required. If paramedics are not available in a timely manner, subjects shall be transported to a hospital for treatment within 45 minutes of the application of OC.

A subject who has been sprayed with hand-held chemical agents shall not be left lying on his/her stomach once handcuffed or restrained with any other device.



## **VII. Arrests**

### **A. Multiple Simultaneous Arrests**

1. When a large-scale event involving possible arrests is to be conducted, OPD planners will estimate the number of potential arrestees and will configure arrest teams capable of managing multiple arrests safely.
2. When arrests are necessary, the Incident Commander shall attempt to ensure that sufficient numbers of police officers are present to effect arrests. This tactic can be effective in dispersing the remaining crowd members wanting to avoid arrest.
3. When multiple arrests are contemplated in advance and it is impracticable for arrestees to be cited at the scene as further discussed below, pre-arrangement of transportation shall be made.
4. The Incident Commander shall make the decisions to engage in selective individual arrests or multiple simultaneous arrests as a crowd control technique with consideration given to the following factors:
  - The likelihood that police action will improve the situation relative to taking no action.
  - The seriousness of the offense(s) as opposed to the potential for the arrest to escalate violence or unlawful activity by crowd members.
  - Whether individual or mass arrests will be more effective in ending the criminal activity at issue.
  - Whether clear and secure escape routes have been established for the crowd and police.
  - Whether communication has been established with crowd representatives.
  - What contingency plans are available.
  - What types of force can be used in effecting the arrests, if necessary.
5. Probable cause for each individual arrest:

Individuals may not be arrested based on their association with a crowd in which unlawful activity has occurred. There must be probable cause for each individual arrest.

This principle means the officer must have objective facts based on his own knowledge or information given him by other officers sufficient to believe that each specific individual being arrested committed the offense. Thus, the only proper basis for a multiple simultaneous arrest of all the individuals encircled at a demonstration is failure to disperse (Pen. Code §409), when the dispersal was properly ordered based on the existence of an unlawful assembly and adequate notice and opportunity to disperse has been given.

To make arrests for violating Vehicle Code §2800 (noncompliance with lawful police order), the officer must have probable cause to believe that each individual arrested willfully failed or refused to comply with a lawful order.

6. The Incident Commander shall ensure that evidentiary items are recovered and preserved, when possible, to corroborate unlawful acts observed by personnel.



## **B. Arrests for Civil Disobedience**

1. Some demonstrators commit "civil disobedience," by sitting down or otherwise blocking streets, intersections, sidewalks, and/or entranceways or by occupying a targeted office.

The proper response to such actions is to verbally advise the demonstrators that they will be subject to arrest if they choose to remain, allow time for some or all the demonstrators to cease the unlawful activity, and to arrest those who deliberately remain in violation of the law.

When practical, demonstrators committing civil disobedience shall be persuaded into compliance rather than being forcibly removed.

2. Passively resisting arrestees (i.e., arrestees who go limp) shall be arrested by handcuffing and then either by verbal persuasion, lifting, carrying, the use of dollies or stretchers, and/or control holds (See Training Bulletin "Weaponless Defense" III-I.1 at pages 28 - 31), depending on the circumstances and the decision of the Supervisor.

Control holds should be used only when the Supervisor determines that control holds are necessary to accomplish the policing goal after other methods of arrest have failed or are not feasible under the circumstances and when the use of control holds would be a lawful use of force.

In the event control holds are necessary, precautions must be taken to ensure that arrestees are not injured or subjected to unnecessary or excessive pain.

A Supervisor's decision to authorize control holds and the reasons for said decision should be documented.

Planning for demonstrations where civil disobedience and passive resistance to arrest are a possibility should take into account these different arrest techniques for passive demonstrators.

3. In some cases, demonstrators may lock arms or use lock boxes to slow down the arrest process.

Where such demonstrators have been advised that they will be subject to arrest if they choose to remain and refuse to disperse, a member of the arrest team shall individually advise each demonstrator that he or she is under arrest prior to the application of any force to remove locking devices or to move the demonstrators. The officer shall continue to give verbal directions to give the arrestee a chance to comply before force is used to unlock arms or implements used to remove lock boxes.

4. Although dealing with passive resistance may frustrate officers, civil disobedience is usually a nonviolent means of making a political statement, and officers shall remain neutral, non-antagonistic, and professional at all times in their response.



### **C. Use of Handcuffs**

1. All persons subject to arrest during a demonstration or crowd event shall be handcuffed in accordance with department policy, orders, and Training Bulletins.
2. Officers should be cognizant that flex-cuffs may tighten when arrestees' hands swell or move, sometimes simply in response to pain from the cuffs themselves.

Each unit involved in detention and/or transportation of arrestees with flex-cuffs should have a flex-cuff cutter and adequate supplies of extra flex-cuffs readily available. The officer applying flex-cuffs shall write his serial number in indelible marker on the cuffs whenever used. When arrestees complain of pain from overly tight flex cuffs, members shall examine the cuffs to ensure proper fit

### **D. Arrest of Juveniles**

Juveniles arrested in demonstrations shall be handled consistent with OPD policy on arrest, transportation, and detention of juveniles.

## **VIII. Cite/Release and Booking Procedures**

- A. Individuals arrested for minor offenses may be cited and released in compliance with Penal Code §853.6 and Department General Order M-7, "Citations for Adult Misdemeanors," III, A-N.
- B. When it is impractical to cite arrestees at or near the site of the demonstration because of a substantial risk that this procedure would allow the unlawful activity to continue or because of specific geographic factors, individuals may be held at police stations or jails for the duration of the cite and release process.
- C. An officer seeking to book a misdemeanor arrestee into jail must have an articulable basis to believe that one of the specified statutory exceptions to mandatory cite and release applies to that individual. This basis must be documented in the police report.
- D. The mere fact that further demonstrations are likely to be held in the near future is not a proper basis to apply subdivision (7) of P.C. 853.6 ("reasonable likelihood that the offense may continue or resume") to individual demonstrators.
- E. There must be an articulable objective basis to believe that, if cited out, those specific individuals would continue the same illegal activity for which they were arrested.
- F. Individuals may not be booked into jail on the sole basis of a felony charge consisting of conspiracy to commit a misdemeanor.



## **IX. Documentation**

### **A. Video and Photographic Recording**

1. It is the policy of the Department to videotape and photograph in a manner that minimizes interference with people lawfully participating in First Amendment activities.

Videotaping and photographing of First Amendment activities shall take place only when authorized by the Incident Commander or other supervisory officer.

2. Individuals should not be singled out for photographing or recording simply because they appear to be leaders, organizers, or speakers.
3. Each camcorder operator shall write a supplemental report at the end of his/her duty assignment documenting the camcorder operations.
4. Unless they provide evidence of criminal activity, videos or photographs of demonstrations shall not be disseminated to other government agencies, including federal, state, and local law enforcement agencies. If videos or photographs are disseminated or shared with another law enforcement agency, a record should be created and maintained noting the date and recipient of the information.
5. If there are no pending criminal prosecutions arising from the demonstration or if the video recording or photographing is not relevant to an Internal Affairs or citizen complaint investigation or proceedings or to civil litigation arising from police conduct at the demonstration, the video recording and/or photographs shall be destroyed in accordance with Department and city policies.

This directive shall not prohibit the OPD from using these videos or footage from such videos as part of training materials for OPD officers in crowd control and crowd dispersal techniques and procedures. The destruction of any such videos or photographs shall be documented in writing with regard to the date of the destruction and the identity of the person who carried it out.

6. Nothing in this section is intended to alter the disclosure requirements of the California Public Records Act (Government Code §6250 et seq.) or the City of Oakland's Sunshine Ordinance (O.M.C. §2.20 et seq.).





## **X. Reporting**

- A.** The Incident Commander shall ensure that the Deputy Chief of the Bureau of Field Operations is notified of the incident in a timely manner.
- B.** OPD officers involved in demonstrations or crowd events shall prepare reports as required by Department policy.

## **XI. Public Information and the Media**

- A.** The media have a right to cover demonstrations, including the right to record the event on video, film, or in photographs.
- B.** OPD members shall accommodate the media in accordance with Department policy.
- C.** The media shall be permitted to observe and shall be permitted close enough access to the arrestees to record their names. Even after a dispersal order has been given, clearly identified media shall be permitted to carry out their professional duties in any area where arrests are being made unless their presence would unduly interfere with the enforcement action.
- D.** Self-identified legal observers and crowd monitors do not have the same legal status as the professional media and are, therefore, subject to all laws and orders similar to any other person or citizen.

Said personnel must comply with all dispersal orders similar to any other person or citizen. A supervisor or commander may allow a person who self-identifies as a legal observer or crowd monitor to remain in an area after a dispersal order if circumstances permit and if the person's presence would not unduly interfere with the enforcement action.

- E.** On request, the Incident Commander or a supervisor may inform the media, legal observers, crowd monitors, police liaison, and/or organizers about the nature of any criminal charges to be filed against arrestees, the location where arrestees are being taken, and the Department's intent for arrestees to be cited out or booked at a custodial facility.
- F.** The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.



## **XII. Training**

- A.** All OPD crowd control policies and procedures shall be set forth in a Crowd Control Training Bulletin.

All other OPD orders and Training Bulletins will be reviewed to ensure consistency with the new policy and Training Bulletin.

- B.** All officers must receive training consistent with these new policies and procedures.

All training on crowd control shall include substantial coverage of these Department policies. No officers shall use less-lethal weapons unless they have received the training required by Department policies.

- C.** Every OPD officer shall receive this training.

Either independently or in conjunction with other scheduled training, each officer shall receive periodic instruction regarding the key elements of this policy. The Department will seek to improve its ability to manage crowd control events through study and evaluation of past incidents occurring in Oakland and other jurisdictions. Training in crowd management is crucial and shall be an ongoing process. All members of OPD shall be trained in these crowd control policies and procedures and shall then receive additional periodic crowd control refresher training thereafter. Crowd control training shall also become an integral part of the recruit academy curriculum.

- D.** All training called for in this section shall be documented with regard to individual officer attendance, dates of training, test scores or other evidence of successful completion of training, and identity of each instructor, and copies of both student curriculum materials and instructor curriculum materials shall be archived.

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## Seattle Police Department Manual

Carmen Best, Chief of Police

# 14.090 - Crowd Management

Effective Date: 11/01/2018

## 14.090 – POL

It is the policy of the Seattle Police Department to facilitate free speech and assembly whenever possible, while preserving order and protecting persons and property. This manual section governs the Department's response to such events when transportation and public safety considerations are best served by a police presence.

### 1. The Department Uses the Incident Command System (ICS) for Crowd Management

When assigned, an Incident Commander will oversee the Department's response before, during and after an event.

- The Incident Commander may delegate authority and assignments.

### 2. The Incident Commander Will be a Sergeant or Above

- **Exception:** An officer can serve as Incident Commander until a sergeant can respond.

- A lieutenant will assume command when there are two sergeants and/or two squads involved in the event.
- A captain will assume command when there are two lieutenants involved in the event.
- For more information, see **Manual Section 1.020 – Chain of Command**.

### **3. As Far in Advance of the Incident as Possible, the Incident Commander Will Coordinate with the Appropriate Department Resources to Obtain Information to Assist with Operational Planning and Staffing**

### **4. The Incident Commander May Consider Utilizing Specialty Units, Based on Operational Needs**

In the event of an unplanned crowd management event, the Incident Commander shall request SWAT when feasible.

See **14.090-TSK-1** Responsibilities of the Incident Commander.

### **5. The Incident Commander Will Determine Minimum Staffing for Crowd Management Events**

- The Incident Commander will base staffing levels on the projected number of event participants and any pre-event information indicating potential violence.
- The Incident Commander will develop contingency plans regarding staffing and tactics.
- When feasible, the Incident Commander will provide the staffing plan to the SPD Budget Section prior to the incident.

### **6. The Incident Commander Will Deliver Event Briefings Using a Standardized Format (SPD ICS Briefing Format )**

### **7. The Incident Commander Will Communicate Each Unit's Mission to That Unit's Supervisor or Commander**

The involved unit's supervisor or commander will develop the specific methods or tactics that will be used to accomplish the mission. See 14.090-TSK-2 Responsibilities of the Supervisor.

- The unit supervisor or commander will submit all unit plans to the Incident Commander, who will approve or modify the plans to accomplish the overall mission, with any modifications communicated back to the unit supervisor or commander.

## **8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates**

In order to fulfill this obligation, the Incident Commander will be available for on-scene consultation.

## **9. Crowd Dispersal**

### **a. Upon Determining That There are Acts or Conduct Within a Group of Four or More Persons That Create a Substantial Risk of Causing Injury to Any Person or Substantial Harm to Property, the Incident Commander May Order That the Crowd Be Dispersed**

See **SMC 12A.12.020** [↗](#)

Before ordering that the crowd be dispersed, the Incident Commander shall consider whether less restrictive means of crowd management are available. Such means may include strategies such as area denial and/or seeking voluntary compliance.

Upon determining that dispersal is appropriate, the Incident Commander shall ensure that there is an avenue of egress sufficient to allow the crowd to depart.

The Incident Commander or designee will issue the order to disperse prior to instructing officers to disperse the crowd, if feasible.

See **14.090-TSK-3** Issuing the Order to Disperse.

## **b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd (See Manual Section 8.300 – Use-of-Force Tools)**

A lieutenant may authorize the use of blast balls and OC spray to disperse a crowd if an immediate life safety emergency exists that requires this action be taken and there is insufficient time to obtain incident command approval.

- An immediate life safety emergency is an unplanned, dynamic situation where immediate police action is necessary to protect the officers' and/or the public's safety.

- Only personnel trained to deploy patrol CART tools (blast balls and OC spray) are authorized to carry and use these tools under the supervision of a CART-trained supervisor, unless otherwise directed by the Incident Commander.

When feasible, officers will not deploy blast balls and OC spray until a dispersal order has been issued to the crowd and the crowd has been given a reasonable amount of time to comply.

When feasible, officers shall avoid deploying blast balls and OC spray in the proximity of people who are not posing a risk to public safety or property.

The deployment of blast balls away from people (i.e. a "bang out") is reported and investigated as Type I force. Deployments in the vicinity of people may be categorized as Type II or Type III force, depending upon the circumstances of the deployment and the resulting injury. (See Manual Section 8.400 regarding force classification.)

## **c. Each Precinct Will Maintain a Supply of Blast Balls and OC Spray**

Each precinct will maintain a log of the serial number of each blast ball in its supply. Blast balls will be issued, by serial number, to specific officers as needed. Officers will be responsible for each blast ball that they are issued. Officers will return unused blast balls after the event, and will provide the event number related to any deployments.

After a crowd management event, the Department blast ball coordinator will be responsible for ensuring that the precinct log is reviewed to verify whether all deployed blast balls were reported.

#### **d. The Incident Commander Will Deploy Department Personnel to Accomplish Specific Tactical Objectives Consistent with ICS**

### **10. Officers May Make Individual Decisions to Deploy OC Spray, and Blast Balls Consistent with Title 8 – Use-of-Force**

The authorized use of OC in crowd management situations involving violent activity shall have as a primary objective at least one of the following:

- Defend oneself
- Defend someone else
- Prevent significant destruction of property

#### **a. OC Will be Directed at the Specific Suspect(s) who are Posing a Threat**

When feasible, officers shall issue a verbal warning to the suspect(s), other officers, and other individuals present, that OC spray will be used. When feasible, officers will wait a reasonable amount of time to allow the suspect(s) to comply with the warning before using OC spray.

Officers deploying OC will attempt to limit collateral exposure to non-involved parties.

- If there is probable cause to arrest for a crime, it is a priority for officers to arrest individuals against whom OC has been deployed.

#### **b. Officers Will Provide Aid to Subjects Exposed to OC and/or Blast Balls, if Feasible**

Officers will request medical response or assistance for subjects exposed to OC when they complain of continued effects after having been decontaminated, or they indicate that they have a pre-existing

medical condition (e.g. asthma, emphysema, bronchitis, heart ailment, etc) that may be aggravated by OC.

Officers will request medical response or assistance for subjects who appear to have been injured by a blast ball or who complain of pain or injury from having been struck by a blast ball.

## **11. Incident Commanders and Officers Must Document Uses of Force**

- The Incident Commander authorizing the use of less-lethal tools must justify that decision in a Use-of-Force Report, with a copy submitted to the relevant Bureau Commander in addition to the normal routing.
- Officers shall individually justify and document all reportable uses of force consistent with **Manual Section 8.400 - Use-of-Force Reporting and Investigation**.

## **12. Following the Event, Sergeants and Incident Commanders Will Conduct a Day-of-Event Debrief**

- Sergeants will conduct a debriefing of their assigned officers and document any observations or suggestions on an Event Debrief Form (form 23.5).
- Sergeants and the Incident Command staff will then have a separate debrief to discuss the following subjects:
  - Event staffing
  - Deployment
  - Command issues
  - Communication issues
  - Logistical issues



- Use of less-lethal tools
- Areas of success
- Areas for improvement

### **13. Incident Commander Will Complete an After-Action Report (See: 14.010-After-Action Reports)**

### **14. Uses of Force that Occur During the Course of Crowd Management Are Reviewed in Accordance with Manual Section 8.500-POL-6.**

## **14.090-TSK-1 Responsibilities of the Incident Commander**

During the course of managing a crowd, the Incident Commander:

1. If feasible, **contacts** the event organizer to discuss the Department response
2. **Develops** contingency plan regarding staffing and tactics
  - SPD task force callout criteria
  - Mutual aid callout criteria
3. **Considers** utilizing specialty units
  - Bicycle units for marches or mobile protests
  - Officers on foot for static events, or to function as arrest teams or bicycle unit support for marches or mobile protests
  - Mounted patrol for static events, marches or mobile protests

- Video Unit for events where information indicates that civil disobedience or crowd violence will occur (Recordings must be in compliance with **SMC 14.12 – Collection of Information for Law Enforcement Purposes** [↗](#).)

- Special Weapons and Tactics (SWAT) officers to use less-lethal launchers and tools that are approved for use solely by the SWAT team

- CART-trained officers when there is insufficient time to deploy SWAT

- Prisoner processing for events where information indicates civil disobedience or crowd violence will occur

- Intelligence Unit resources when there is a need for ongoing information gathering and dissemination during the event

- SPOC for planning and logistical support

4. **Provides** a staffing plan to the SPD Budget Section, if feasible

5. **Communicates** each unit's mission to the relevant supervisor or commander

- a. **Instructs** the supervisor or commander to develop and provide plans

- b. **Approves** unit plans

6. **Briefs** officers and supervisors using the SPD ICS briefing format

7. **Remains** available for on-scene consultation

8. Debriefs supervisors and commanders following the event

- a. **Collects** Event Debrief Forms from the supervisors

9. **Completes** an After-Action Report consistent with the requirements of Manual Section **14.010 – After-Action Reports**

b. **Routes** the After-Action Report and Event Debrief Forms to the Patrol Operations Bureau Commander, via the chain of command

## 14.090–TSK–2 Responsibilities of the Supervisor

The supervisor:

1. **Develops** methods or tactics that will be used to accomplish the mission, as directed by the Incident Commander

a. **Submits** plans to the Incident Commander

2. **Debriefs** assigned officers after the incident

3. **Documents** observations and suggestions on an Event Debrief Form (form 23.5)

a. **Submits** Event Debrief Forms to Incident Commander

4. **Attends** separate debrief with Incident Commander

## 14.090–TSK–3 Issuing the Order to Disperse

Upon determining that the crowd presents an imminent risk to public safety or that large-scale property destruction appears likely, the Incident Commander, as feasible:

1. **Considers** placing officers at the rear of the crowd to verify that the order to disperse will be heard by all

2. **Issues** the following order:

"I am (rank and name) of the Seattle Police Department. I am now issuing a public safety order to disperse and I command all those assembled at (specific location) to immediately disperse, which means leave this area. If you do not do so, you may be arrested or subject to other police action. Other police action could include the use of chemical agents or less-lethal munitions, which may inflict significant pain or result in serious injury. If you remain in the area just described, regardless of your purpose, you will be in violation of city and state law. The following routes of dispersal are available: (routes). You have (reasonable amount of time) minutes to disperse."

3. **Allows** a reasonable amount of time for the crowd to disperse

4. **Repeats** the order to disperse, if feasible

5. **Continually assesses** the balance of dispersal time and the goal of retaining control of the situation

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The Seattle Police Department (SPD) prevents crime, enforces laws, and supports quality public safety by delivering respectful, professional, and dependable police services. SPD operates within a framework that divides the city into five geographical areas called "precincts". These precincts define east, west, north, south, and southwest patrol areas, with a police station in each.

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# STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

SOP-16-01 (Handling First Amendment Assemblies and Mass Demonstrations)  
Effective Date December 13, 2016

*Rescinds SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations)*  
*Effective Date January 20, 2011*



# **METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES**



## **HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS**

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- A. First Amendment Assembly Provisions of the First Amendment Rights and Police Standards Act of 2004
- B. Records Retention
- C. High Volume Arrest Prisoner Control System
- D. JOCC and CIC Activation and Operations
- E. Civil Disturbance Unit (CDU) Use of Force
- F. PD Form 759 (Field Arrest Form)
- G. Warning Format for High Volume Arrests
- H. Pre-High Volume Arrest Checklist
- I. PD Form 759-b (Commander's Mass Demonstration Event Log)
- J. Rights Notification
- K. Public Information During First Amendment Assemblies and Mass Demonstrations
- L. Handling Use of Force and Misconduct Allegations
- M. PD Form 901-m (Assembly or Demonstration Reportable Force Report)
- N. Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances
- O. Legal Charges for Protests and Civil Disturbances

## I. INTRODUCTION

The purpose of this standard operating procedure (SOP) is to ensure that the Metropolitan Police Department (MPD) is prepared to respond effectively and efficiently in accordance with applicable law and District of Columbia policy to any unlawful conduct occurring in the context of First Amendment assemblies. The Department has become the national model for protecting the First amendment rights and safety of demonstrators, while safeguarding persons and property in the District of Columbia. This SOP incorporates revisions to the manner in which the MPD responds to demonstrations and other assemblies on District of Columbia public space that the District has implemented in resolving litigation. This manual also reflects measures mandated by the *First Amendment Rights and Police Standards Act of 2004*.

This SOP sets forth the policy and procedures for all members carrying out the mission of the MPD when interacting with demonstrations, rallies, marches, picket lines, or other similar gatherings conducted for the purpose of persons expressing their political, social, or religious views. This policy is intended to exceed constitutional requirements and satisfy the heightened requirements of local statutory law and best practices.

This SOP is designed around the concept of operational flexibility within the requirements of the National Incident Management System (NIMS). It is impossible to devise specific standard operating procedures for handling all possible situations, for each has its own characteristics and challenges. The overall police philosophy must be one of moderation, flexibility and controlled response. Since each situation is unique, both commanding and supervisory officials must plan to respond according to the nature and size of the crowd. The tactical procedures established within this manual are a guide, and not a substitute for the exercise of sound judgment and proper command and supervision within the context of general Department policy.

It is imperative that members of the force understand the role of the MPD during mass demonstrations and major disturbances in our city and the manner by which the Department prepares itself to fulfill this role. It is to this end that this manual is dedicated.

## II. POLICY

### A. Statement of Policy

It is the declared policy of the District of Columbia that persons and groups have a right to organize and participate in peaceful First Amendment assemblies on the streets, sidewalks, and other public ways, and in the parks of the District of Columbia, and to engage in First Amendment assembly near the object of their protest so they may be seen and heard, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in the assemblies to use the streets, sidewalks, and other public ways to travel to



their intended destinations, and use the parks for recreational purposes.

It is the statutory responsibility of the MPD to preserve the public peace, to prevent crime, arrest offenders, and to protect the rights of persons and their property. As part of this responsibility, the Department provides trained personnel to respond to the scene of First Amendment assemblies in our city in order to preserve peace while protecting the constitutional and statutory rights of people to assemble peacefully and exercise free speech. In fulfilling these responsibilities, the Department will make reasonable efforts to employ non-arrest methods of crowd management as the primary means of maintaining order. Should such methods prove unsuccessful, arrests shall be made for violations of the law.

All arrests shall be based on probable cause, and arresting members shall use only the minimum necessary force to make and maintain the arrest. To the extent possible under the circumstances, arrests shall be made in an organized manner by units at the direction of the Chief of Police or his or her designee. All arrests shall be fully documented. Prisoners shall be safeguarded and adequately cared for, and shall be expeditiously processed for court or release.

The *First Amendment Rights and Police Standards Act of 2004* contains First Amendment assembly provisions that control the MPD's response to demonstrations. The MPD shall comply with all provisions of the *First Amendment Rights and Police Standards Act of 2004* including the *First Amendment Assemblies Act of 2004* as outlined in Attachment A.

It is the policy of MPD to index, retain, and store all documents related to First Amendment assemblies (originals and copies) for a period of no less than three years [see Attachment B (Records Retention)].

#### B. Organizational Policy

The Chief of Police, or an official or member designated by him or her directly, through operation of the chain of command, by virtue of deployment of personnel pursuant to an operational plan or in response to a First Amendment assembly, or lawful order, will be the incident commander at scenes of First Amendment assemblies.

Incident command responsibility, once established, does not pass from one member or official to another simply by virtue of the appearance or arrival at the scene of a First Amendment assembly of an official senior in rank to the member or official operating as the incident commander. Incident command responsibility passes in such instances only upon acceptance of that responsibility by the senior official.

Requests for mutual aid assistance from outside jurisdictions, when necessary, shall be handled in accordance with GO-RAR-310.04 (Mutual Aid Agreement).

### C. Body-Worn Camera Policy

It is the policy of the MPD to ensure that members activate their assigned body-worn cameras when responding to First Amendment assemblies in accordance with GO-SPT-302.13 (Body-Worn Camera Program). In accordance with D.C. Official Code § 5-333.09 (Preliminary Inquiries Relating to First Amendment Assemblies), members **shall not** record First Amendment assemblies for the purpose of identifying and recording the presence of individual participants who are not engaged in unlawful conduct.

## III. PLANNED AND PERMITTED FIRST AMENDMENT ASSEMBLIES

- A. Planned events are those that the Department is aware of in advance, either through the submission of a permit request or other means that allow for the advance planning of resources and response procedures. When large-scale, planned or permitted First Amendment assemblies are anticipated:
1. The Chief of Police shall designate command officials to serve as area or incident commanders at various sites to manage events.
  2. The Commander of the Special Operations Division (SOD), under the direction of the Chief of Police, is responsible for preparing the necessary details and tactical plans for events that are scheduled to occur within the District of Columbia. In this capacity he or she shall:
    - a. Coordinate all aspects of the event plan with the affected elements, units, and personnel.
    - b. Coordinate activities with other law enforcement, District government and federal agencies, as necessary.
    - c. Designate liaison officers to work with demonstration leaders before, during, and after the demonstration.
  3. Planning Committees
    - a. In order to perform its mission of protecting the rights of demonstrators, counter-demonstrators, and non-demonstrators alike, it is the policy of the MPD to engage in advance planning to facilitate demonstrations where the Department is provided advance notification through the permit application process or learns of a planned First Amendment assembly.
    - b. The creation of various subcommittees that are convened shall be dependent upon the type of event. The responsibilities of each committee shall be at the discretion of the Commander of the SOD. The following committees shall be considered when planning for an event:

- (1) Venue security;
- (2) Sanitation;
- (3) Crisis management;
- (4) Consequence management;
- (5) Transportation;
- (6) Traffic;
- (7) Legal; and
- (8) Media relations.

#### **IV. UNPLANNED EVENTS**

- A. Unplanned events are events that the Department has no prior knowledge of. Such events may consist of spontaneous gatherings and large-scale demonstrations. Unplanned events are often peaceful and pose little problem for law enforcement; however, peaceful gatherings can turn violent, requiring that contingency plans are in place for members to respond as necessary to safeguard life and property.
- B. First Member Response to Unplanned First Amendment Assemblies
  1. The first units to arrive on the scene of an unplanned First Amendment assembly shall:
    - a. Observe the situation to determine if the gathering is peaceful or has the potential to turn violent.
    - b. Notify the Command Information Center (CIC) and the Office of Unified Communications (OUC) of the nature and size of the assembly and request the assistance of a supervisor.
    - c. Attempt to identify and make contact with the group organizers or leaders to determine the duration of the event, the number of persons expected to attend, and if civil disobedience is anticipated or planned.
    - d. If criminal activity has occurred, attempt to identify those individuals who were involved.
- C. In large gatherings, the Commander of the SOD or on-duty SOD official shall be requested to respond to the scene. If an SOD official is unavailable, the district watch commander shall respond to the scene and assume command of the demonstration as the incident commander. However, incident

commander responsibilities outlined below apply regardless of rank and should be implemented as soon as possible.

D. Incident Commander Responsibilities

1. The primary responsibility of the incident commander is the rapid assembly of sufficient staffing to provide a safe environment for the gathering and ensure that disruptions to the area are minimized.
2. The incident commander shall immediately:
  - a. Assess the situation for seriousness and its potential for escalation. If the assembly is peaceful and adequate resources are available, efforts shall be made to allow for the protest action to continue by redirecting vehicular and pedestrian traffic around the incident.
  - b. Ensure that the following information about the incident is continuously provided to the OUC and CIC:
    - (1) Location of disturbance;
    - (2) Number of participants;
    - (3) Activities of the participants (e.g., marching peacefully, blocking traffic, destruction of property);
    - (4) Direction of movement of the participants; and
    - (5) Ingress and egress routes for emergency vehicles.
  - c. If a peaceful assembly escalates to a civil disturbance beyond the capacity of present personnel to effectively handle the situation, the official in charge shall:
    - (1) Make an evaluation as to the additional staffing required to manage the situation.
    - (2) Notify the OUC and CIC of the situation.
    - (3) Determine if a partial or full activation of Civil Disturbance Unit (CDU) personnel will be necessary. Activation of CDU personnel shall be carried-out in accordance with GO-HSC-805.01 [Civil Disturbance Unit (CDU)].
    - (4) Determine if a recall of off-duty personnel may be necessary. Recall of personnel to respond to a disturbance shall be handled in accordance with GO-OPS-803.04 (Emergency Response Plan).

- (5) Determine the level of personal protective equipment (PPE) to be utilized and the tactics employed in response.

- d. Members of the MPD are reminded that the charge of “Parading without a Permit” is not an offense and shall not be used to detain anyone.

**E. Violent and Non-Violent Civil Disobedience**

1. Civil disobedience may involve groups of individuals who engage in unlawful conduct. This conduct may be non-violent, such as blocking traffic or the entry to a building, or it may be violent involving property damage or assaults on members.
2. In either case, the incident commander has several options for dealing with the groups involved:
  - a. Issuance of formal orders to disperse using public address equipment to ensure notification to all leaders and crowd members, and to maximize the legal effects of such notifications. Dispersal orders shall be given in accordance with Part IX.G of this SOP.
  - b. Use of tactical maneuvers and other crowd management formations to promote dispersal of those acting in violation of the law through the application of force.
  - c. When necessary, effect arrests based on probable cause of those participating in violations of law.
  - d. Use of less lethal weapons.

**V. VIOLENT CIVIL DISTURBANCES**

- A. Unplanned civil disturbances may arise from a number of causes such as political grievances, economic conflicts, community unrest, or in response to police action in neighborhoods. Unplanned civil disturbances may occur in the midst of a crowded street, park, or public place. Civil disturbance participants come from all walks of life and cover the entire political spectrum.
- B. Whenever an unplanned First Amendment assembly arises, the first member on the scene shall serve as the initial incident commander. That member shall be responsible for conducting an assessment of the scene, notifying the OUC, the CIC, and the element watch commander of the situation, and requesting assistance from the SOD.
- C. The basic human element sparking a civil disturbance is usually the presence of a crowd. Civil disturbances usually arise when a crowd:

1. Gathers to air grievances on issues, and transfers its anger from the issues to the people dealing with the issues.
  2. Swells uncontrollably as curious bystanders and sympathetic onlookers join forces with the activists or protestors.
  3. Is incited to irrational action by skillful agitators.
- D. In civil disturbances, crowds employ any number of tactics to achieve their goals. Their tactics may be unplanned or planned, and include non-violent or violent confrontations.
- E. As indicated, the situations that could evolve into a violent civil disturbance are numerous and varied. Often there will be little or no warning before the onset of violence or property damage. In a few instances, it may be possible to predict a level of civil disorder by the nature of a pre-planned event. However, each civil disturbance situation is unique, and commanding and supervisory officials shall plan and respond according to the nature and size of the disturbance. The policies and procedures presented in this SOP are based upon the concept of operational flexibility, and it is expected that officials will exercise sound judgment and proper command and supervisory responsibility in the control of a civil disturbance.
- F. In a violent civil disturbance, the primary objectives of the incident commander shall be to:
1. Protect non-participants, participants, and property.
  2. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence. Dispersal orders shall be given in accordance with Part IX.G of this SOP.
  3. Deploy personnel to isolate and contain the people within a crowd who are acting unlawfully and effect the arrest of those individual law violators based on probable cause.
- G. Police lines shall not be used to encircle demonstrators unless it is necessary for their protection or a decision has been made to arrest those participants that are being isolated.
- H. In the area outside the perimeter surrounding the disorder site, the incident commander shall:
1. Move and reroute pedestrian and vehicular traffic around the disorder area.
  2. Limit access to the disorder area only to those persons approved by the incident commander.

3. Control unauthorized egress from the disorder area by participants who are subject to arrest based on probable cause.
  4. Repulse attempts to assist or reinforce the incident participants from outside the area.
- I. The incident commander shall establish a field command post at or near the location of the disorder, from which he or she will control and coordinate police tactical operations.
  1. A staging area shall also be established for all responding emergency personnel and equipment.
  2. Deployment of the personnel and equipment into the disorder area shall be at the express direction of the incident commander.
- J. Authorization of Personal Protective Equipment (PPE)
  1. The incident commander shall authorize the wearing of hard PPE (e.g, helmets, gloves, chest protectors, shin guards) only when the donning of such equipment is consistent with the District policy on First Amendment assemblies (Attachment A) and only where there is a danger of violence.
  2. Following any deployment of members in PPE, the incident commander shall make a written report to the Chief of Police within 48 hours and that report shall be made available to the public upon request.
- K. Mobilization of Personnel
  1. Upon being informed of a civil disturbance and the need for the mobilization of personnel, the Chief of Police or his or her designee shall review and evaluate all information pertaining to the civil disorder and make a determination as to which level of mobilization shall be implemented [adhering to the guidelines of GO-OPS-803.04 (Emergency Response Plan)].
  2. Upon being notified that the Department has implemented one of the mobilization levels, each bureau head shall ensure that all officials under his or her command are notified and carry out their duties and responsibilities as required.
  3. The MPD is the primary law enforcement authority during an unlawful assembly or riot situation in the District of Columbia. Assistance may be obtained from other city departments and from law enforcement mutual aid and military assistance agreements as necessary.

- L. Providing Security for D.C. Fire and Emergency Medical Services (DCFEMS) and Other Responders

The incident commander shall ensure that all necessary police security is provided to DCFEMS personnel, as well as to other medical and public utility responders, to ensure their safety within the disorder area while performing emergency tasks.

- M. The procedures in this section deal with spontaneous occurrences but they are also applicable to a planned event that degenerates into an unlawful assembly or riot.

## **VI. ORGANIZATION OF CIVIL DISTURBANCE UNITS**

- A. The organizational structure of CDUs is designed to facilitate command, control, and communication. Additionally, the structure allows for authority and accountability. In compliance with the NIMS, the civil disturbance platoons (i.e., “mobile field forces” in NIMS terminology) will be organized as follows:
  - 1. CDU squad: Seven members commanded by one sergeant.
  - 2. CDU platoon: Four squads commanded by one lieutenant.
  - 3. CDU district: A number of platoons from the same patrol district. The district’s staffing levels determine the total number of platoons required.
  - 4. District CDU commander: The captain in command of all CDU platoons from one district.
- B. The patrol districts shall maintain a minimum of 28 CDU platoons. Additional CDU platoons shall be maintained by non-patrol units at the direction of the Chief of Police. The platoons are assigned numerical designations based on their patrol district and platoon number. Each district shall maintain a certain number of platoons based on the patrol district’s staffing levels, which will be organized as follows:
  - 1. One scooter or mountain bike platoon.
  - 2. One car platoon.
  - 3. Remaining platoons shall be denoted as foot platoons and will be provided vans or buses during deployments.
- C. Each platoon can perform any crowd control formation currently used by the Department.



- D. Each platoon shall be comprised of four squads and shall have two grenadier-trained members per squad.
- E. The CDU captains from each district shall be responsible for ensuring that all members are certified in the use of all Department less lethal and chemical weapons.

#### **Minimum MPD CDU Staffing**

Captains	7
Lieutenants	28
Sergeants	112
<u>Officers</u>	<u>784</u>
Total:	931

- F. SOD Personnel

All members of the SOD are required to be CDU-certified and shall be considered operational resources during CDU activation.

### **VII. COMMAND ASSIGNMENTS AND RESPONSIBILITIES**

During periods in which the Department is fully mobilized for mass demonstration operations, the following command assignments and responsibilities shall be in effect:

- A. The Chief of Police, as the commanding official of the MPD, shall oversee all police activities during CDU activation.
- B. The Chief Operating Officer of the Executive Office of the Chief of Police shall assist the Chief of Police and oversee the procurement of items and equipment required during the course of operations during CDU activation.
- C. The Assistant Chief of the Homeland Security Bureau shall have command authority over all arrangements and activities within the Homeland Security Bureau, to include the coordination and operational functions specific to the Intelligence Unit, the SOD, and the CDU.
- D. All others assistant chiefs shall be assigned specific duties and responsibilities as designated by the Chief of Police.
- E. The Commander of the SOD is designated as the CDU Commanding Official and shall coordinate, command, and direct all CDU and SOD activities. The Commander of the SOD shall manage all traffic control activity and demonstrator activities, and shall coordinate the collection and dissemination of pertinent demonstration or civil disturbance-related information.
- F. The Commander of the Criminal investigations Division shall manage all

plainclothes details and assume operational control of the Joint Operations Command Center (JOCC) and CIC.

- G. The Director of the Office of Communications shall provide staff from the Media Productions Unit for the purpose of video recording any situation that might later be of legitimate value to the Department.
- H. The Commander of the Narcotics and Special Investigations Division shall be tasked with coordinating and implementing operations for prisoner processing for high volume arrests, as described in Attachment C (High Volume Arrest Prisoner Control System).
- I. The Commander of the Police Business Services Division shall be responsible for coordinating and implementing:
  - 1. Emergency property receiving procedures for processing property taken into custody during mass demonstrations and civil disturbances.
  - 2. Feeding of MPD personnel.
- J. The General Counsel shall:
  - 1. Provide field assistance to the Chief of Police and other command personnel, and perform liaison functions with courts, the United States Attorney's Office, the Office of the Attorney General, bar associations, and other legal organizations as applicable.
  - 2. Coordinate the implementation of court orders pertaining to the Department and responses to inquiries from judges and other members of the legal community.
  - 3. Ensure all court orders and inquiries from judges are immediately brought to the attention of the Chief of Police.
- K. The Commander of the Joint Strategic and Tactical Analysis Command Center shall ensure:
  - 1. The CIC and JOCC are prepared to handle major events.
  - 2. Video capabilities and downlink for Falcon (the Department's helicopter) are operational.
  - 3. Proper staffing is on hand to record and coordinate the movement of personnel [see Attachment D (JOCC and CIC Activation and Operations)].
- L. Non-CDU captains and inspectors shall be trained as emergency liaison officers (ELOs) to operate in an Emergency Operations Center (EOC) environment. During event planning, EOC assignments shall be made from

this trained group. ELOs shall be used to staff the various command posts (e.g., United States Capitol Command Center, United States Secret Service Command Center) that may be established during large events.

## **VIII. FULL MOBILIZATION OF PERSONNEL IN SUPPORT OF EVENTS**

When a full mobilization of personnel is necessary to support large events or First Amendment assemblies, the following units shall provide support as enumerated below:

### **A. Internal Affairs Bureau (IAB)**

The IAB has the responsibility for monitoring, assessing, and investigating allegations or instances of misconduct and use of force through the Internal Affairs Division (IAD). The IAD shall investigate all incidents involving the use of force arising from a First Amendment assembly as outlined in Attachment E (Civil Disturbance Unit Use of Force).

### **B. Specialized Equipment Support Unit (SESU)**

1. The SESU was established to assist CDU platoons and arrest teams in removing protesters from improvised locking devices. By employing devices made from cement, steel, wood, and other materials, protesters may intentionally block roadways, entrances to public or private property, and resist arrest.
2. SESU members are trained, certified, and equipped with special extracting tools to defeat improvised locking devices used by demonstrators. When it is apparent that demonstrators have locked themselves into improvised locking devices, the platoon commander shall notify the JOCC (or the CIC, if the JOCC is not activated) that the services of SESU are needed.

### **C. Medical Services Division (MSD)**

1. The purpose of the MSD is to facilitate the health and welfare of all members by taking reasonable steps to ensure medical assistance is available to them during times of large demonstrations. When CDU has been activated, the optional sick leave program may be suspended.
2. When the optional sick leave program is suspended:
  - a. All members reporting sick are required to report to the MSD for an evaluation.
  - b. Members reporting for evaluation at the MSD or the hospital emergency room shall respond attired in the uniform of the day

and have in their possession all necessary equipment to assume their duty assignments.

- c. When the MSD is closed, members who have medical emergencies, or need urgent care medical services for on-duty injuries and illnesses, shall report to the Urgent Care facility at Washington Hospital Center or Providence Hospital to the extent possible, according to the following:

- (1) Members whose last names begin with "A through K" shall report to the Urgent Care facility at Washington Hospital Center.

- (2) Members whose last names begin with "L through Z" shall report to the Urgent Care facility at Providence Hospital.

- 3. Whenever medical treatment is required for members as a result of a civil disturbance, or when the injury is the result of an assault and an arrest has been made for an "Assault on a Police Officer":
  - a. For minor injuries, members who are equipped with Department cell phones with the AXON Capture application shall be responsible for photographing the injuries.
  - b. For serious injuries, evidence technicians assigned to the Crime Scene Investigations Division (CSID) or the Department of Forensic Sciences (DFS) shall be responsible for photographing the injuries.
  - c. When applicable, the case shall be processed in accordance with the provisions in GO-PCA-701.03 (Handling Assaults on Police Officers).

#### D. Explosive Ordinance Unit

Members shall abide by the procedures outlined in GO-HSC-805.04 (Bomb Threats and Explosive Devices), GO-HSC-802.04 (Hazardous Materials Incidents) and CIR-09-03 (Hazardous Materials Information) and shall consult those orders for a more detailed list of duties and responsibilities regarding suspicious packages and unknown substances.

#### E. DCFEMS and Member Injuries

When it has been determined that a civil disturbance of major proportions is contemplated or underway, a request shall be made to the DCFEMS to provide the necessary units and assistance to be staged for response to medical requests.

## F. Relief and Feeding of Personnel

1. Each unit commander shall be responsible for arranging a schedule of relief for personnel under his or her command. In this regard, commanders shall arrange a location where food and facilities will be available to their personnel. Every effort shall be made to ensure that personnel are given a period of relief as conditions allow.
2. The official designated in charge of the commissary detail shall arrange for the delivery of food and beverages to pre-determined locations at pre-determined times. Should a subsequent feeding of personnel become necessary, and it is necessary to change the delivery locations, the official shall coordinate through the incident commander those locations most accessible to personnel.

## IX. OPERATIONAL PROCEDURES FOR MASS DEMONSTRATIONS

- A. Mass demonstrations and circumstances or events surrounding them do, on occasion, give rise to situations in which substantial numbers of persons engage in unlawful conduct jointly or simultaneously within close proximity of one another.
- B. It is the policy of the MPD to ensure that persons may enjoy free and open expression in this city with the utmost confidence that their constitutional rights will be respected.
- C. Accordingly, it is the policy of the MPD to avoid making arrests of substantial numbers of persons in response to such incidents when arrest avoidance is reasonably possible in the interests of safety and security.
- D. To implement these policies, this manual sets forth procedures and guidelines to be employed in policing large First Amendment assemblies (i.e., mass demonstrations). These procedures apply when, by virtue of the number of persons acting jointly or simultaneously within close proximity, there exists a reasonable likelihood that MPD personnel, in accordance with the requirements of the United States Constitution, may have to:
  1. Direct those persons to cease and desist in their activities and to disperse from the location for reasons of safety and security; or
  2. Direct the arrest of such a substantial number of persons for reasons of safety and security that arrest processing of those individuals could not reasonably be anticipated to be accomplished within four hours of the time of arrest through routine processing measures.
- E. Preparation for Events that May Result in High Volume Arrests

In some cases, groups planning to engage in illegal conduct will make their

intentions known in advance. In such cases, the Department shall ensure that the necessary resources and staffing are in place to respond to such events while minimizing the disruption to routine police services. In these cases, contingency planning for high volume arrests shall include the following:

1. The Commander of the SOD shall coordinate all planning relative to the Department's preparation for responding to a mass demonstration.
2. The Department's response will be based on the best available information as to the size, purpose, and expected type of activity of those participating in the demonstration. Other essential elements of information necessary to effectively plan the MPD's response are:
  - a. Time and location of demonstration;
  - b. Special circumstances of individuals involved (e.g., special needs, disabilities);
  - c. Estimated number of participants;
  - d. Identity of demonstration leaders;
  - e. Assembly areas; and
  - f. Plans and expected activities of the demonstrations.
3. Every effort shall be made to obtain the above information during advance negotiations with the leaders of the demonstration.
4. After evaluating and determining the type and level of activity to be expected during the demonstration, the Commander of the SOD shall prepare a Department action plan that sets forth particulars by which the Department will deal with a specific event. The plan shall contain provisions for the following:
  - a. Command assignments and responsibilities;
  - b. Staffing, unit structure, and deployment;
  - c. Liaison with demonstration leaders;
  - d. Liaison with external agencies;
  - e. Release of information to the news media;
  - f. Transportation and feeding of personnel;
  - g. Traffic arrangements;

- h. First aid stations and ambulances;
  - i. Redeployment of vehicles;
  - j. Prisoner detention areas;
  - k. Transportation and feeding of potential arrestees; and
  - l. Reiteration of the policies regarding arrests, the use of field arrest forms [see Attachment F (PD Form 759)], and the use of force.
- 5. The Commander of the SOD shall disseminate copies of the action plan to all supervisory officials and establish an incident command post at or near the location of the event for the purpose of providing command, control, and coordination of the event.
- 6. Each CDU commander shall be designated a specific staging area, from which the operations of the unit can be coordinated with subordinate and superior officials.
- 7. CDU commanders shall ensure that all subordinate officials and members are wearing their badges and nameplates properly and that badge numbers and nameplates are not concealed, damaged, or tampered with, so as to interfere with the ability of the member to be identified in accordance with GO-PER-110.11 (Uniforms and Equipment) and the *First Amendment Rights and Police Standards Act of 2004*.
- 8. When members are directed to don CDU protective gear, the CDU Commander (or appropriate supervisor) shall ensure that all members have their assigned badge numbers affixed to their helmets and are reminded that members are prohibited from removing or tampering with their badges or nameplates and are required to verbally identify themselves when asked their identities.

F. Crowd Management

- 1. Where the threat of violence is expected, a minimum number of personnel shall be positioned as crowd managers who shall be:
  - a. Dressed in the uniform of the day.
  - b. Positioned, where possible, in such arrangements that physical contact with the assemblage can be kept to a minimum.
- 2. Crowd managers shall assess the mood of the crowd and respond to changes in crowd behavior as directed by the incident commander.

3. Supervisors must be aware of the type of crowd that is being managed, and remind members at the staging area of what to expect from the participants and what types of alternative responses the members may anticipate.
4. Absent exigent circumstances, the incident commander shall determine the type of response deemed necessary for crowd management.
5. Members shall not engage in demonstration-related discussion with participants and shall conduct themselves so as to display an attitude of neutrality. However, members shall be courteous and helpful, mindful that expressions of friendliness are a valuable tool in maintaining peace.
6. Communication is an essential tool in crowd management. It ensures unity of action among members, and that police officials and crowd leaders understand one another. Communication must be constant, clear, and immediate, and on many occasions, can serve to defuse threatening situations.
7. Supervisors shall:
  - a. Constantly observe and speak with members under their charge to ensure that they are complying with the orders of the unit commander and ensure that they are completely aware of probable responses to crowd attitude change.
  - b. Ensure that members who are showing strain are provided temporary relief.
8. CDU commanders shall establish communication with demonstration leaders as soon as possible, and maintain communication as a sign of cooperation, as a means of obtaining first-hand knowledge of crowd mood, and as a tool to facilitate negotiations and maintain the peace.

G. Crowd Dispersal and the Issuance of Warnings

1. As a first means of dispersing a crowd under static conditions, the unit commander shall attempt to verbally persuade the crowd to disperse of its own accord by announcing available exit routes.
2. General orders to disperse a First Amendment assembly shall not be given unless a significant number of the participants fail to adhere to reasonable restrictions or a significant number of the participants are engaging in, or are about to engage in, unlawful disorderly conduct or violence towards persons or property.



3. When the intensity level of a crowd rises and unlawful disruption, either through violent or passive means, is occurring to the extent that the incident commander determines there is a need to take police action, he or she will instruct the affected CDU commanders or other designated officials to issue warnings to the crowd to disperse.

NOTE: Dispersal orders may also be given when a public-safety emergency has been declared by the Mayor and Chief of Police or his or her designee determines that the emergency is sufficient to require the dispersal of the assembly.

4. Whenever possible, an official deeming it necessary to issue warnings shall confer with the unit commander to explain the official's basis for believing that a warning should be issued. The commanding official shall make any inquiries necessary to satisfy himself or herself whether the issuance is justified and direct that the issuing official act accordingly. This process shall be repeated as necessary during the course of the demonstration.
5. The issuance of warnings shall be of such amplification (i.e., through the use of an amplification device) and repetition that they are reasonably calculated to be heard by the entire assemblage.
6. When the incident commander has reason to believe that members of the crowd are limited or non-English proficient, he or she shall make every effort to ensure warnings are provided in appropriate languages consistent with GO-SPT-304.18 (Language Access Program).
7. At least one warning shall be issued and, absent exigent circumstances, a total of three warnings shall be issued. The time of the warnings shall be documented in accordance with procedures pertaining to High Volume Arrests [see Attachment G (Warning Format for High Volume Arrests)].
8. The designated official shall issue the warnings from stationary vantage points that are observable to the crowd.
9. Additional warnings, where necessary, shall be given from police vehicles, equipped with public address systems, moving around the crowd.
10. Participants shall be allowed a reasonable amount of time to disperse.
11. The entire warning process shall be documented by means of an audio-visual recording, if available. If this is not available, then written documentation must be retained and made a part of any arrest files.

## H. Arrest

1. An assembly of persons shall not be arrested simply because the group does not possess a permit. Such an arrest may only occur after an order to disperse has been clearly communicated in a manner that is reasonably calculated to be heard by each of the persons in the group and a reasonable opportunity to disperse has been afforded, but not used by members of the assembly.
2. The issuing official shall recommend to the incident commander whether arrests should be made. If the issuing official recommends that high volume arrests be commenced, the incident commander shall satisfy himself or herself that probable cause exists for the arrest of each person to be arrested. The incident commander should make the inquiries reflected on the "Pre-High Volume Arrest Checklist" in order to verify that a high volume arrest is proper and lawful [see Attachment H (Pre-High Volume Arrest Checklist)].
3. The arrest of each person must be supported by probable cause. An issuing official shall not recommend the arrest of any person unless probable cause to support the arrest of that person exists.
4. The incident commander shall not order the arrest of any person for whom he or she has not verified the existence of probable cause to arrest. The number of warnings given, the method used, and the time intervals between warnings shall be recorded on the commander's event log.
5. Documentation of the procedures shall be made pictorially and audibly, if possible. The documentation of procedures must reflect the availability and location of exit routes available to the crowd, and of any persons who leave the area.

## I. Commander's Mass Demonstration Event Log

1. The incident commander and unit commanders (i.e, platoon lieutenants) shall designate one member of their unit to serve as the unit recorder for the purpose of entering on the Commander's Mass Demonstration Event Log all significant events associated with the operation of the unit [see Attachment I – (PD Form 759-B)].
2. Entries into the log will be made at the direction of the unit or incident commander.
3. When it becomes necessary for subordinate supervisory officials to initiate any independent action, or engage in or observe events that could be considered significant, they shall, as soon as possible, advise the unit commander for inclusion in the event log. Examples of events warranting entry in the log would be:

- a. Occasions requiring the use of force. Entries shall include the circumstances, type of force used, duration, and effect;
- b. Tactical orders issued to personnel;
- c. Orders received from higher authority;
- d. Significant acts on the part of the demonstrators;
- e. Incidents involving high volume arrests;
- f. Complaints alleging serious police misconduct as defined in GO-PER-120.23 (Serious Misconduct Investigations); and
- g. Issuance of warnings for high volume arrests.

J. Termination of Mass Demonstrations Details

When conditions have subsided, the incident commander shall survey the affected areas and determine whether additional police personnel are still needed at a particular location. If it is determined by the incident commander that no further police action is required, other than normal patrol, the detail shall be terminated.

K. Accountability of Equipment

1. Prior to relieving members of their command, unit commanders shall ensure items of equipment that were issued by the SOD or from the CDU storeroom are accounted for and returned to that unit by the required due date and time. This includes coordination with the SOD or CDU storeroom to return any rented vehicles.
2. District, division, and platoon commanders shall prepare an after-action report and submit it to the Commander of the SOD within five calendar days of the return to normal operations.
3. The after-action report shall contain a list of all events that occurred in chronological order to include:
  - a. The date and time that each event occurred;
  - b. A brief description of the event;
  - c. The unit actions taken;
  - d. The outcomes, such as number of persons arrested; and
  - e. A complete and detailed report of:

- (1) Problem areas encountered;
- (2) Highlights of significant events and unsatisfactory conditions;
- (3) Any recommendations for improvement; and
- (4) Negative reports as required.

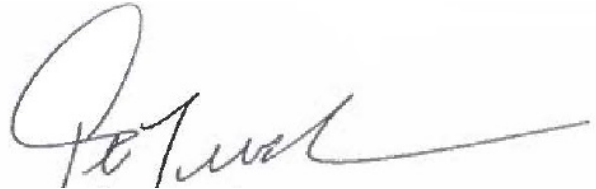
## **X. CONSEQUENCE MANAGEMENT**

- A. In the event that damage or destruction occurs within the District of Columbia, either at the hands of demonstrators or as a result of an unrelated incident, the District's Homeland Security and Emergency Management Agency (HSEMA) will be the lead agency coordinating the city's response to incidents of man-made destruction, instances of power, water, or infrastructure failure, or natural disasters.
- B. HSEMA will:
  1. Have rapid response teams available to respond to spilled debris, broken windows, or scenes requiring emergency repairs.
  2. Have immediate access to the various utility companies in case they are required for emergency situations.
  3. Coordinate the removal of excessive trash or other debris in areas where it may create hazards with possible demonstrator activities. Requests for the services of HSEMA shall be made through the JOCC or CIC, which will coordinate with the MPD representative assigned to the HSEMA Command Post.

## **XI. CROSS REFERENCES**

- A. GO-PER-110.11 (Uniforms and Equipment)
- B. GO-PER-120.23 (Serious Misconduct Investigations)
- C. GO-SPT-302.13 (Body-Worn Camera Program)
- D. GO-RAR-310.04 (Mutual Aid Agreement)
- E. GO-PCA-701.03 (Handling Assaults on Police Officers)
- F. GO-HSC-802.04 (Hazardous Materials Incidents)
- G. GO-OPS-803.04 (Emergency Response Plan)
- H. GO-HSC-805.01 [Civil Disturbance Unit (CDU)]

- I. GO-HSC-805.04 (Bomb Threats and Explosive Devices)
- J. CIR-09-03 (Hazardous Materials Information)
- K. *First Amendment Rights and Police Standards Act of 2004*
- L. D.C. Official Code § 5-333.09 (Preliminary inquiries relating to First Amendment Assemblies)

A handwritten signature in black ink, appearing to read 'Peter Newsham', with a long horizontal flourish extending to the right.

Peter Newsham  
Interim Chief of Police

PN:KDO:MOC:PHC



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### **First Amendment Assembly Provisions of the First Amendment Rights and Police Standards Act of 2004**

#### **§ 5-331.01. Short title**

This subchapter may be cited as the "First Amendment Assemblies Act of 2004".

#### **§ 5-331.02. Definitions**

For the purposes of this subchapter, the term:

- (1) "First Amendment assembly" means a demonstration, rally, parade, march, picket line, or other similar gathering conducted for the purpose of persons expressing their political, social, or religious views.
- (2) "MPD" means the Metropolitan Police Department.

#### **§ 5-331.03. Policy on First Amendment assemblies**

It is the declared public policy of the District of Columbia that persons and groups have a right to organize and participate in peaceful First Amendment assemblies on the streets, sidewalks, and other public ways, and in the parks of the District of Columbia, and to engage in First Amendment assembly near the object of their protest so they may be seen and heard, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in the assemblies to use the streets, sidewalks, and other public ways to travel to their intended destinations, and use the parks for recreational purposes.

#### **§ 5-331.04. Reasonable time, place, and manner restrictions on First Amendment assemblies**

- (a) The MPD shall recognize and implement the District policy on First Amendment assemblies established in § 5-331.03 when enforcing any restrictions on First Amendment assemblies held on District streets, sidewalks, or other public ways, or in District parks.
- (b) The MPD may enforce reasonable time, place, and manner restrictions on First Amendment assemblies by:
  - (1) Establishing reasonable restrictions on a proposed assembly prior to its planned occurrence though the approval of a plan, where the organizers of the assembly give notice;

- (2) Enforcing reasonable restrictions during the occurrence of an assembly for which a plan has been approved, which are in addition to the restrictions set forth in the approved plan, where the additional restrictions are:
  - (A) Ancillary to the restrictions set forth in the approved plan and are designed to implement the substance and intent in the approval of the plan;
  - (B) Enforced in response to the occurrence of actions or events unrelated to the assembly that were not anticipated at the time of the approval of the plan and that were not caused by the plan-holder, counter-demonstrators, or the police; or
  - (C) Enforced to address a determination by the MPD during the pendency of the assembly that there exists an imminent likelihood of violence endangering persons or threatening to cause significant property damage; or
- (3) Enforcing reasonable restrictions on a First Amendment assembly during its occurrence where a plan was not approved for the assembly.
- (c) No time, place, or manner restriction regarding a First Amendment assembly shall be based on the content of the beliefs expressed or anticipated to be expressed during the assembly, or on factors such as the attire or appearance of persons participating or expected to participate in an assembly, nor may such restrictions favor non-First Amendment activities over First Amendment activities.

**§ 5-331.05. Notice and plan approval process for First Amendment assemblies -- generally.**

- (a) It shall not be an offense to assemble or parade on a District street, sidewalk, or other public way, or in a District park, without having provided notice or obtained an approved assembly plan.
- (b) The purpose of the notice and plan approval process is to avoid situations where more than one group seeks to use the same space at the same time and to provide the MPD and other District agencies the ability to provide appropriate police protection, traffic control, and other support for participants and other individuals.
- (c) Except as provided in subsection (d) of this section, a person or group who wishes to conduct a First Amendment assembly on a District street, sidewalk, or other public way, or in a District park, shall give notice and apply for approval of an assembly plan before conducting the assembly.
- (d) A person or group who wishes to conduct a First Amendment assembly on a District street, sidewalk, or other public way, or in a District park, is not required to give notice or apply for approval of an assembly plan before conducting the assembly where:

- (1) The assembly will take place on public sidewalks and crosswalks and will not prevent other pedestrians from using the sidewalks and crosswalks;
  - (2) The person or group reasonably anticipates that fewer than 50 persons will participate in the assembly, and the assembly will not occur on a District street; or
  - (3) The assembly is for the purpose of an immediate and spontaneous expression of views in response to a public event.
- (e) The Mayor shall not enforce any user fees on persons or groups that organize or conduct First Amendment assemblies.
  - (f) The Mayor shall not require, separate from or in addition to the requirements for giving notice of or applying for approval of an assembly plan for a First Amendment assembly, that persons give notice to, or obtain a permit or plan from, the Chief of Police, or other District officials or agencies, as a prerequisite for making or delivering an address, speech, or sermon regarding any political, social, or religious subject in any District street, sidewalk, other public way, or park.
  - (g) The Mayor shall not require, separate from or in addition to the requirements for giving notice of or applying for approval of an assembly plan for a First Amendment assembly, that persons give notice to, or obtain a permit or plan from the Chief of Police, the Department of Consumer and Regulatory Affairs, or any other District official or agency as a prerequisite for using a stand or structure in connection with such an assembly; provided, that a First Amendment assembly plan may contain limits on the nature, size, or number of stands or structures to be used as required to maintain public safety. Individuals conducting a First Amendment assembly under subsection (d) of this section may use a stand or structure so long as it does not prevent others from using the sidewalk.
  - (h) The Mayor shall not require, separate from or in addition to the requirements for giving notice of or applying for approval of an assembly plan for a First Amendment assembly, that persons give notice to, or obtain a permit or plan from, the Chief of Police, the Director of the Department of Consumer and Regulatory Affairs, or any other District official or agency as a prerequisite for selling demonstration-related merchandise within an area covered by an approved plan or within an assembly covered by subsection (d) of this section; provided, that nothing in this subsection shall be construed to authorize any person to sell merchandise in a plan-approved area contrary to the wishes of the plan-holder.

**§ 5-331.06. Notice and plan approval process for First Amendment assemblies -- processing applications; appeals; rules**

- (a) (1) Subject to the appeal process set forth in subsection (d) of this section, the authority to receive and review a notice of and an application for approval of a plan for a First Amendment assembly on District streets, sidewalks, and other public ways, and in



District parks, and to grant, deny, or revoke an assembly plan, is vested exclusively with the Chief of Police or his or her designee.

- (2) Persons or groups providing notice to and applying for approval of a plan from the District government to conduct a First Amendment assembly on a District street, sidewalk, or other public way, or in a District park, shall not be required to obtain approval for the assembly from any other official, agency, or entity in the District government, including the District of Columbia Emergency Management Agency, the Mayor's Special Events Task Group, or the Department of Parks and Recreation.
- (b)
  - (1) The Chief of Police shall take final action on a notice of and an application for approval of a plan for a First Amendment assembly within a reasonably prompt period of time following receipt of the completed application, considering such factors as the anticipated size of the assembly, the proposed date and location, and the number of days between the application date and the proposed assembly date, and shall establish specific timetables for processing an application by rules issued pursuant to subsection (e) of this section.
  - (2) Except as provided in paragraph (3) of this subsection, where a complete application for approval of a First Amendment assembly plan is filed 60 days or more prior to the proposed assembly date, the application shall receive final action no later than 30 days prior to the proposed assembly.
  - (3) Following the approval of an assembly plan in response to an application pursuant to paragraph (2) of this subsection, the Chief of Police may, after consultations with the person or group giving notice of the assembly, amend the plan to make reasonable modifications to the assembly location or route up until 10 days prior to the assembly date based on considerations of public safety.
- (c) The Chief of Police shall inform the person or group giving notice of an assembly, in writing, of the reasons for any decision to:
  - (1) Deny an application for approval of a First Amendment assembly plan;
  - (2) Revoke an assembly plan prior to the date of the planned assembly; or
  - (3) Approve an assembly plan subject to time, place, or manner restrictions that the applicant has advised the Chief of Police are objectionable to the applicant.
- (d)
  - (1) Any applicant whose proposed assembly plan has been denied, revoked prior to the date of the planned assembly, or granted subject to time, place, or manner restrictions deemed objectionable by the applicant, may appeal such decision to the Mayor or the Mayor's designee, who shall concur with, modify, or overrule the decision of the Chief of Police.

- (2) The Mayor shall make a decision on appeal expeditiously and prior to the date and time the assembly is planned to commence, and shall explain in writing the reasons for the decision.
- (e) (1) Within 90 days of April 13, 2005, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2, and in accordance with this subchapter, shall issue rules governing the approval of plans to persons or groups seeking to conduct a First Amendment assembly on District streets, sidewalks, or other public ways, or in District parks.
- (2) Existing procedures for the issuance of permits to persons or groups seeking to conduct a First Amendment assembly on District streets, sidewalks, or other public ways, or in District parks, that are not inconsistent with this subchapter shall remain in effect pending the issuance of the rules promulgated under paragraph (1) of this subsection.

**§ 5-331.07. Police handling and response to First Amendment assemblies**

- (a) The MPD's handling of, and response to, all First Amendment assemblies shall be designed and implemented to carry out the District policy on First Amendment assemblies established in § 5-331.03.
- (b) (1) Where participants in a First Amendment assembly fail to comply with reasonable time, place, and manner restrictions, the MPD shall, to the extent reasonably possible, first seek to enforce the restrictions through voluntary compliance and then seek, as appropriate, to enforce the restrictions by issuing citations to, or by arresting, the specific non-compliant persons, where probable cause to issue a citation or to arrest is present.
- (2) Nothing in this subsection is intended to restrict the authority of the MPD to arrest persons who engage in unlawful disorderly conduct, or violence directed at persons or property.
- (c) Where participants in a First Amendment assembly, or other persons at the location of the assembly, engage in unlawful disorderly conduct, violence toward persons or property, or unlawfully threaten violence, the MPD shall, to the extent reasonably possible, respond by dispersing, controlling, or arresting the persons engaging in such conduct, and not by issuing a general order to disperse, thus allowing the First Amendment assembly to continue.
- (d) The MPD shall not issue a general order to disperse to participants in a First Amendment assembly except where:
  - (1) A significant number or percentage of the assembly participants fail to adhere to the imposed time, place, and manner restrictions, and either the compliance measures set forth in subsection (b) of this section have failed to result in

substantial compliance or there is no reasonable likelihood that the measures set forth in subsection (b) of this section will result in substantial compliance;

- (2) A significant number or percentage of the assembly participants are engaging in, or are about to engage in, unlawful disorderly conduct or violence toward persons or property; or
  - (3) A public safety emergency has been declared by the Mayor that is not based solely on the fact that the First Amendment assembly is occurring, and the Chief of Police determines that the public safety concerns that prompted the declaration require that the First Amendment assembly be dispersed.
- (e)
- (1) If and when the MPD determines that a First Amendment assembly, or part thereof, should be dispersed, the MPD shall issue at least one clearly audible and understandable order to disperse using an amplification system or device, and shall provide the participants a reasonable and adequate time to disperse and a clear and safe route for dispersal.
  - (2) Except where there is imminent danger of personal injury or significant damage to property, the MPD shall issue multiple dispersal orders and, if appropriate, shall issue the orders from multiple locations. The orders shall inform persons of the route or routes by which they may disperse and shall state that refusal to disperse will subject them to arrest.
  - (3) Whenever possible, MPD shall make an audio or video recording of orders to disperse.
- (f)
- (1) Where a First Amendment assembly is held on a District street, sidewalk, or other public way, or in a District park, and an assembly plan has not been approved, the MPD shall, consistent with the interests of public safety, seek to respond to and handle the assembly in substantially the same manner as it responds to and handles assemblies with approved plans.
  - (2) An order to disperse or arrest assembly participants shall not be based solely on the fact that a plan has not been approved for the assembly.
  - (3) When responding to and handling a First Amendment assembly for which a plan has not been approved, the MPD may take into account any actual diminution, caused by the lack of advance notice, in its ability, or the ability of other governmental agencies, appropriately to organize and allocate their personnel and resources so as to protect the rights of both persons exercising free speech and other persons wishing to use the streets, sidewalks, other public ways, and parks.

### **§ 5-331.08. Use of police lines**

No emergency area or zone will be established by using a police line to encircle, or substantially encircle, a demonstration, rally, parade, march, picket line, or other similar assembly (or subpart thereof) conducted for the purpose of persons expressing their political, social, or religious views except where there is probable cause to believe that a significant number or percentage of the persons located in the area or zone have committed unlawful acts (other than failure to have an approved assembly plan) and the police have the ability to identify those individuals and have decided to arrest them; provided, that this section does not prohibit the use of a police line to encircle an assembly for the safety of the demonstrators.

### **§ 5-331.09. Identification of MPD personnel policing First Amendment assemblies**

The MPD shall implement a method for enhancing the visibility to the public of the name or badge number of officers policing a First Amendment assembly by modifying the manner in which those officers' names or badge numbers are affixed to the officers' uniforms or helmets. The MPD shall ensure that all uniformed officers assigned to police First Amendment assemblies are equipped with the enhanced identification and may be identified even if wearing riot gear.

### **§ 5-331.10. Documentation of arrests in connection with a First Amendment assembly**

- (a) The MPD shall cause every arrest in connection with a First Amendment assembly to be documented, in writing or electronically, by the officer at the scene who makes the arrest.
- (b) Except as provided in subsection (c) of this section, the arrest documentation shall be completed at a time reasonably contemporaneous with the arrest, and shall include:
  - (1) The name of the person arrested;
  - (2) The date and time of the arrest;
  - (3) Each offense charged;
  - (4) The location of the arrest, and of each offense;
  - (5) A brief statement of the facts and evidence establishing the basis to arrest the person for each offense;
  - (6) An identification of the arresting officer (name and badge number); and
  - (7) Any other information the MPD may determine is necessary.
- (c) (1) The Chief of Police may implement a procedure for documenting arrests in connection with a First Amendment assembly different from that set forth in subsection (b) of this section where the Chief determines that an emergency

exists with regard to a specific First Amendment assembly, and that implementation of the alternative procedure is necessary to assist police in protecting persons, property, or preventing unlawful conduct; provided, that any such procedure shall adequately document the basis that existed for each individual arrest.

- (2) The determination of the Chief of Police made pursuant to paragraph (1) of this subsection shall be made in writing and shall include an explanation of the circumstances justifying the determination.
- (3) The determination of the Chief of Police made pursuant to paragraph (1) of this subsection shall be valid for a period of 24 hours, and may be renewed by the Chief, or in the Chief's absence, the Chief's designee.

**§ 5-331.11. Use of handcuffs, plastic cuffs, or other physical restraints on persons arrested in connection with a First Amendment assembly.**

- (a) The MPD shall adhere to the standard set forth in subsection (b) of this section in using handcuffs, plastic cuffs, or other physical restraints on any person arrested in connection with a First Amendment assembly who is being held in custody in the following circumstances:
  - (1) The arrestee is being held in a police processing center:
    - (A) To determine whether the arrestee should be released or the method for release;
    - (B) To determine whether the arrestee should be presented to court; or
    - (C) Pending presentation to court;
  - (2) The arrestee is being held in an unsecured processing center, and is not being held in a cell; or
  - (3) The arrestee is charged solely with one or more misdemeanor offenses, none of which have, as one of their elements, the commission of a violent act toward another person or a threat to commit such an act, or the destruction of property, or a threat to destroy property.
- (b) With regard to any person who is being held in custody by the MPD in the circumstances identified in subsection (a) of this section, the MPD shall use handcuffs, plastic cuffs, or other physical restraints only to the extent reasonably necessary, and in a manner reasonably necessary, for the safety of officers and arrestees; provided, that no such person shall be restrained by connecting his or her wrist to his or her ankle, and no such person shall be restrained in any other manner that forces the person to remain in a physically painful position.

- (c) Nothing in this section is intended to restrict the otherwise lawful authority of the MPD to use handcuffs, plastic cuffs, or other physical restraints on persons arrested in connection with a First Amendment assembly at the time of or immediately following arrest, while arrestees are being transported to a processing center, or while arrestees are being transported to or from court.

**§ 5-331.12. Prompt release of persons arrested in connection with a First Amendment assembly.**

- (a)
  - (1) The MPD shall promptly process any person arrested in connection with a First Amendment assembly to determine whether the person is eligible for immediate release pursuant to a lawful release option, and shall promptly release any person so eligible who opts for release.
  - (2) The MPD shall promptly release any person arrested in connection with a First Amendment assembly who, it is subsequently determined, should not be charged with any offense, or as to whom arrest documentation has not been prepared and preserved.
- (b)
  - (1) The MPD shall require that an officer holding a supervisory rank document and explain any instance in which a person arrested in connection with a First Amendment assembly who opts for release pursuant to any lawful release option or who is not charged with any offense is not released within 4 hours from the time of arrest.
  - (2) The MPD shall provide to any person not released within a reasonable time of arrest food appropriate to the person's health.
- (c) The Chief of Police shall issue an annual public report that:
  - (1) Identifies the number of persons in the preceding year who were arrested in connection with a First Amendment assembly and opted for release pursuant to any lawful release option or were not charged with any offense and were not released from custody within 4 hours after the time of arrest;
  - (2) Discusses the reasons for the delay in processing such persons for release; and
  - (3) Describes any steps taken or to be taken to ensure that all such persons are released within 4 hours from the time of arrest.
- (d) The MPD shall ensure that it possesses an automated information processing system that enables it to promptly process for release or presentation to the court all persons arrested in connection with a First Amendment assembly, and shall ensure that such system is fully operational (with respect to its hardware, software, and staffing) prior to a First Amendment assembly that has a potential for a substantial number of arrests.

**§ 5-331.13. Notice to persons arrested in connection with a First Amendment assembly of their release options.**

- (a) The MPD shall fully and accurately advise persons arrested in connection with a First Amendment assembly of all potential release options when processing them for release from custody or for presentation to court.
- (b)
  - (1) The MPD shall provide a written notice identifying all release options to each person arrested in connection with a First Amendment assembly who is charged solely with one or more misdemeanor offenses. The notice shall clearly indicate that the options are alternative methods for obtaining a prompt release, and that the availability of each option is dependent on a determination that the arrestee is eligible to participate in that release option. The notice shall also identify the misdemeanor charges lodged against the arrestee.
  - (2) The notice required by paragraph (1) of this subsection shall be offered in the Spanish language to those persons who require or desire notice in this manner, and shall be offered in other languages as is reasonable to ensure meaningful access to the notice for persons who are limited English proficient.

**§ 5-331.14. Police-media relations**

- (a) Within 90 days of April 13, 2005, the Chief of Police, pursuant to subchapter 1 of Chapter 5 of Title 2, shall issue rules governing police passes for media personnel.
- (b) Within 90 days of April 13, 2005, the Chief of Police shall develop and implement a written policy governing interactions between the MPD and media representatives who are in or near an area where a First Amendment assembly is ongoing and who are reporting on the First Amendment assembly. The policy shall be consistent with the requirements of subsection (c) of this section.
- (c)
  - (1) The MPD shall allow media representatives reasonable access to all areas where a First Amendment assembly is occurring. At a minimum, the MPD shall allow media representatives no less access than that enjoyed by members of the general public and, consistent with public safety considerations, shall allow media representatives access to promote public knowledge of the assembly.
  - (2) The MPD personnel located in or near an area where a First Amendment assembly is ongoing shall recognize and honor media credentials issued by or officially recognized by the MPD.
  - (3) The MPD shall make reasonable accommodations to allow media representatives effectively to use photographic, video, or other equipment relating to their reporting of a First Amendment assembly.

### **§ 5-331.15. Training for handling of, and response to, First Amendment assemblies.**

The Chief of Police shall ensure that all relevant MPD personnel, including command staff, supervisory personnel, and line officers, are provided regular and periodic training on the handling of, and response to, First Amendment assemblies. The training shall be tailored to the duties and responsibilities assigned to different MPD positions and ranks during a First Amendment assembly. The training shall include instruction on the provisions of this subchapter, and the regulations issued hereunder.

### **§ 5-331.16. Use of riot gear and riot tactics at First Amendment assemblies.**

- (a) Officers in riot gear shall be deployed consistent with the District policy on First Amendment assemblies and only where there is a danger of violence. Following any deployment of officers in riot gear, the commander at the scene shall make a written report to the Chief of Police within 48 hours and that report shall be available to the public on request.
- (b)
  - (1) Large scale canisters of chemical irritant shall not be used at First Amendment assemblies absent the approval of a commanding officer at the scene, and the chemical irritant is reasonable and necessary to protect officers or others from physical harm or to arrest actively resisting subjects.
  - (2) Chemical irritant shall not be used by officers to disperse a First Amendment assembly unless the assembly participants or others are committing acts of public disobedience endangering public safety and security.
  - (3) A commanding officer who makes the determination specified in paragraph (1) of this subsection shall file with the Chief of Police a written report explaining his or her action within 48 hours after the event.

### **§ 5-331.17. Construction.**

The provisions of this subchapter are intended to protect persons who are exercising First Amendment rights in the District of Columbia, and the standards for police conduct set forth in this subchapter may be relied upon by such persons in any action alleging violations of statutory or common law rights.





# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Records Retention

It is the policy of the MPD that records associated with First Amendment assemblies and mass demonstrations shall be retained for a period of no less than three years.

In the event of a First Amendment assembly or mass demonstration, either planned or spontaneous, the following members are required to take action to identify and preserve all computer files, communication recordings and radio runs, and documents reasonably related to the event. MPD shall ensure original documents are preserved.

- A. The Commander of the Special Operations Division (SOD), upon notification of a First Amendment assembly or mass demonstration, shall:
  - 1. Secure a Central Complaint Number (CCN) designated solely for the event. This CCN shall be used when referring to any records retained which are associated with the event. Different CCNs may be obtained for individual incidents which occur during the event (e.g., damage to property, arrests).
  - 2. Designate a secure location within SOD, where all records (originals and copies) shall be stored.
  - 3. Ensure the records are properly marked and indexed with the identifying event number.
  - 4. Serve as the preserver of these records (originals and copies) for a period of no less than three years.
  - 5. Obtain written permission from the Office of the Attorney General (OAG) **and** the MPD's Office of the General Counsel (OGC) prior to moving, surrendering, or destroying any records associated with mass demonstrations or protests.
- B. The Watch Commander of the Command Information Center (CIC), upon notification of a First Amendment assembly or mass demonstration, shall ensure:
  - 1. The assigned CCN is obtained from SOD.
  - 2. All records (originals and copies) relative to the event are retained, indexed, marked with the corresponding event number, and forwarded to the Commander of the SOD no later than 10 days following the event.

3. Upon activation the Joint Operation Commander Center (JOCC), that:
    - (a) A running resume is initiated and continued until the JOCC is deactivated.
    - (b) The running resume is logged, marked with the corresponding CCN, and forwarded with all other records to the Commander of the SOD, no later than 10 days following the event.
  4. Notification of the MPD Liaison Official assigned to the Office of Unified Communication (OUC) of the First Amendment assembly or mass demonstration.
- C. The MPD Liaison Official assigned to the OUC, upon notification of a First Amendment assembly or mass demonstration, shall:
1. Contact the SOD and obtain the assigned CCN.
  2. Ensure the OUC assigns a radio channel to be dedicated to the event.
  3. Ensure copies of all radio transmissions related to the events are retained, indexed, marked with the corresponding event number, and forwarded to the Commander of the SOD, no later than 10 days following the event.
  4. Ensure that original radio transmissions are preserved.
- D. Photographic or Video Recording or Surveillance
1. In accordance with GO-SPT-302.13 (Body-Worn Camera Program), members who are assigned body-worn cameras (BWCs) and who have recordings of mass demonstrations or protests shall ensure:
    - a. Their recordings are categorized as "First Amendment Assembly" in the MPD-approved storage database.
    - b. The assigned CCN is entered into the ID field in the MPD-approved storage database.
  2. Commanding officials of units having members assigned to, or those with the capability to, use government-issued equipment other than BWCs to engage in photographic or video recording or surveillance (e.g., audio or video, still photography) of any mass demonstration or protest shall establish a log to index any recordings. The log book shall contain:
    - a. Member's name, CAD number, and assignment;

- b. Equipment and recording media used;
  - c. Dates, times, and locations of the recordings; and
  - d. Notation of the indexing and logging of return of all media used.
3. Members who are assigned to, or those with the capability to, use government-issued equipment other than BWCs to engage in photographic or video recording or surveillance shall, upon completion of the assignment;
- a. Label all recordings with the event number along with the times, and locations the recordings were taken and the operator's badge number and CAD number.
  - b. Document their use of photographic or video recording or surveillance in the unit's log.
- NOTE: If no recordings are taken, note such in the log.
- c. Ensure originals and copies of all recordings related to the events are retained, properly marked, and forwarded to the Commander of the SOD no later than 10 days following the event.
  - d. Ensure copies of the log are properly marked and forwarded to the Commander of the SOD no later than 10 days following the event. The original log shall be retained at the organizational element.
4. Absent exigent circumstances, members shall not use their personal equipment (e.g., personal cell phones) to take photographs or record videos of First Amendment assemblies. In the event that members use their personal equipment to take photographs or recordings, they shall email the files to a Body-Worn Camera Unit Coordinator for upload into Evidence.com prior to the end of their shift.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### **High Volume Arrest Prisoner Control System**

The Metropolitan Police Department (MPD) High Volume Arrest Prisoner Control System is comprised of the following two parts:

Part I: Arrest and Transportation of Prisoners

Part II: Processing of Prisoners

#### **I. ARREST AND TRANSPORTATION OF PRISONERS**

##### **A. High Volume Arrest Prisoner Control System**

1. The High Volume Arrest Prisoner Control System shall be activated to handle high volume arrests resulting from civil disorder including, but not limited to, events associated with First Amendment assemblies.
2. Narcotics and Special Investigations Division (NSID) transport teams shall be staged in strategic areas, as designated by the incident commander in coordination with the transport team supervisors.
3. The determination to activate the High Volume Arrest Prisoner Control System shall be directed by the Chief of Police or his or her designee.
4. Once the determination has been made to activate the High Volume Arrest Prisoner Control System, the determination to make high volume arrests shall be made by the incident commander. If arrests are ordered, the incident commander shall ensure that central complaint numbers (CCNs) are obtained for each incident and disseminated to the arresting officers.
5. All misdemeanor arrests associated with mass demonstrations shall be processed at the designated prisoner processing centers.
6. Felony arrests associated with mass demonstrations may be processed at the prisoner processing centers when authorized by the Chief of Police or his or her designee.
7. Members assigned to patrol police districts shall handle routine

arrests in the usual manner at their respective districts, or at designated alternate sites. The High Volume Arrest Prisoner Control System shall only be used to handle arrests due to civil disorder arising from events associated with demonstrations and civil disturbances.

B. High Volume Arrest Procedures

1. When high volume arrests have been ordered, arrest teams shall move in and effect arrests when directed.
  - a. Arrests during mass demonstrations and civil disturbances shall be made at the direction of the incident commander. However, this policy is not meant to impede a member in fulfilling his or her responsibility to protect the public. It is his or her duty to take immediate and, if necessary, independent action when a felony offense or a crime of violence as designated by the D.C. Official Code is being committed.
  - b. When a crowd, or segment of it, has failed to comply with warnings to disperse, the unit commander shall direct arrest teams to begin making arrests, advising team members of the appropriate charge or charges.
  - c. Unit commanders shall ensure that a sufficient number of teams are available to handle the arrest function properly and relieve teams that have handled a maximum number of prisoners at one location.
  - d. Arrest teams, consisting of seven officers and a supervising sergeant, may arrest up to 15 persons at any one particular location.
    - (1) Each Prisoner Control System transport bus can carry up to 45 arrestees, three arresting officers (for up to 15 arrestees each) and two prisoner control officers.
    - (2) Each Prisoner Control System transport wagon can carry up to 10 arrestees, one arresting officer and up to two prisoner control officers.
  - e. If an arrestee is seated and agrees to walk, the arresting officer or assisting officer shall lead him or her from the crowd to the transport vehicle.

- f. If an arrestee is seated or lying down and refuses to walk, he or she shall be carried by two or more officers.
- 2. Except for felony offenses, members of the force shall not pursue demonstrators into buildings for the purpose of effecting arrests unless specifically instructed to do so by an official. Officials shall accompany and exercise close control over members under their command who go on private property or enter buildings to effect arrests.
- 3. If an arrestee is not going to be questioned about matters relating to a misdemeanor offense, it is not necessary that the Miranda warning of rights be given to the arrestee at that time. However, if a participant is charged with a felony or will be subject to questioning for a misdemeanor offense or violation, the Miranda warning of rights shall be given at the time of arrest.
- 4. During mass demonstrations and civil disturbances, members shall document every arrest consistent with the Department's responsibility to protect life and property and to prevent unlawful conduct.
- 5. Arrestees shall be restrained and thoroughly searched for weapons and contraband by Prisoner Control System transport personnel before being placed in the transport vehicle for transport to the designated Prisoner Control System site or processing center.
- 6. Restraints
  - a. All arrestees shall be secured in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).
  - b. Members shall only use such restraints in the transporting, processing, and detention of persons as the Chief of Police or his or her designee determines to be reasonably necessary to maintain the safety of the arrestees and of MPD arresting, transporting, or processing personnel, and to prevent escape.
  - c. Except for those arrested for the commission or threatened commission of a violent act toward another person, or the destruction or threatened destruction of property, members shall only use handcuffs, flex-cuffs, or other physical restraints on persons arrested in connection with a First Amendment assembly and held in any Prisoner Control System site or processing center to the extent reasonably

necessary, and in a manner reasonably necessary, for the safety of officers and arrestees.

- d. Where flex-cuff restraints are used to secure an arrestee's hands or arms, the member applying the flex-cuffs shall always check the restraints' tightness.
- e. To avoid injuries that may be caused by over-tightening the restraints, when applying the flex-cuff, members shall:
  - (1) Draw the strap up only until it comes in contact with the arrestee's skin at all points; and
  - (2) Ensure the flex-cuff is not too tight.
- f. Members shall give prompt attention to complaints that flex-cuffs are too tight.
  - (1) Even after using the precautionary measures indicated above to prevent over-tightening of flex-cuffs, if the restrained person complains that the cuffs are too tight, the member shall stop (if reasonably possible) and check the tightness of the cuffs.
  - (2) Even when flex-cuffs are properly applied, arrestees can still place pressure on the flex-cuffs, or turn their hands within the flex-cuff, causing constriction on part of the hand.
  - (3) If upon checking the flex-cuffs, the member finds that the flex-cuffs are too tight, the member shall remove the flex-cuffs as soon as reasonably possible and replace them with flex-cuffs applied to fit properly.
  - (4) If upon checking the flex-cuffs, the member finds that the flex-cuffs are at the appropriate tightness and there does not appear to be a problem, the member need not loosen the cuffs.
- g. No arrestee shall be restrained by connecting his or her wrist to his or her ankle, nor shall any arrestee be restrained in any other manner that forces the person to remain in a physically painful position.

7. Arresting officers shall assist in the transportation of their arrestees to the designated Prisoner Control System site or processing center.
  - a. The arresting officer shall immediately report to the designated Prisoner Control System site or processing center to process his or her arrestees.
  - b. Arresting officers will be advised whether to report to court, or report back to their field assignment (i.e., Civil Disturbance Unit assignment) by a Prisoner Control System official.
8. The MPD Records Management System (RMS) shall be used to process high volume arrests. In the event that RMS is unavailable, members shall adhere to the procedures outlined in Part I.L of this attachment.

C. Transportation of Prisoners

1. When effecting high volume arrests, transport team members shall be responsible for:
  - a. Absent exigent circumstances (e.g., a volatile scene), confiscating and processing all prisoner property in accordance with GO-SPT-601.01 (Recording, Handling and Disposition of Property Coming into the Custody of the Department), with the following exceptions:
    - (1) Prisoners who may be eligible to post and forfeit collateral shall be allowed to keep money and photo identification; and
    - (2) Prisoners wishing to be interviewed for citation release shall be allowed to keep photo identification.
  - b. Ensuring a van sheet is completed for each arrest location and forwarded to the designated Prisoner Control System site or processing center with each transport vehicle (e.g., wagon, bus).
  - c. Labeling each bag and PD Form 58 (Prisoner Property Receipt), at a minimum, with the prisoner's name, related CCN, and the prisoner's transport number (as listed on the van sheet).



- d. Completing a PD Form 256 (Quick Booking Form) for each arrestee and writing the last three digits of the arrest number on the form.
- e. Capturing photographs of arrestees with their arresting officer.

NOTE: Members using the Axon Capture application for photos may refer to Part I.D for instructions.

- f. Transporting arrestees and prisoner property to the designated Prisoner Control System site or processing center.

- 2. Transport team supervisors shall ensure that the transportation of large or bulky items (e.g., bicycles) is communicated to the incident commander who shall coordinate removal and storage with the Evidence Control Division (ECD), in addition to ensuring the following prior to loading:

- a. Arrests are recorded whenever possible via assigned equipment [e.g., via body-worn camera recordings and uploaded in accordance with GO-SPT-302.13 (Body-Worn Camera Program)].

NOTE: During manual processing non-BWC recordings shall be turned over to the Electronic Surveillance Unit (ESU) for download and preservation.

- b. Photos are taken of the arrestees with the arresting officer prior to loading the arrestees onto the transport vehicle, unless the incident commander determines that circumstances require that arrestees be transferred prior to being photographed with their arresting officers in order to protect the safety of the arrestees, police officers, and others. When taking photos, members shall adhere to the following requirements:
  - (1) A dry erase board marked with the arrest location, date, CCN, arrestee name, arresting officer name, Computer Aided Dispatch (CAD) number, badge number, and the arrest number from the location shall be included in the photo.
  - (2) The requirement that photographs be taken prior to transport ensures that arresting officers will be

properly identified with their arrestees and will be able to participate appropriately in any prosecution function that may follow from the arrest, even if the automated booking processing is interrupted for any reason.

- c. The narrative section for the arrest report:
  - (1) Includes the times that all three warnings were issued, the specific violation, the name and rank of the official giving the warnings, and documentation of any participating federal agencies at the scene.
  - (2) Is emailed to the designated Prisoner Control System site or processing center.
  - (3) If an arrestee is questioned by a federal law enforcement officer at any time, the federal officer's name, agency, date, and time of the questioning is documented.
- d. Prisoners are thoroughly searched for weapons and contraband by transport team members before being placed in the vehicle.
- e. Adults and juveniles are transported separately.
  - (1) Juveniles shall be transported to the Youth and Family Services Division or to another facility as approved by the Chief of Police or his or her designee; and
  - (2) Adults will be transported to designated adult prisoner processing sites.
- f. Arresting officers accompany their arrestees to the designated processing sites.
- g. Arrestees are personally advised of the charges and release options available pursuant to misdemeanor violations.
- h. Arrestees are transported to the appropriate Prisoner Control System site or processing center, in accordance with pre-set priorities designated for both felonies and U.S. Cases and Office of the Attorney General charges.

- i. Prior to transport, arrestees are seated and secured with safety restraints, when available.
    - (1) Absent exigent circumstances, transport wagons shall be used only if they are equipped with safety bar restraints.
    - (2) Arrestees in transport wagons shall be secured by safety bar restraints prior to their transport.
    - (3) In the event that an arrestee cannot be secured using the safety bar restraint for any reason (e.g., prisoner size, combative prisoner) members shall contact the transport team shift commander and be guided by his or her instructions.
  - j. When all arrestees have boarded the transport vehicle, are safely seated, and the transport vehicle has commenced traveling from the arrest location to the designated Prisoner Control System site or processing center, a member of the Department shall read or play a recording of the Rights Notification form text in a manner audible to all persons in the vehicle.
    - (1) On transport buses, release options shall be played for arrestees while the vehicle is in motion.
    - (2) For transport wagons and vans, transport supervisors shall read the release options to arrestees prior to leaving the location. Transport supervisors shall be recorded while reading release options (via body-worn for upload in accordance with GO-SPT-302.13, or by video recording and turned over to ESU, during manual processing).
  - l. In cases of mass seizures of property or evidence, every attempt is made to document the seizure and preparation of the items via video recordings or photographs.
- NOTE: This documentation will strengthen the Department's position as to the treatment of these items to reduce the likelihood of claims of damage and litigation.
- m. Hard copies of all arrest paperwork are packaged and transferred to the Special Operations Division (SOD) for retention.

D. Photographing Arrestees and Arresting Officers with AXON Capture

The following are procedures for arresting and transport officers using the AXON Capture application to capture photographs of arrestees:

1. The arresting officer shall log into the AXON Capture application and hand his or her cell phone to the transport officer.
2. The transport officer shall photograph the arresting officer with each of his or her arrestees (i.e., one photo per arrestee).
3. Once all photos have been taken, the transport officer shall hand the cell phone back to the arresting officer who shall annotate the photos by:
  - a. Entering the CCN into the ID field.
  - b. Adding the category of "First Amendment Assembly"
4. The arresting officer shall upload all photos to their Evidence.com account.

NOTE: The upload process appends the arresting officer as the owner of the photos.

E. Manual Arrest Procedures

1. In the event the RMS is unavailable, a PD Form 759 (Attachment F) shall be used to capture arrestee information and shall be completed for each arrestee and turned over to the Prisoner Control System site or processing center supervisor upon transport.

NOTE: When the court is in emergency session, the information contained on the PD Form 759 may constitute the only evidence available to the judges in deciding whether or not to hold an individual for further action. At subsequent court appearances, additional evidence may be developed and presented, but this opportunity will be lost if the field arrest form does not provide the basis upon which to proceed.

2. A photo shall be taken of each arresting officer with each of his or her arrestees (e.g., via AXON Capture). Members shall ensure the arresting officer's and arrestee's name are visible in the photo (e.g., documented in the photo on a dry erase board), as described in Part I.C.2.b of this attachment.

3. If an arrestee is questioned by a federal law enforcement officer at any time, the federal officer's name, agency, the date, and the time of the questioning shall be documented in the arrest paperwork.
4. When the RMS becomes available again, data from each of the completed PD Forms 759 shall be entered into RMS.

## **II. PROCESSING OF PRISONERS**

- A. No routine computer upgrades shall be scheduled for or performed on days during which high volume arrest prisoner processing is ongoing or anticipated. Where automated prisoner processing cannot be accomplished without performance of repairs or a remedial upgrade, the Prisoner Control System sites or processing centers shall switch to manual backup processing procedures to accomplish prisoner processing.
- B. Once at the Prisoner Control System site or processing center, each arrestee shall be provided with a copy of the Release Options form to read. In addition, the text of the form shall be reflected on large signs that are to be placed conspicuously throughout the processing area.

NOTE: The notice is offered in other languages as is reasonable to ensure meaningful access to the notice for persons who are limited English proficient in accordance with GO-SPT-304.18 (Language Access Program).

- C. The MPD shall, as expeditiously as possible:
  1. Process any person arrested under the High Volume Arrest and Prisoner Control System protocol.
  2. Determine whether the person is eligible for release pursuant to a lawful release option.
  3. Promptly release any person who is eligible and opts for the release.
  4. Release any person arrested who, if it is subsequently determined, should not be charged with any offense and document the incident in accordance with GO-PCA-502.05 (Use of the Detention Journal).
- D. The types of personnel stations at each Prisoner Control System site or processing center include:
  1. Escort;

2. Intake;
  3. Property;
  4. Booking-WALES/NCIC;
  5. Master Control;
  6. Fingerprint;
  7. Interview; and
  8. Citation Release and Post and Forfeit.
- E. Upon activation of the High Volume Arrest Prisoner Control System, manual backup procedures for processing arrestees shall also be available.
1. Prisoner Control System sites or processing centers shall switch to manual backup processing procedures no later than 15 minutes after an information system goes off-line.
  2. The site or processing center supervisor shall document the procedures used to implement the manual system.
- F. Processing Procedures
1. Once the transport vehicle arrives at the designated site or processing center, each arrestee will be removed from the transport vehicle separately.
  2. Escort Station
    - a. Members assigned to the Escort Station shall:
      - (1) Remove arrestees from the transport vehicles upon their arrival at the Prisoner Control System site or processing center.
      - (2) Thoroughly search each prisoner for weapons and contraband prior to entering the processing facility, as outlined in GO-PCA-502.01 (Transportation and Searches of Prisoners).
      - (3) Escort prisoners to the appropriate detention area and turn them over to personnel assigned to jailer positions.

### 3. Intake Station

Members assigned to the Intake Station shall:

- a. Document the arrestees' arrival times in the Intake Tracking Book.
- b. Print the arrestees' photos and attach them to the corresponding arrestee data package for each arrestee.
  - (1) To access arrestee photographs taken with AXON Capture, members shall search the "ID" field in Evidence.com for the relevant CCNs or search for the arresting officer in the "Owner" field to narrow down the results.
  - (2) Once a photograph is located, the member shall click the title to view the picture, and click the "Download" button on the view screen.
  - (3) The photo will open in "Windows Photo Viewer," and the member shall print the photograph using the program's print option.
- c. Initiate an arrestee package for each arrestee and note the preferred release option on the PD Form 256 (Quick Booking Form).
- d. Forward each package to the Master Control Station.

### 4. Property Station

- a. Whenever possible, at least two members shall be assigned to the Property Station. One member shall be responsible for logging prisoner property and one member shall be responsible for releasing property.
- b. Members assigned to the Property Station shall separate property into the following three categories, depending on the arrestee's intended release status:
  - (1) Post and forfeit – eligible arrestee pays the collateral amount assigned by the court for the eligible charge or charges and the case ends.

- (2) Citation release – eligible arrestee is being released and will attend court on a predetermined date.
  - (3) Court presentment and lockup – arrestee is being held in custody and will be presented on the next date court is in session.
- c. Property belonging to prisoners who require court presentment or lockup will be transported to the Fifth District station for storage within 48-hours of their arrest.
- d. Unclaimed property shall be held at the NSID.
- e. Logging Prisoner Property

Members assigned to the Property Station shall:

- (1) Take possession of all confiscated prisoner property.
  - (2) Inspect property for accuracy and enter the property and prisoner information into the Evidence on Q system.
  - (3) Place the barcode stickers generated by Evidence on Q on the property bags.
  - (4) In the event that Evidence on Q is not available, record prisoner property on the PD Form 82 (Property Book).
- f. Releasing Prisoner Property
  - (1) Property belonging to prisoners who are released at the Prisoner Control System site or processing center [e.g., citation release and post and forfeit] shall be returned to prisoners upon their release. Members assigned to the Property Station shall:
    - (a) Collect the prisoners PD Form 58 (Prisoner's Property Receipt) and verify identity.
    - (b) Require prisoners to inspect their property and sign indicating receipt of their property using the signature tablet connected to Evidence on Q.



- (c) Ensure a copy of the PD Form 58 is forwarded to the Master Control Station.
  - (2) In the event that Evidence on Q is not available, members assigned to the Property Station shall ensure prisoner's sign the PD Form 82 (Property Book) indicating receipt of their property.
5. Booking-WALES/NCIC Station
- Members assigned to the Booking-WALES/NCIC Station shall:
- a. Receive an arrestee data package from the Master Control Station.
  - b. Be responsible for completing all required arrest information in RMS.
  - c. Complete a WALES/NCIC check for all prisoners processed at the Prisoner Control System site or processing center.
  - d. Forward the arrestee data package to the Master Control Station.
6. Master Control Station
- a. Members assigned to the Master Control Station shall:
    - (1) Receive arrestee data packages from the Intake Section for each arrestee.
    - (2) Forward the arrestee data package to the Booking-WALES/NCIC Station.
    - (3) Receive arrestee data packages from the Booking-WALES/NCIC Station and ensure that a WALES/NCIC check has been performed.
    - (4) Coordinate the printing of the arrest paperwork.
    - (5) Control and monitor the flow of the arrest paperwork between the processing stations.
    - (6) Forward all completed paperwork to a member assigned to the Jailer position.

- b. The processing center supervisor shall ensure all arrest paperwork is completed correctly and approved.

7. Fingerprint Station

Members assigned to the Fingerprint Station shall:

- a. Ensure that all prisoners have their thumbprint imprinted on the fingerprint card and the Arrest Report when required.
- b. Livescan all prisoners without valid identification, for all felonies, and for U.S. or Office of the Attorney General (OAG) charges requiring the arrested person to appear before the Court.

8. Interview Station

Members assigned to the Interview Station shall ensure that the arrestee signs a copy of the Release Options form and place the form in the arrest package.

9. Citation Release and Post and Forfeit Station

Members assigned to the Citation Release and Post and Forfeit Station shall ensure compliance with release requirements as outlined in Part II.H.

G. Detention of Prisoners

Members assigned to the Jailer position shall ensure compliance with detention requirements as follows.

- 1. In Prisoner Control System site or processing centers containing cells, prisoners shall be detained in the cells separated by gender and age (i.e., juvenile versus adult). If a sufficient number of cells exist, prisoners shall also be separated into the following three categories:
  - a. Post and forfeit;
  - b. Citation release; and
  - c. Court presentment/Lockup.
- 2. The use of unsecured sites or processing centers shall be avoided unless exigent circumstances exist. All available holding cells at

high volume processing sites shall be filled to capacity prior to moving prisoners to an unsecured facility.

3. If unsecured sites or processing centers (not containing cells) must be used:
  - a. The Commander of the SOD shall ensure a platoon is deployed to the site or processing center to assist with security.
  - b. Members assigned to the Jailer position shall:
    - (1) Separate prisoners into the categories outlined in Part II.G.1 of this attachment, if sufficient space exists.
    - (2) Ensure that all arrestees are placed in the appropriate holding facility (area) pending release or transportation to court.
    - (3) Ensure that only non-violent, cooperative prisoners are housed in open areas without cells.
    - (4) Attempt to make the arrestees as comfortable as possible, but ensure that adequate security measures are used.
    - (5) Maintain constant visual contact with all prisoners during times of their incarceration.
    - (6) Coordinate the release of citation and post and forfeit cases with members assigned to the escort positions.

#### H. Release of Prisoners

1. All eligible prisoners who possess valid identification and wish to forfeit collateral (i.e., "post and forfeit") shall be thumb-printed and released from the site or processing center.
2. All eligible prisoners who are arrested for Office of the Attorney General charges, possess valid identification, and meet the qualifications for citation release will be thumb-printed and released from the site or processing center.

3. The following prisoners shall be Livescanned:
  - a. Prisoners without valid photo identification who are eligible for citation release and post and forfeit; and
  - b. Prisoners who are not eligible for citation release or who are not willing to post and forfeit. These prisoners shall be transported to CCB in preparation for arraignment.
4. In accordance with SO-15-03 (The “Lively Standard”), an official shall document and explain in writing any instance in which a person:
  - a. Is arrested and opts for release pursuant to a lawful release option; or
  - b. Is not charged with any offense; and
  - c. Is not released within four hours from the time of arrest.
5. Citation Release
  - a. Citation release shall be granted to eligible defendants who request a court date. The D.C. Pretrial Services Agency (PSA) will provide available citation dates and the number of defendants to be assigned to each day.
  - b. Members assigned to the Citation Release Station shall complete the “Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances” form (Attachment N) ensuring all fields are legible. The citation form is to be completed in the following manner:
    - (1) Arrest No.: Write the arrest number of the defendant.
    - (2) CCN: Write the CCN.
    - (3) PDID No.: Write the arrestee’s PDID if applicable.
    - (4) DOB: Write the arrestee’s date of birth.
    - (5) Station Clerk/Officer/Badge/Unit/CAD No.: Write the arresting member’s name, badge number, unit of assignment, and CAD number.

- (6) Offense PSA
- (7) Name of Arrested Person
- (8) You Have Been Arrested for the Following Charges:  
List of all arrest charges
- (9) Citation Release Only: The box should be marked to indicate the arrestee is being released on citation and the date and time of the arrestee's court appearance.
- (10) Acknowledgement of Receipt of Notice to Arrested Person
  - (b) Signature: The arrestee must sign and date the form where indicated. Members shall explain to arrestees who refuse to sign the citation form that they will be denied participation in the citation release program.
  - (c) Have an assigned station clerk or member the rank of lieutenant or above sign his or her name and place his or her badge number, CAD number, and unit assigned where indicated.
- (11) Explain the following requirements of the program to the defendant:
  - (a) Citation release is available to qualified defendants.
  - (b) It is a promise to appear in court at a later date and time.
  - (c) When a defendant does not appear in court as promised, a warrant will be issued for his or her arrest.
  - (d) It is important to be on time, because failure to appear on time could also result in a warrant being issued for his or her arrest.
- (12) Mark Box: The box should be marked to indicate the acknowledgment of receipt of notice.

6. Post and Forfeit

Eligible defendants charged with offenses that can be adjudicated through the payment of collateral may post and forfeit in lieu of requesting citation release or a court date.

- a. Members assigned to the Post and Forfeit Station shall:
  - (1) Verify that the offense with which the defendant is charged is a collateral or bond offense.
  - (2) Consult the current collateral list to ascertain the correct amount for the charge.
- b. Complete the "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances" form marking the "Post and Forfeit Money Only" box.
  - (1) List the charge and the corresponding collateral amount.
  - (2) Ensure the arrested person signs and dates the form in the post and forfeit section.
  - (3) Separate "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances" forms shall be completed for each charge placed against a prisoner (e.g., crossing a police line and unlawful demonstrating would require the issuance of two forms). This still applies when one prisoner is electing to forfeit collateral for another prisoner.

NOTE: All written receipts must be legible.

7. Issuance of "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances" forms

- a. After the defendant is thumb printed, the "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances" forms shall be disseminated as follows:
  - (1) The first copy goes to the prisoner.

- (2) The second copy goes with the paper work.
- (3) The third copy is for records and audit purposes.

I. Arrest Paperwork

1. The arrest paperwork for each case shall contain, at minimum, four copies of the:
  - a. PD Form 759 (only when paper/hard copies are completed);
  - b. Arrest Report;
  - c. Gerstein;
  - d. Digital (and hard copy) picture of arrestee with arresting officer;
  - e. Prisoner's van sheet;
  - f. "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances" form (if applicable);
  - g. Property envelope and receipt;
  - h. Fingerprint card; and
  - i. PD Form 313 (Arrestee's Illness/Injury Report) for injured prisoners.
2. A copy of the arrest paperwork shall be provided to the member for papering.
3. A PD Form 237-c (Transmittal) shall be completed for each group of arrest paperwork before leaving the processing center. The top of each form must indicate the disposition (e.g., citation release, elect-to-forfeit).
  - a. Original court (i.e., lockup) arrest paperwork shall be transmitted to the Court Liaison Division. For all lock up cases, the defendant's name shall be placed on a van sheet and time stamped, and the defendant shall be transported to the cellblock along with his or her paperwork for further processing.
  - b. Original elect-to-forfeit arrest paperwork shall be transmitted

with a copy of the "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Civil Disturbances" form to the D.C. Treasury Office located in D.C. Superior Court.

NOTE: Funds are to be deposited under the SOD Account.

- c. Original citation arrest paperwork shall be transmitted to the Court Liaison Division.
- d. Copies of all arrest paperwork shall be transmitted to the SOD.

J. Feeding of Prisoners

- 1. The feeding of prisoners during major events shall be coordinated with the D.C. Department of Corrections, Central Cellblock.
- 2. The Commander of the SOD shall coordinate with the Central Cellblock commanding official regarding payment for any meals distributed during a major event.

K. Transportation to Central Cellblock

- 1. Prisoners being sent to the Central Cellblock for arraignment shall be sent in groups with consideration given to prisoners with:
  - a. The same arresting member; or
  - b. Similar charges (i.e., all U.S. or all OAG).
- 2. A van sheet must be generated and transported with each group of prisoners to the Central Cellblock.

L. Manual Back-up Procedures for Prisoner Processing

1. Intake Station

Members assigned to the Intake Station shall:

- a. Document arrestees' arrival to Prisoner Control System site or processing center in the Intake Tracking Book.
- b. Check each PD Form 759 for completeness, accuracy, and legibility.
- c. Initiate an arrestee package for each arrestee.



- d. Print the arrestees' photos and attach them to the corresponding arrestee packages for each arrestee.
- e. Forward each package to the Master Control Station.

## 2. Property Station

- a. Whenever possible, at least two members shall be assigned to the Property Station. One member will be responsible for logging prisoner property and one member will be responsible for releasing property.
- b. Members assigned to the Property Station shall separate property into the following three categories, depending on the arrestee's intended release status:
  - (1) Post and forfeit – eligible arrestee pays the collateral amount assigned by the court for the eligible charge or charges and the case ends;
  - (2) Citation release – eligible arrestee is being released and will attend court on a predetermined date; and
  - (3) Court presentment and lockup – arrestee is being held in custody and will be presented on the next date court is in session.
- c. Property belonging to prisoners who require court presentment and lockup will be shall be transported to the Fifth District station for storage within 48-hours of their arrest.
- d. Property belonging to prisoners released (e.g., elect-to-forfeit, citation release) at sites or processing centers will be returned to prisoners upon their release.
- e. Unclaimed property shall be held at the NSID.
- f. Logging Prisoner Property

Members assigned to the Property Station shall:

- (1) Take possession of all confiscated prisoner property.
- (2) Inspect property for accuracy and enter the property and prisoner information onto the PD Form 82

(Property Book).

- (3) Ensure the PD Form 58 is complete and a copy provided to arrestee.

g. Releasing Prisoner Property

- (1) Members assigned to the Property Station shall:

- (a) Collect the prisoners' PD Forms 58 and verify their identity.
- (b) Require prisoners to inspect their property.
- (c) Ensure the prisoners sign the PD Forms 82 indicating receipt of their property.

- h. Members assigned to the Property Station shall ensure a copy of the PD Form 58 is forwarded to the Master Control Station.

3. Booking-WALES/NCIC Station

- a. Members assigned to the Booking Station shall:

- (1) Obtain arrest numbers from the RMS system administrator, use the Arrest Number Control Log maintained at each Prisoner Control System site or processing center, and enter the date, time, and system arrest number obtained from the RMS system administrator in the corresponding spaces located on the control log.

NOTE: Prior to the event, the RMS system administrator will identify a range of arrest numbers that will be made available to the Prisoner Control System site or processing center in the event that RMS is not available.

- (2) For each arrest, enter the next sequential arrest number and the arrestee's name in the spaces provided. Any additional information shall be entered in the comments section on the arrest log.
- (3) Ensure that arrest information is documented in an arrest log.

- b. During the time that RMS is down, the booking officer shall assist the arresting officers in the completion of all arrest paperwork (e.g., Arrest Report).
- c. When RMS returns to service:
  - (1) Arrest information shall be entered for all arrest numbers issued during the time the system was down. Once the arrest has been entered into the RMS, the arrest information shall be packaged and forwarded to the SOD for retention.
  - (2) A document matching the manual numbers used to the system generated numbers shall be sent to the RMS system administrator.

4. Master Control Station

- a. Members assigned to the Master Control Station shall:
  - (1) Receive arrestee data packages from the Intake Section for each arrestee.
  - (2) Forward the entire arrestee data package to the Booking Station.
  - (3) Receive arrestee data packages from the WALES/NCIC Station and ensure that a WALES/NCIC check has been performed.
  - (4) Coordinate the compilation of the arrest paperwork.
  - (5) Control and monitor the flow of the arrest packages between the processing stations.
  - (6) Forward all completed paperwork to a member at the Jailer position for release or transfer.
- b. The Prisoner Control System site or processing center supervisor shall ensure that all arrest paperwork is completed correctly and approved.

M. Technical Support

The MPD Office of the Chief Technology Officer shall provide the Prisoner Control System sites or processing centers with on-site technical support staff during each activation to troubleshoot and minimize unanticipated information and computer system downtime that would delay prisoner processing.

NOTE: The on-call MPD Office of the Chief Technology Officer member may be paged through the Command Information Center.

N. Monitoring

The Internal Affairs Division, Internal Affairs Bureau, shall periodically monitor all prisoner-processing facilities to ensure that prisoners are being processed, restrained, and transported consistent with the law and Department policy.

O. Uniform and Equipment

1. Prisoner control personnel shall wear the Class B uniform or BDUs.
2. All processing personnel shall have their issued CDU protective gear and chemical protective gear available.

P. Communications

Members assigned to Prisoner Control System sites or processing centers, all transport team supervisors, and members operating vehicles shall monitor the radio channel designated by the SOD for exclusive operations for the event.

Q. Injured Prisoners

1. Members shall note prisoners with serious injuries identified on the scene of the arrest and shall contact the District of Columbia Fire and Medical Services (DCFEMS) for transport to the nearest hospital. The incident commander shall coordinate with the Patrol Service Bureau to arrange for security during treatment.
2. Members shall evaluate injuries noted at the processing centers and contact DCFEMS for prisoners who are injured or complain of pain for transport to the nearest hospital, in accordance with GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### JOCC and CIC Activation and Operations

The Joint Operations Command Center (JOCC) and Command Information Center (CIC) shall be established for critical incidents and major events at the discretion of the Chief of Police.

#### **Mass Demonstration First Amendment Information Gathering Work Flow**

##### First Responder Provides Information



##### JOCC and CIC Gathers Information

- Number of persons and protestors
- Name of group
- Status of persons and protestors (e.g., peaceful, unruly)
- Name, rank, and CAD number of reporting member
- Route and destination of protestors



##### JOCC and CIC Make Notifications

- COP and Command Staff Page Groups notified. Pages of an urgent nature will be followed by a telephone call.
- Public notifications of street closures and alternate routes (e.g., via Twitter)

## **Telephonic Notifications**

- Field Commander
- Homeland Security and Emergency Management Agency (HSEMA) notification via telephone
- Other affected government agencies



## **JOCC/CIC Ensures Detailed Documentation in the Running Resume**

- When the incident began
- Location of the incident
- Source of the information
- Location of units
- Check-in and check-out times of units
- Date and time JOCC is deactivated and name of the official authorizing the deactivation
- Staffing



## **JOCC/CIC Ensures Quality Assurance Measures**

- The CIC Watch Commander shall be responsible for all pages
- Pages shall be reviewed and approved prior to being sent
- Urgent pages or pages of a sensitive nature shall be followed-up with a telephone call to the:
  - Chief of Police; and
  - Assistant Chief of the Homeland Security Bureau
- The nature of the emergency shall determine any additional notifications that need to be made.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### **Civil Disturbance Unit (CDU) Use of Force**

#### A. CDU Use of Force Reporting and Investigation Protocol

1. This attachment is a guideline for civil disturbance units and other members who respond during major demonstrations in the District of Columbia regarding the use of force. It should be noted that these guidelines apply not only to Metropolitan Police Department (MPD) members, but also to members of outside law enforcement agencies working under agreement with MPD.
2. The MPD adheres to the use of force policies delineated in GO-RAR-901.07 (Use of Force) and GO-RAR-901.08 (Use of Force Investigations). However, during civil disturbance situations, the use of force reporting, documentation, and investigative processes enumerated in these directives may raise practical, logistical, and safety-related concerns depending on the incident. **Accordingly, the reporting, documentation, and investigative procedures for use of force set forth in Attachment L (Handling Use of Force Misconduct Allegations) of this SOP shall be used for First Amendment assemblies and mass demonstration situations.**

#### B. Use of Force Definitions

The following terms shall have the meanings designated:

1. Deadly force – use of force likely to cause death or serious physical injury, including but not limited to the use of a firearm or a strike to the head with a hard object. The primary purpose of deadly force is to neutralize a subject who poses an immediate threat of death or serious injury to the member or others; however, this does not include a subject who poses a threat solely to himself or herself. Examples include, but are not limited to, the use of a firearm or a strike to the head with a hard object.
2. Less-lethal weapons – any object or device (e.g., extended impact weapons containing foam or rubber-baton rounds, chemical irritants, oleoresin capsicum (OC) spray, and batons) deployed with the intent or purpose of nullifying a threat without causing death

3. Non-deadly force – any use of force that, when employed in accordance with Department training, is neither likely nor intended to cause death or serious physical injury.
4. Objective reasonableness – the standard requiring the reasonableness of a particular use of force must be judged from the perspective of a reasonable member on the scene in light of the facts and circumstances confronting the member.
5. Serious physical injury – impairment or illness that results in admission to the hospital or that creates a substantial risk of death, serious disfigurement, loss of consciousness, disability, a broken bone, or protracted loss or impairment of the functioning of any body part or organ.
6. Serious use of force – actions by members including:
  - a. All firearm discharges by a member with the exception of range and training incidents and discharges at animals;
  - b. All uses of force by a member resulting in serious physical injury;
  - c. All head strikes with an impact weapon;
  - d. All uses of force by a member resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ;
  - e. All incidents where a person receives a bite from an MPD canine;
  - f. All uses of force by a member involving the use of neck restraints or techniques intended to restrict a subject's ability to breathe; and
  - g. All other uses of force by a member resulting in a death.
7. Use of force – any physical coercion used to effect, influence or persuade an individual to comply with an order from an officer.

NOTE: The reporting, documentation, and investigative procedures for the use of force during First Amendment assemblies and mass demonstrations are set forth in Attachment L (Handling Use of Force Misconduct Allegations) of this SOP.



8. Use of force indicating potential criminal conduct by a member – includes, but is not limited to, all strikes, blows, kicks or other similar uses of force against a handcuffed subject and all accusations or complaints of excessive force made against the member. This includes any use of force that **clearly** goes beyond that which an objectively reasonable member would use in light of the circumstances under which the force was used, or any use of force which may rise to the level of a criminal act.

## C. CDU Use of Force Options

The following definitions outline the use of force options that may be used by on-scene commanders and officials (i.e., “official-directed use of force”) in accordance with this SOP.

### 1. Constructive Force

- a. Constructive force involves uniformed police presence. The presence may be in platoon formation. With constructive force, there is no physical contact between police and demonstrators.
- b. Officers in CDU protective gear may only be deployed when there is a danger of violence. The on-scene commander deploying officers in CDU protective gear shall provide a written report explaining his or her deployment decision and actions to the Chief of Police within 48 hours of the deployment. Donning CDU protective gear is the only level of constructive force that requires completion of a PD Form 901m (Assembly or Demonstration Reportable Force Report).

### 2. Physical Force

- a. Physical force involves hands-on touching or pushing maneuvers, but with no deployment of tools or weapons.
- b. Physical force may include line and wedge formations (with or without protective riot shields) that move a crowd.
- c. Arrests fall into the physical force category.

### 3. Oleoresin Capsicum (OC) Force

- a. OC force includes uses of force involving OC, a natural inflammatory agent derived from the pepper plant, which is

deployed from personal canisters (i.e., Department OC spray issued to all sworn members) or large-scale canisters (i.e., MK-9 and MK-46 canisters).

4. Mechanical Force

a. Mechanical force is broken into two levels:

- (1) Level I: The use of tools or weapons, to include the riot baton, ASP, and riot shield.
- (2) Level II: The use of less-lethal projectiles (e.g., sting ball munitions, extended impact weapons).

5. Chemical Force

a. Chemical force includes the use of tools or weapons that disperse chemical irritants that are approved by the Department for crowd control purposes.

b. Chemical irritants shall not be used to disperse a First Amendment assembly unless:

- (1) The assembly participants or others are committing acts of public disobedience endangering public safety and security;
- (2) The use is reasonable and necessary to protect officers or others from physical harm or to arrest actively resisting subjects; **and**
- (3) The use is approved by the on-scene commander (e.g., platoon commander).

c. The on-scene commander approving the use of chemical irritants shall ensure the use is reported and documented in accordance with Attachment L of this SOP.

6. Deadly Force

a. Deadly force is any use of force likely to cause death or serious physical injury, including but not limited to the use of a firearm or a strike to the head with a hard object.

b. Deadly force must be used in accordance with GO-RAR-

## 901.07 (Use of Force).

### D. Use of Force Policy and Requirements

1. The policy of the MPD is to value and preserve the sanctity of human life at all times, especially when lawfully exercising the use of force. Therefore, MPD members shall use the minimum amount of force that the objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control, while protecting the lives of the member or others. When using force, members shall continuously reassess the perceived threat in order to select the reasonable use of force response, or one that is proportional to the threat faced by him, her, or others.
2. In accordance with GO-RAR-901.07 (Use of Force):
  - a. All members who encounter a situation where the possibility of violence or resistance to lawful arrest is present, shall, if possible, first attempt to defuse the situation through advice, warning, verbal persuasion, tactical communication, or other de-escalation techniques. Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible.
  - b. When using force, members must be able to articulate the facts and circumstances surrounding their tactics, decision making, and the extent of force used in any given situation.
3. The use of force shall immediately be discontinued if directed by an on-scene commander.
4. Members shall not:
  - a. Carry or use unauthorized tools or weapons.
  - b. Discharge their firearms into crowds at or from a moving vehicle unless deadly force is being used against the officer or another person. For purposes of this order, a moving vehicle is not considered deadly force. Members shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them.
5. The use of canines for crowd control during a protest is strictly prohibited. Explosive Ordinance Detection canines may be used to conduct sweeps.

6. Official-Directed Use of Force

- a. On-scene commanders shall direct CDU use of force options.
- b. Individual officials may independently direct CDU use of force options when their squad is detached from the rest of their unit and when the isolated squad's safety or that of other persons is jeopardized.
- c. If conditions permit, officials shall apprise the incident commander prior to initiating CDU use of force options.
- d. The application of CDU use of force options shall be immediately discontinued upon a determination by the ranking official on the scene that the condition that required the use of force has been alleviated.
- e. Each official-directed use of force shall be individually reported in accordance with Attachment L of this SOP.

7. Use of Force Initiated by Individual Members

- a. Individual members who use force independent of a CDU unit, shall be bound by Department policy including, but not limited to GO-RAR-901.07 (Use of Force), and all specified reporting and notification requirements outlined in Attachment L of this SOP.

Example: While standing on a police line in a loud, chaotic environment, a member is assaulted by an enraged protestor. Due to the high level of activity and noise in the environment, the other members on the police line do not notice the attack and do not take action. To protect him or herself from further assault, the member uses his or her OC spray. Since the member is the only person to take action, as opposed to the entire police line using OC spray, this use of force would be considered a "use of force initiated by an individual member."

8. **Nothing in this document shall prevent members from using force as necessary to protect the life of a civilian or member who is subject to the imminent threat of death or serious physical injury, when no other options are feasible, and the force is objectively reasonable and proportionate to the perceived threat.**

E. Civil Disturbance Use of Force Protocols

1. Orderly Crowds or Marches

For orderly crowds or marches, constructive force is the appropriate responses.

2. Peaceful Civil Disobedience

For unlawful, non-violent, peaceful actions by protestors, crowd activities should be monitored. Depending on the scenario and degree of disruption, high volume arrests may be considered. The decision to make high volume arrests shall only be commenced in consultation with the incident commander or his or her designee and shall be based on probable cause that can be applied to all arrests.

3. Non-Peaceful Civil Disobedience

a. During non-peaceful civil disobedience members may:

- (1) To the extent reasonably possible, disperse, control or arrest only persons who have engaged in unlawful conduct.
- (2) Effect high volume arrests in accordance with Attachment C (High Volume Arrest Prisoner Control System) of this SOP. Only those persons that the incident commander has probable cause to arrest shall be arrested.
- (3) Use force consistent with this SOP.

b. Platoon commanders shall contact the on-scene official commanding the incident regarding use of force and ensure compliance with Attachment L of this SOP.

F. Use of Force Framework During First Amendment Assemblies and Mass Demonstrations

1. Police Lines

a. A police line may be either constructive or physical force.

- (1) A police line may be established at the direction of the on-scene commander whenever it becomes

necessary to isolate an area in which large-scale unlawful activity is occurring or has the potential of occurring.

- (2) A police line may be established to prevent damage to a specific target, such as a building, a utility, or a business area, or for other purposes as authorized by 24 DCMR 2100 (Crowd and Traffic Control).
  - (3) A police line may consist of either uniformed personnel or blockade devices such as barricades, buses, ropes, or motor scooters.
- b. The objective of a police line is to affect the movement of individuals or a crowd, to protect a group of individuals, or to accomplish the arrests of persons within a group.
- c. A police line shall not substantially encircle a First Amendment assembly except:
  - (1) Where there is probable cause to arrest a significant number or percentage of the persons located in the area of the assembly for unlawful acts, other than failing to have an approved assembly plan or permit; or
  - (2) For the safety of the First Amendment assembly participants.
- d. Crossing Police Lines
  - (1) Persons who reside, are employed, have a business, or have business of an emergency nature in an area marked off by a police line:
    - (a) Shall not normally be barred from entering the area unless their safety would be jeopardized or their entry would interfere with police operations.
    - (b) Shall not be barred entry based upon their views or expression.
  - (2) All other persons shall be prohibited from crossing a police line into a disturbance area until order has been restored, and the police line has been removed.

- e. Verbal harassment directed against members on a police line shall not be cause for members to break ranks for the purpose of making an arrest or to engage in a verbal confrontation. However, assaults in the form of thrown missiles capable of inflicting injury (e.g., Molotov cocktails, bricks) or physical attacks upon members will not be tolerated, and on-scene supervisors shall make every effort to identify and have arrested those engaged in such activity.
- f. When normal vehicular and pedestrian traffic is affected within a large area of the city by the establishment of a police line, the incident commander shall ensure the Office of Unified Communications (OUC), Joint Operations Command Center (JOCC) and Command Information Center (CIC) are notified so that local communications media can disseminate this information.

## 2. CDU Platoon Formations

- a. Platoon Formation – Constructive Force
  - (1) Used to move a group of officers, on foot, from one location to another.
  - (2) This formation is used to gather officers whenever they are in view of demonstrators.
- b. Line Formation – Constructive or Physical Force
  - (1) Used to stop, guide or redirect forward movement or form a protective barrier for safety or security reasons.
  - (2) Used to move a crowd to another location.
- c. Wedge Formation – Physical Force
  - (1) Divides a large crowd into two smaller groups.
  - (2) May include mechanical force if tools or weapons are used in conjunction with the movement.
- d. Belt Cordon – Physical Force
  - (1) Used to enable an arrest squad to move into a crowd to remove individuals for whom there is probable

cause to arrest, or to remove individuals from the crowd for their own safety.

- (2) Used to split a crowd to enable movement of officers and uninvolved persons or protectees.
- (3) May include mechanical force if tools or weapons are used in conjunction with the movement.

3. OC Spray – OC Force

- a. Personal OC spray dispensers shall be used in accordance with GO-RAR-901.04 [Oleoresin Capsicum (OC) Spray Dispensers].
- b. MK-9 and MK-46 OC Canister – OC Force
  - (1) Deployment – Large-scale canisters should, generally, be deployed only upon the approval of an incident commander to repel a substantial effort to breach a police line or to prevent significant physical injury of police personnel or others.
  - (2) Use – The decision to use the MK-9 or MK-46 OC canisters shall be based upon the necessity to protect officers or others from physical harm or to arrest actively resisting subjects, or if subjects are endangering public safety or security.
  - (3) Range – Subjects must be in close proximity for the effective use of MK-9 and MK-46 OC canisters.
  - (4) Recovery – Subjects in police custody who have been affected by OC spray shall:
    - (a) Be given an opportunity for washing and flushing the affected areas with cold water within 20 minutes of being sprayed, or as soon as practicable.
    - (b) Be advised not to use creams, ointments, or bandages on affected areas, and that continual rubbing of the skin against affected clothing will cause irritation and reddening of the skin areas.



- (5) Treatment – Subjects who complain of continued effects of OC after having flushed the affected areas shall be transported to a hospital for medical treatment.

#### 4. Riot Baton – Mechanical Force

- a. The riot baton may be used as a defensive weapon to overcome resistance:
  - (1) When other less forceful methods would not be effective or could result in injury to the member; and
  - (2) When other means of assistance are not readily available to the member.
- b. A strike to the head with a riot baton is considered a serious use of force and shall be investigated by the Internal Affairs Division in accordance with Attachment L in this SOP.
- c. When holding the riot baton members shall always:
  - (1) Use a port arms position to move a resistive crowd from one area to another.
  - (2) Always use a two-hand grip.
  - (3) Make every effort to avoid strikes to the head or other vital areas.

#### 5. Chemical Irritants – Chemical Force

- a. The use of chemical irritants should be limited and only used when other tactical options are either unavailable or when a lower level of force will not have the desired effect. Only the incident commander shall authorize the use of chemical irritants.
- b. Members are prohibited from using chemical irritants to disperse crowds or others, unless the incident commander approves the use because it is reasonable and necessary to protect officers or others from physical harm or to arrest actively resisting subjects, or the crowd or others are endangering public safety or security.
- c. Chemical irritants shall only be used as a defensive weapon

for the purpose of dispersing crowds that are threatening or actively engaging in violence or to protect lives and property when the circumstances indicate that the use of chemical irritants would be the most effective manner of accomplishing the objective.

- d. Before chemical irritants are deployed, the official authorizing the deployment of the irritant shall ensure that avenues of escape are available to the crowd.
- e. Individuals in police custody who have been affected by chemical irritants shall:
  - (1) Be given an opportunity for washing and flushing the affected areas with cold water within 20 minutes of dispersal, or as soon as practicable.
  - (2) Be advised, not to use creams, ointments, or bandages on affected areas, and that continual rubbing of the skin against affected clothing will cause irritation and reddening of the skin areas.
- f. Individuals who complain of continued effects after having flushed the affected areas shall be transported to a hospital for medical treatment.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Field Arrest Form

PD 759, Rev. 9/71 METROPOLITAN POLICE DEPARTMENT - D.C.			
FIELD ARREST FORM			
SECTION A - ARRESTING OFFICER'S SECTION			
1. DATE	2. TIME	3.	
4. CHARGE			
5. LOCATION OF ARREST			
6. LOCATION OF OFFENSE (if other than 5)			
7. Brief Description of Facts & Circumstances Surrounding Arrest			
8. NAME OF SUSPECT			
9. ARRESTING OFFICER	10. BADGE NO.	11. UNIT	12. COURT DAY
SECTION B - TRANSPORTATION SECTION			
13. TRANSPORTED BY		14. TRANSPORTED TO	
SECTION C - PROCESSING SECTION			
15. ADDRESS OF ARRESTEE			
16. NAME IF FOUND TO BE DIFFERENT FROM ABOVE			
17. D.O.B.		18. WALES INQUIRY <input type="checkbox"/> YES <input type="checkbox"/> NO	
19. DISPOSITION (EF, BOND, COURT DATE, ETC.)			
SECTION D - PROPERTY SECTION			
20. PROPERTY IS: <input type="checkbox"/> PRISONER'S <input type="checkbox"/> EVIDENCE <input type="checkbox"/> ABANDONED <input type="checkbox"/> SUS PROCEEDS			
21. OWNERSHIP IS: <input type="checkbox"/> KNOWN <input type="checkbox"/> UNKNOWN <input type="checkbox"/> POSSIBLE OWNER			
NAME:			
22. BRIEF DESCRIPTION OF PROPERTY			
23. COMPLAINANT'S NAME OR BUSINESS		PHONE NUMBER	
24. ADDRESS			



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Warning Format for High Volume Arrests

The below listed warning format is for reference, and may be used when preparing to make arrests in response to First Amendment assemblies, mass demonstrations or other large scale gatherings. The information contained in any warnings that are given in high volume arrest situations shall be documented and retained for reporting requirements and notifications.

### WARNING FORMAT

"I am \_\_\_\_\_ of the Metropolitan Police Department.  
(official's name)

You are in violation of \_\_\_\_\_.  
(state criminal offense)

If you do not cease your unlawful behavior and disperse peaceably, you will be arrested."

DAY: \_\_\_\_\_ DATE: \_\_\_\_\_

LOCATION OF ARRESTS: \_\_\_\_\_  
\_\_\_\_\_

\*\*\*Record the time that all warnings have been voiced to the violators.

First Warning \_\_\_\_\_ (wait two minutes before reading second warning)

Second Warning \_\_\_\_\_ (wait two minutes before reading third warning)

Third Warning \_\_\_\_\_ (commence making arrests)

If possible, members of the Media Production Unit of the Metropolitan Police Department will videotape the reading and arrests procedures. Warnings should be given with the use of an amplification device (e.g., a bullhorn or a police vehicle PA system), and must be given in a loud and clear manner.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Pre-High Volume Arrest Checklist

- ☐ What actions, by the persons to be arrested, require the proposed high volume arrest?
  - ☐ Has anyone been injured?
    - ☐ Who?
  - ☐ What was the cause of the injury?
  - ☐ Has property been damaged?
    - ☐ What?
  - ☐ What was the cause of the damage?
- ☐ Will an effort to arrest likely cause more injuries than alternative police action?
- ☐ Will an effort to arrest likely cause more property damage than alternative police action?
- ☐ Will an effort to arrest likely cause greater disruption of traffic flow (or potentially block evacuation routes) than alternative police action?
- ☐ What are the offenses committed or to be charged?
- ☐ What evidence provides probable cause for the arrest of **each person** for the offenses to be charged? **You must have articulable probable cause to make any arrest.**
- ☐ If the offense is (1) crowding, obstructing, or incommoding, (2) unlawful demonstrating, (3) unlawful assembly, or (4) failure to obey a police order:
  - ☐ How many orders to disperse were given?
  - ☐ How were the orders communicated?
  - ☐ When was each given?
  - ☐ Who gave each order to disperse?
  - ☐ Were audio or video recordings made of the warnings?

- ☐ Is there another way to gain control of the situation?
- ☐ Is there a viable alternative to a high volume arrest?
  - ☐ Is dispersal of the crowd and arrest of a smaller number of persons as the group disperses reasonable?
  - ☐ Is extraction of a limited number of offenders reasonable?
- ☐ Has the JOCC (Joint Operations Command Center) confirmed, or have you independently determined that there are sufficient resources available to safely make the number of arrests anticipated?
- ☐ Is there adequate housing space and feeding capabilities for arrestees?
- ☐ Is the officer-to-arrestee ratio correct (up to 15 arrestees to each arresting officer)?
- ☐ Is there adequate transportation for arrestees?
- ☐ Has the official recommending a high volume arrest articulated justification for a high volume arrest on these bases?
- ☐ How do other circumstances weigh in favor of or against ordering a high volume arrest?





# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Rights Notification

#### **POST AND FORFEIT**

If you have been charged with an eligible offense and you are eligible to post and forfeit, you may pay the amount of money set by the Court for the offense and the case will end. If you choose to pay the amount set, you will **NOT** get your money back because you are agreeing to forfeit the amount. No sanction, penalty, enhanced sentence, or civil disability will be imposed by any District of Columbia court or agency in any subsequent criminal, civil, or administrative proceeding or action if you post and forfeit. You **WILL** have an arrest record. You may file a motion with the Superior Court to seal your arrest record. For more information regarding sealing your record, you can contact the Public Defender Service of the District of Columbia at **202-628-1200** or via email at [www.pds.dc.org](http://www.pds.dc.org).

- **WHAT IF YOU CHANGE YOUR MIND AND DECIDE TO CONTEST THE CHARGES?**

If you decide you would rather appear in Court after you post the money, you can file a "Motion to Set Aside Forfeiture" within 90 days of today's date.

- **WHAT IF THE GOVERNMENT DECIDED TO OPPOSE YOUR POST AND FORFEIT DECISION?**

The Office of the Attorney General for the District of Columbia, the prosecutor for this case, may file a "Motion to Set Aside Forfeiture" within 90 days.

- **WHAT HAPPENS IF THE COURT GRANTS THE MOTION?**

If your motion or the government's motion is granted, the charges will be reinstated and you will have to go to Court. If you cannot afford an attorney, you may be eligible for appointed counsel.

If you choose not to post and forfeit and elect to continue the criminal case, you are eligible for release on citation.

#### **CITATION RELEASE**

If you are eligible, you may be released immediately on your promise to go to D.C. Superior Court, 500 Indiana Ave., NW, Washington, D.C. on the **date** and **time** on the Citation Release section on Page 1 of the "Notice to Appear in Court or Post and Forfeit Arrest Processing for First Amendment Assemblies and Mass Demonstrations" form.

A prosecutor will decide whether to file a criminal case against you. If you do not appear in Court, a bench warrant may be issued for your arrest. In addition, you could be charged with failing to appear even if the prosecutor decides to drop the case.



As a condition of your release on citation, you may be directed to stay away from and have no contact with a particular person or persons and/or to stay away from a particular place until you appear in Court.

If you violate the stay away, a police officer can immediately arrest you, and you will be brought to Court on the next day that the Court is open. If the prosecutor charges you with any crime, you will have a right to be represented by an attorney. If you cannot afford an attorney, one will be provided for you.

### **IMPORTANT INFORMATION**

Even though you were arrested, the government may decide not to file charges against you in Court. It is important that you bring the citation release form with you to Court on your arraignment date because it contains information that you may need to identify whether or not the government has filed charges in Court.

### **FOR CASE INFORMATION**

For information on the status of your case, you may call the D.C. Superior Court's Criminal Division Customer Service line at **(202) 879-1373**.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### **Public Information During First Amendment Assemblies and Mass Demonstrations**

The Office of Communications is in charge of activities relating to the press and the release of information related to First Amendment assemblies and mass demonstrations and other large events. The Office of Communications shall arrange all press conferences and organization areas for staging of the press and or news media vehicles in cooperation with the detail commanders. In addition, the Office of Communications shall prepare press releases prior to the event informing the public of expected street closures, demonstrator activity, and other non-sensitive, noteworthy information likely to impact the visitors and residents of the District of Columbia.

- A. The Office of Communications shall coordinate with public information officers from other agencies that will take part or play a role in upcoming demonstrations. When this is necessary, the Office of Communications shall institute, or become part of, a Joint Information Center (JIC). Some of the agencies that may occupy the JIC include: the United States Secret Service, the United States Park Police, the United States Capitol Police, the Metro Transit Authority, the District of Columbia Fire and Emergency Medical Services Department, the United States Bureau of Alcohol, Tobacco and Firearms, and the District of Columbia Courts. The purpose of the JIC shall be to exchange information and establish protocol for the coordinated release of information.
- B. The Metropolitan Police Department (MPD) shall allow media representatives reasonable access to all areas where First Amendment assemblies occur. At a minimum, the MPD shall allow media representatives no less access than that enjoyed by members of the general public and, consistent with public safety considerations, shall allow media representatives access to promote public knowledge of the assembly.
- C. The MPD shall make reasonable accommodations to allow media representatives to use photographic, video, or other equipment effectively relating to their reporting of a First Amendment assembly.
- D. Media Misconduct
  - 1. Members shall be guided by GO-SPT-204.01 (Media).
  - 2. All reports of media misconduct shall be immediately forwarded to the Office of Communications for investigation. This information shall include the name, press affiliation, and a synopsis of the incident, as well as the necessary contact information for the member witnessing the activity. In instances of media misconduct, the observing member shall notify an MPD official who shall immediately report the incident to the Office of Communications at (202) 727-4383.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Handling Use of Force and Misconduct Allegations

#### I. REGULATIONS

- A. During civil disturbance situations, the reporting, documentation, and investigative processes for use of force and misconduct may raise practical, logistical, and safety-related concerns depending on the incident. Accordingly, the reporting, documentation, and investigative procedures for use of force and misconduct set forth in this attachment shall be used for First Amendment assemblies and mass demonstration situations.
- B. Sworn members of the Metropolitan Police Department (MPD) are expected to maintain the highest standards of conduct. Members shall conduct themselves properly and professionally, both on and off duty.
- C. The Internal Affairs Bureau (IAB) is responsible for monitoring, assessing, and assigning investigative responsibility for use of force incidents and misconduct allegations involving members of the MPD through the Internal Affairs Division (IAD).
- D. Members assigned to IAD shall not be used in a CDU capacity. IAD shall be responsible for the review of all use of force by MPD members as well as members of other, non-federal agencies who have agreed to assist the Department during First Amendment assemblies.

#### II. PROCEDURES

- A. Reporting Use of Force
  - 1. Individual Use of Force
    - a. Individual members who use force independent of a CDU unit, shall:
      - (1) Immediately notify the on-scene supervisor.
      - (2) Complete the appropriate report (i.e., PD Form 901-e (UFIR) or PD Form 901-g (RIF)], consistent with Department policy.

- b. Notified supervisors shall:
  - (1) For incidents involving a serious use of force as defined in GO-RAR-901.07 (Use of Force), immediately notify the incident commander who shall ensure IAD is immediately notified.
  - (2) For all other uses of force, obtain incident summary (IS) numbers prior to being relieved from duty and ensure the reporting member completes the appropriate force report.
- c. Member use of force that is independent of a CDU unit shall be investigated in accordance with existing Department policies governing use of force investigations including, but not limited to GO-RAR-901.08 (Use of Force Investigations).

## 2. Official-Directed Use of Force

- a. Officials who direct the use of force (e.g., for a squad, platoon) shall:
  - (1) Notify the Command Information Center (CIC)/Joint Operations Command Center (JOCC) and the incident commander.
  - (2) For incidents involving a serious use of force, the incident commander shall ensure the IAD is immediately notified.
  - (3) For all other uses of force, which are considered reportable force incidents, obtain incident summary (IS) numbers prior to being relieved from duty and complete a PD Form 901-m (Assembly or Demonstration Reportable Force Report).

## B. Investigating Use of Force

### 1. Internal Affairs Division (IAD)

- a. When a serious use of force occurs, IAD shall conduct a full investigation in accordance with GO-RAR-901.08 (Use of Force investigations).

b. The opportunity to conduct an extensive on-scene force review during an incident may be hampered by civil disturbance or riot-type conditions. In these scenarios, IAD members shall attempt to gather as much information as possible to initiate the investigation. However, due to safety concerns, IAD members may have to return to conduct more extensive reviews once the area is secure and conditions are safe.

(1) Conditions may exist in which IAD might not be able to enter a scene for several hours, or IAD is not notified of a serious use of force incident until long after it occurs. In these cases, IAD members may have to rely on non-traditional means (e.g., reviewing video footage) to gather information about the incident. Nonetheless, the fullest investigation possible shall be conducted in relation to the safety level of the scene at the time of the incident.

2. The following requirements shall apply to IAD during mass demonstrations and civil disturbance situations:

- a. A representative from the IAD shall be assigned to the JOCC. This representative shall be responsible for coordinating force and misconduct-related information for the IAB.
- b. IAD shall maintain a rapid response team to respond to serious use of force incidents occurring during civil disturbance situations. These members shall have full protective gear and be prepared to respond to a scene in which a civil disturbance may be occurring.
- c. IAD shall assess all serious use of force incidents, and in consultation with executive management, determine which incidents warrant a substantive IAD rapid response.
- d. At the conclusion of a mass demonstration or civil disturbance, the Assistant Chief of the IAB shall complete a use of force after-action report and submit the report to Assistant Chief of the Homeland Security Bureau and the Chief of Police.
- e. While not engaged in investigating force activity, members of IAD shall coordinate and confer with members of the MPD

Criminal Intelligence Branch as it relates to use of force information and possible high risk attacks on police officers.

- f. Agents assigned to the IAB Technical Surveillance Unit shall provide technical support for members of IAD, to include video documentation of civil disturbance electronic news reports.

B. Investigating Misconduct or Complaints

1. Members who observe other members engaging in misconduct shall report such misconduct to an official as soon as practicable.
2. Complaints of police misconduct received from the public during mass demonstrations and periods of civil disorder shall be properly recorded and investigated in accordance with Department policy including, but not limited to, GO-PER-120.25 (Processing Citizen Complaints) and GO-PER-120.23 (Serious Misconduct Investigations). Investigations into such complaints shall be conducted, using prescribed procedures, as soon as the police operation concerning the disturbance has been concluded.
3. If a complaint is of a nature that would subject the Department to public criticism or liability, the incident commander and the CIC/JOCC shall be notified immediately. The incident commander shall determine what course of action should be taken.
4. Regardless of whether a complaint has been filed or is likely to be filed, officials who observe or have reported to them instances of misconduct by members shall take immediate steps to determine the facts, promptly take appropriate corrective action, if necessary, and report the alleged misconduct in accordance with Department procedures.



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### Assembly or Demonstration Reportable Force Report

#### A. INCIDENT INFORMATION

IS NUMBER	INCIDENT DATE	INCIDENT TIME	RELATED INCIDENT CCN	DISTRICT	PSA
EVENT/DETAIL	LOCATION OF REPORTED INCIDENT			FORCE USED?	
				<input type="checkbox"/> YES <input type="checkbox"/> NO	
TYPE OF FORCE USED (CHECK ALL THAT APPLY)					
<input type="checkbox"/> CDU PROTECTIVE GEAR WORN	<input type="checkbox"/> MECHANICAL FORCE		<input type="checkbox"/> NONE/OTHER – SPECIFY:		
<input type="checkbox"/> PHYSICAL FORCE	<input type="checkbox"/> CHEMICAL FORCE				
<input type="checkbox"/> OLEORESIN FORCE					

#### B. AUTHORIZING OFFICIAL

LAST NAME	FIRST NAME	RANK	CAD #
ELEMENT	ASSIGNMENT		

#### C. GROUP/SUBJECT INFORMATION (use narrative section to capture information on additional subjects)

GROUP NAME OR SUBJECT NAME (LAST NAME, FIRST NAME)				
ADDRESS	CITY	STATE	ZIP	
PHONE NUMBER	DOB	SEX	RACE	
GROUP/SUBJECT ACTION (CHECK ONE)				
<input type="checkbox"/> RESISTANT (PASSIVE)		<input type="checkbox"/> ASSAULTIVE (PHYSICAL INJURY)		
<input type="checkbox"/> RESISTANT (ACTIVE)		<input type="checkbox"/> ASSAULTIVE (SERIOUS PHYSICAL INJURY/DEATH)		
GROUP/SUBJECT ACTIVITY (CHECK ALL THAT APPLY)				
<input type="checkbox"/> APO	<input type="checkbox"/> DANGEROUS ANIMAL	<input type="checkbox"/> FOOT PURSUIT	<input type="checkbox"/> VEHICLE PURSUIT	
<input type="checkbox"/> ATTEMPT ARREST	<input type="checkbox"/> DISORDERLY CONDUCT	<input type="checkbox"/> HOSTAGE	<input type="checkbox"/> OTHER – SPECIFY:	
<input type="checkbox"/> ADW	<input type="checkbox"/> DEMONSTRATION	<input type="checkbox"/> LANDLORD/TENANT DISPUTE		
<input type="checkbox"/> ALCOHOL	<input type="checkbox"/> DEFENDING AN ASSAULT	<input type="checkbox"/> ROBBERY		
<input type="checkbox"/> BARRICADE	<input type="checkbox"/> DOMESTIC VIOLENCE	<input type="checkbox"/> SUICIDE ATTEMPT		
<input type="checkbox"/> BURGLARY	<input type="checkbox"/> DRUGS	<input type="checkbox"/> TRANSPORTING		
<input type="checkbox"/> CROWD CONTROL	<input type="checkbox"/> DUI	<input type="checkbox"/> TRAFFIC STOP		

#### D. GROUP/SUBJECT WEAPON

WEAPON PRESENT	TYPE OF WEAPON	WEAPON RECOVERED
<input type="checkbox"/> YES	<input type="checkbox"/> FIREARM	<input type="checkbox"/> YES, PROVIDE DETAILS IN NARRATIVE
<input type="checkbox"/> NO	<input type="checkbox"/> BLUNT OBJECT	<input type="checkbox"/> NO
	<input type="checkbox"/> EDGED OBJECT	
	<input type="checkbox"/> OTHER – SPECIFY:	

[illegible]



**F. INVOLVED MEMBERS** (space allotted for up to one full platoon, use additional sheets to capture more members, if necessary)

#1 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#2 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#3 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#4 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#5 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#6 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#7 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#8 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#9 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#10 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#11 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#12 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#13 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#14 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#15 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#16 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#17 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#18 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#19 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
#20 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO
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#23 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED? <input type="checkbox"/> YES <input type="checkbox"/> NO	BWC ACTIVATED? <input type="checkbox"/> YES <input type="checkbox"/> NO

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#30 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED?	BWC ACTIVATED?
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#33 LAST NAME	FIRST NAME	RANK	CAD #	BWC EQUIPPED?	BWC ACTIVATED?
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#### G. REVIEW


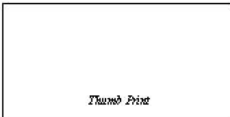
REPORTING OFFICIAL PRINTED NAME	SIGNATURE	CAD NUMBER	DATE
INCIDENT COMMANDER (OR SOD/HSB OFFICIAL) PRINTED NAME	SIGNATURE	CAD NUMBER	DATE



# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

		SUPERIOR COURT OF THE DISTRICT OF COLUMBIA Criminal Division			
<b>SUBJECT INFORMATION</b>					
Arrest No.		CCN		PDID	
Station Clerk/Officer/Badge/Unit/Cad.No.				DOB	
Offense PSA					
Name of Arrested Person: Last, First, Middle					
You Have Been Arrested for the following offense(s) (Please List All Arrest Charges)					
<b>Release and Return to Court Information</b>					
<b>CITATION RELEASE ONLY</b>					
<small>Officer: Please mark the appropriate Courtroom location and select a date by using the date chart on the Court's website.</small>					
You are being released on your promise to appear at the Superior Court of the District of Columbia, 500 Indiana Ave., NW, Washington, D.C. on the <b>DATE</b> and <b>TIMES</b> below.					
<input type="checkbox"/> ONLY OAG Charge(s)		<b>Appearance times are based on the charge(s):</b>			
DATE _____ at _____ TIME _____ in Courtroom 120		Impaired Driving Offenses 9 AM Any Other Traffic Offense 10 AM All Non-Traffic Offenses 11 AM			
<input type="checkbox"/> ONLY U.S. Charge(s)					
DATE _____ at 9:30 a.m. in Courtroom C-10					
<input type="checkbox"/> U.S. AND OAG Charges					
DATE _____ at 9:00 a.m. in Courtroom 120					
DATE _____ at 9:30 a.m. in Courtroom C-10					
I acknowledge receipt of this Notice to Appear. I promise to appear on the date and time indicated above. I understand that if I fail to appear, a bench warrant may be issued for my arrest. I also understand that if I fail to appear I may be charged with a criminal offense that may result in a fine, imprisonment, or both if I am convicted of failing to appear.					
Signature of Arrested Person _____		Date _____			
<b>POST AND FORFEIT MONEY ONLY</b>					
Charge: _____		Post and Forfeit Amount: \$ _____			
I have chosen to pay and forfeit the collateral (money) amount set for the charge(s). I understand that I am waiving my right to a Court hearing when I pay and forfeit the amount set for the charge(s).					
Signature of Arrested Person _____		Date _____			
<b>ATTENTION ALL ARRESTED PERSONS</b>					
If the Superior Court is closed due to an emergency, you must return to Court on the next business day at 9 a.m.					
<b>Acknowledgement of Receipt of Notice to Arrested Person</b>					
I acknowledge that I have received and read the Notice To Arrested Persons and I understand my rights.					
Signature of Arrested Person _____		Date _____			
Address: _____					
Phone: _____		Email: _____			
Issued by Acting Clerk, Superior Court of the District					
Signature of Station Clerk _____		Badge No. _____		Unit _____	

## NOTICE TO ARRESTED PERSONS

*Please review the information below that explains your release and your duty to comply. The information below is subject to change without advance notice.*



### CITATION RELEASE

If you are eligible, you may be released immediately on your promise to go to D.C. Superior Court, 500 Indiana Ave., NW, Washington, D.C. on the **date and time** on the Citation Release section on Page 1 of this document.

A prosecutor will decide whether to file a criminal case against you. If you do not appear in Court, a bench warrant may be issued for your arrest. In addition, you could be charged with failing to appear even if the prosecutor decides to drop the case.

As a condition of your release on citation, you may be directed to stay away from and have no contact with a particular person or persons and/or to stay away from a particular place until you appear in Court.

If you violate the stay away, a police officer can immediately arrest you, and you will be brought to Court on the next day that the Court is open. If the prosecutor charges you with any crime, you will have a right to be represented by an attorney. If you cannot afford an attorney, one will be provided for you.

#### IMPORTANT INFORMATION

Even though you were arrested, the government may decide not to file charges against you in Court. It is important that you bring the citation release form with you to Court on your arraignment date because it contains information that you may need to identify whether or not the government has filed charges in Court.

#### FOR CASE INFORMATION

For information on the status of your case, you may call the D.C. Superior Court's Criminal Division Customer Service line at **(202) 879-1373**.

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### POST AND FORFEIT MONEY

If you have been charged with an eligible offense and you are eligible to post and forfeit, you may pay the amount of money set by the Court for the offense and the case will end. If you choose to pay the amount set, you will **NOT** get your money back because you are agreeing to forfeit the amount. No sanction, penalty, enhanced sentence, or civil disability will be imposed by any District of Columbia court or agency in any subsequent criminal, civil, or administrative proceeding or action if you post and forfeit. You **WILL** have an arrest record. You may file a motion with the Superior Court to seal your arrest record. For more information regarding sealing your record, you can contact the Public Defender Service of the District of Columbia at **202-628-1200** or via email at [www.pds.dc.org](http://www.pds.dc.org).

- **WHAT IF YOU CHANGE YOUR MIND AND DECIDE TO CONTEST THE CHARGES?** If you decide you would rather appear in Court after you post the money, you can file a "Motion to Set Aside Forfeiture" within 90 days of today's date.
- **WHAT IF THE GOVERNMENT DECIDED TO OPPOSE YOUR POST AND FORFEIT DECISION?** The Office of the Attorney General for the District of Columbia, the prosecutor for this case, may file a "Motion to Set Aside Forfeiture" within 90 days.
- **WHAT HAPPENS IF THE COURT GRANTS THE MOTION?** If your motion or the government's motion is granted, the charges be reinstated and you will have to go to Court. If you cannot afford an attorney, you may be eligible for appointed counsel.

If you choose not to post and forfeit and elect to continue the criminal case, you are eligible for release on citation.

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# METROPOLITAN POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



## HANDLING FIRST AMENDMENT ASSEMBLIES AND MASS DEMONSTRATIONS

### **Legal Charges for Protests and Civil Disturbances**

Below are the criminal charges most likely to give rise to arrests resulting from expected protests, assemblies and demonstrations in the District of Columbia. For each charge, applicable elements of the offense and a brief description of circumstances in which the charge might be most appropriate is listed. Members are encouraged to contact the U.S. Attorney's Office or the Office of the Attorney General should questions arise concerning the statute most applicable to a given situation. Members should note this is a non-exhaustive list of charges.

Members of the Metropolitan Police Department are reminded that the charge of *Parading without a Permit* is not an arrestable offense. This charge shall not be used to detain anyone.

#### **I. STREET PROTESTS AND DISTURBANCES**

##### **CHARGE: Crowding, Obstructing, or Incommoding, D.C. Official Code § 22-1307(a)**

Elements of the Charge: It is unlawful for a person, alone or in concert with others, to crowd, obstruct, or incommode the use of any street, avenue, alley, road, highway, or sidewalk, or the entrance of any public or private building or enclosure or the use of or passage through any public building or public conveyance, or the passage through or within any park or reservation, and to continue or resume the crowding, obstructing, or incommoding after being instructed by a law enforcement officer to cease the crowding, obstructing, or incommoding.

Jurisdiction: Office of the Attorney General

Applicability: Someone, who after being warned more than once to move on, continues to block vehicular or pedestrian traffic on a city street, sidewalk, or entrance to a building. This is likely to be the most appropriate charge for "street blockades" by protesters.

##### **CHARGE: Unlawful Demonstrating D.C. Official Code § 22-1307(b)**

Elements of the Charge: It is unlawful for a person, alone or in concert with others, to engage in a demonstration in an area where it is otherwise unlawful to demonstrate and to continue or resume engaging in a demonstration after being instructed by a law enforcement officer to cease engaging in a demonstration. For purposes of this charge, the term "demonstration" means marching, congregating, standing, sitting, lying down, parading, demonstrating or patrolling by one or more persons, with or without signs, for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude or belief.

Jurisdiction: Office of the Attorney General

Applicability: A protestor is marching in an area where it is unlawful to demonstrate, and who after being warned to move on, continues to protest.

**CHARGE: Disorderly Conduct – Cause Unreasonable Fear (Intimidate), D.C.**  
*Official Code § 22-1321(a)(1)*

*Elements of the Charge:* (a) In any place open to the general public, and in the communal areas of multi-unit housing, it is unlawful for a person to: (1) intentionally or recklessly act in such a manner as to cause another person to be in reasonable fear that a person or property in a person's immediate possession is likely to be harmed or taken.

*Jurisdiction:* Office of the Attorney General

*Applicability:* A person has reasonable fear that acts in public space or in communal areas of multi-unit housing are likely to harm the person, or property in the person's immediate possession is likely to be harmed or taken.

**CHARGE: Disorderly Conduct – Inciting Violence, D.C. Official Code § 22-1321(a)(2)**

*Elements of the Charge:* (a) In any place open to the general public, and in the communal areas of multi-unit housing, it is unlawful for a person to: (2) incite or provoke violence where there is a likelihood that such violence will ensue.

*Jurisdiction:* Office of the Attorney General

*Applicability:* Someone yells to the crowd that they should attack people in a counter-demonstration and one or more of the listeners start walking towards the counter-demonstration carrying their signs as weapons.

**CHARGE: Disorderly Conduct – Abusive Language or Gestures, D.C. Official Code § 22-1321(a)(3)**

*Elements of the Charge:* (a) In any place open to the general public, and in the communal areas of multi-unit housing, it is unlawful for a person to: (3) direct abusive language or gestures at another person (other than a law enforcement officer while acting in his or her official capacity) in a manner likely to provoke immediate physical retaliation or violence by that person or another person.

*Jurisdiction:* Office of the Attorney General

*Applicability:* John Doe makes an obscene remark towards Jane Smith while holding up his middle finger to further provoke anger. When John Doe realizes Jane Smith is offended by this gesture, he replicates it in his other hand while still screaming obscenities.

**CHARGE: Disorderly Conduct – Disrupting a Congregation of Gathering, D.C. Official Code § 22-1321(b)**

*Elements of the Charge:* (b) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct, with the intent and effect of impeding or disrupting the orderly conduct of a lawful public gathering, or of a congregation of people engaged in any religious service or in worship, a funeral, or similar proceeding.

*Jurisdiction:* Office of the Attorney General

*Applicability:* A group of people, with the intent of disrupting a gathering, approach and heckle a lawfully assembled group of demonstrators. While the group does this, they block the group from moving along its parade route.

**CHARGE: Disorderly Conduct – Disrupting use of a Public Conveyance (Public Building), D.C. Official Code 22-§ 1321(c)**Elements of the Charge: (c) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct with the intent and effect of impeding or disrupting the lawful use of a public conveyance by one or more other persons.

Jurisdiction: Office of the Attorney General

Applicability: Someone boards a Metrobus with a large boom box playing loud music. When asked to turn the music down because other patrons cannot hear the bus driver, the person refuses. As a result, patrons cannot hear the bus driver announce safety information.

**CHARGE: Disorderly Conduct – Disrupting Use of a Public Building, D.C. Official Code § 22-1321(c-1)**

Elements of the Charge: (c-1) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct in a public building with the intent and effect of impeding or disrupting the orderly conduct of business in that public building.

Jurisdiction: Office of the Attorney General

Applicability: Someone prevents persons from conducting business in a public building through loud, threatening, or abusive language or disruptive conduct.

**CHARGE: Disorderly Conduct – Noise at Night, 22 D.C. Official Code § 1321(d)**

Elements of the Charge: (d) It is unlawful for a person to make an unreasonably loud noise between 10:00 p.m. and 7:00 a.m. that is likely to annoy or disturb one or more other persons in their residences.

Jurisdiction: Office of the Attorney General

Applicability: After being given a warning and a reasonable amount of time for compliance, someone continues to create loud noise in a city street or area during the hours of 10:00pm and 7:00am, or in front of an apartment building or house and the residents are unable to sleep.

**CHARGE: Disorderly Conduct – Jostling, D.C. Official Code § 22-1321(g)**

Elements of the Charge: (g) It is unlawful, under circumstances whereby a breach of the peace may be occasioned, to interfere with any person in any public place by jostling against the person, unnecessarily crowding the person, or placing a hand in the proximity of the person's handbag, pocketbook, or wallet.

Jurisdiction: Office of the Attorney General

Applicability: Someone riding the metro bumps into or unnecessarily crowds the space of another person.

**CHARGE: Crossing a Police Line, 24 DCMR § 2100.1 – 2100.5**

Elements of the Charge: (2100.1) In cases of fires, crashes, explosions, parades, or other occasions that cause people to collect on the public streets, highways, etc., an officer may establish an area or zone considered necessary to afford a clearing for (a) the operation of firemen or policemen; (b) the passage of a parade; (c) the movement of traffic; (d) the exclusion of the public from the vicinity of a riot, disorderly gathering, accident, explosion, or other emergency; or (e) the protection of persons and property.



(2100.2) Each person present at the scene of an emergency occasion shall comply with any necessary order or instruction of officer; (2100.3) No person shall enter the emergency area or zone unless duly authorized by the person in command of the emergency occasion, except as provided in §2100.4. Bona fide representatives of the press, bona fide insurance adjusters and underwriters, and other persons that the Chief of Police may authorize to be within the emergency area or zone shall be permitted within the lines established by the Police Department under the conditions set forth in §2100.5 and 24-2101 DCMR through 24-2103 DCMR. (2100.5) Persons entering the emergency area or zone under §2100.4 shall have plainly exposed to view the press pass or fire pass issued under the provisions of 24-2101 DCMR through 24-2103 DCMR.

Jurisdiction: Office of the Attorney General

Applicability: Law enforcement sets up a barricade, a secured area, or attempts to prevent pedestrians from entering a particular area by setting up a police line, and an unauthorized person crosses the police line or enters the secured area. Prior to arrest, a warning should be given that the person has entered a secured area or has crossed a police line, and they should be given an opportunity to move back.

**CHARGE: Failing to Obey a Police Order, 18 DCMR § 2000.1 – 2000.5**

Elements of the Charge: (2000.1) It is unlawful for any person to do any act forbidden or fail to perform any act required in this subtitle. (2000.2) No person shall fail or refuse to comply with any lawful order or direction of any police officer, police cadet, or civilian crossing guard invested by law with authority to direct, control, or regulate traffic. This section shall apply to pedestrians and to the operators of vehicles. (2000.3) The owner of a vehicle shall be presumed to be the operator when any violations of these regulations may occur, unless he or she proves to the contrary. (2000.4) The driver of any vehicle shall obey the instructions of any official traffic control device applicable to the vehicle which has been placed in accordance with the provisions of this subtitle, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. (2000.5) No provision of this subtitle for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

Jurisdiction: Office of the Attorney General

Applicability: A police officer gives a command to the operator of a vehicle or a pedestrian relating to a vehicular or pedestrian traffic matter, and the person willfully fails to obey the order.

**CHARGE: Forgery and Uttering, D.C. Official Code § 22-3241- § 22-3242 (felony)**

Elements of the Charge: (1) person makes, draws, or utters a forged written instrument; (2) with intent to defraud or injure another.

Jurisdiction: United States Attorney's Office

Applicability: (1) Someone presents staff or fake law enforcement credentials; this constitutes an illegal uttering; (2) Someone presents legitimate staff or law enforcement credentials, but they are not the person to whom the credentials were issued; this constitutes an illegal uttering; (3) someone presents fake tickets to an inaugural ball;



this does not constitute a crime, as we cannot prove that the person knew or should have known that the tickets were fake, and we cannot show that a crime has been committed.

**CHARGE: Wearing Hood or Masks, D.C. Official Code § 22-3312.03 (misdemeanor)**

Elements of the Charge: (a) No person over 16 years of age shall: (1) wear a mask, hood or any device causing any portion of the face to be hidden, concealed or covered as to conceal the identity of the wearer; **and** (2) enter upon or within public property of the District of Columbia, or any street, road, alley, etc., in the District of Columbia; (3) or hold any manner of meeting or demonstration and it can be established that the person was wearing the mask with the intent (a) to deprive any person of equal protection of the law; or (b) to, by force or threat of force, to injure, intimidate, or interfere with any person because of his exercise of any right secured by federal or District of Columbia laws, or to intimidate any person from exercising any right secured by federal or District of Columbia laws; or (c) to intimidate, threaten, abuse or harass any other person; or (d) to cause another person to fear for his personal safety, or where it is probable that reasonable persons will be put in fear for their personal safety by defendant's actions, with reckless disregard for that probability; or (e) while the wearer was engaged in conduct prohibited by civil or criminal law, with the intent of avoiding identification.

Jurisdiction: United States Attorney's Office

Applicability: Merely wearing a mask or hood is not improper or illegal, and one cannot be stopped/arrested/charged for wearing a hood or mask. Only if it can be demonstrated that the person wearing the mask did so with the intent to intimidate, threaten, interfere with or deprive another person of his or her rights under the law, can/should action be taken on the part of the police.

**CHARGE: Throwing Stones or Other Missiles, D.C. Official Code § 22-1309**

Elements of the Charge: (1) no person(s) may throw a stone or other missile in any street, avenue, alley, road, highway, open space, public square, or enclosure, under penalty of not more than \$500 for each offense or to throw such stone/missile from any place onto a street, avenue, etc.

Jurisdiction: Office of the Attorney General

Applicability: Someone endangers another's safety by throwing projectiles.

**CHARGE: Kindling Bonfires, D.C. Official Code § 22-1313**

Elements of the Charge: No person or persons within the limits of the District of Columbia shall kindle or set on fire, or be present, aiding, consenting, or causing it to be done, in any street, avenue, road, or highway, alley, open ground, or lot, any box, barrel, straw, shavings, or other combustible, between the setting and rising of the sun; and, any person offending against the provisions of this section shall on conviction thereof, forfeit and pay a sum not exceeding \$10 for each and every offense.

Jurisdiction: Office of the Attorney General

Applicability: Someone sets anything afire in a city street or area during the nighttime.

**CHARGE: Rioting, D.C. Official Code § 22-1322a (misdemeanor) (felony if any person suffers serious bodily injury, or property damage exceeds \$5,000.)**

Elements of the Charge: (a) A riot in the District of Columbia is a public disturbance, involving an assemblage of 5 or more persons which by tumultuous and violent conduct, or **the threat of such conduct**, creates grave danger of damage or injury to property or persons.

Jurisdiction: United States Attorney's Office

Applicability: A "public disturbance" must be more than mere loud noise making or minor breaches of the peace. It is conduct that has aroused, or is likely to arouse, public alarm or apprehension, and **is usually accompanied by the use of actual force or violence against property and persons**. At the very least it must be conduct that has a clear and apparent tendency to cause force or violence to erupt and thus create a grave danger of damage or injury to property or persons. "Grave danger" means danger actually present or threatened. Damage or injury to property includes actual physical damage, or the taking of another's property without permission.

**CHARGE: Riots, 18 U.S.C. § 2101**

Elements of the Charge: (1) person travels in interstate or uses any facility of interstate commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, **and** intends; (2) to incite a riot; **or** (3) to organize, promote, encourage, participate in, or carry on a riot; or (4) to commit any act of violence in furtherance of a riot; or (5) to aid or abet any person in inciting or participating in or carrying on a riot or committing any act of violence in furtherance of a riot.

Jurisdiction: United States Attorney's Office

Applicability: Extremely unlikely that this federal charge will be used, unless we can establish that suspect(s) crossed state lines intending to incite an actual riot. Merely crossing state lines/using any facility of interstate commerce in order to organize a demonstration is insufficient to pursue this charge.

**CHARGE: Obstructing Public Highway, D.C. Official Code § 22-3321**

Elements of the Charge: (1) Any person who, without lawful authority, shall obstruct the free use of any of the public highways, which had been used and recognized as public county roads for 25 years prior to May 3, 1862, and which were thereafter duly surveyed, recorded, and declared public highways according to law, shall be subject to a fine for each offense of not less than \$100 nor more than \$250 and be imprisoned till the fine and the costs of suit and collection of the same are paid.

Jurisdiction: Office of the Attorney General

Applicability: Person may not interrupt the flow of traffic on any highway.

**CHARGE: Obstructing Bridges Connecting D.C. and VA, D.C. Official Code § 22-1323**

Elements of the Charge: (1) person may not knowingly and willfully obstruct any bridge connecting the District of Columbia and the Commonwealth of Virginia.

Jurisdiction: Office of the Attorney General

Applicability: Person may not interrupt the flow of traffic on any bridge connecting D.C. and Virginia.

## II. PROPERTY DAMAGE

**CHARGE: Destruction of Property (Malicious Burning Destruction, or Injury of Another's Property), D.C. Official Code § 22-303 (misdemeanor or felony)**

Elements of the Charge: (1) defendant injured, broke, or destroyed, or attempted to injure, break, or destroy, property; (2) the property was not the defendant's; (3) defendant acted on purpose. ; (4) defendant acted with the intent to destroy or injure the property, or with a conscious disregard of known and substantial risks of harm that were likely to result to the property from his actions. (Note: if the value of the destroyed property is equal to or exceeds \$1,000, the offense is a felony. If the value of the destroyed property is under \$1,000 it is a misdemeanor.)

Jurisdiction: United States Attorney's Office

Applicability: An individual intentionally destroys the property of another. To charge felony "destruction of property", an officer must prove the destroyed property had a value greater than \$1,000.

**CHARGE: Federal Destruction of Property (Government Property or Contracts), 18 U.S.C. § 1361**

Elements of the Charge: (1) Someone willfully injures (or attempts to injure) or commits (or attempts to cause) any depredation against (a) any property of the United States, or (b) of any department or agency thereof, or (c) any property which has been or is being manufactured or constructed for the United States, or (d) any department or agency thereof. Note: if the damage or attempted damage to such property exceeds the sum of \$1,000, the punishment is a fine or imprisonment for not more than ten years, or both; if the damage or attempted damage to such property is under \$1,000, a fine or imprisonment for not more than one year, or both.

Jurisdiction: United States Attorney's Office

Applicability: We will use this charge rarely, and under the most serious circumstances. Normally, D.C. Superior Court Destruction of Property charges will be most applicable.

**CHARGE: Defacing Public or Private Property, D.C. Official Code § 22-3312.01 (misdemeanor)**

Elements of the Charge: (1) Defendant may not willfully or wantonly disfigure, cut, chip, cover or rub with filth or excrement; or (2) write, mark, or print obscene or indecent figures; or (3) write, draw, mark or paint any word, sign or figure, without the consent of the owner or proprietor (or, in the case of public property, the person having custody or control thereof, upon: (a) any property (public or private); building, statue, monument, office, mass transit equipment or facility, dwelling or structure of any kind; (b) doors, windows, steps, railings, fencing, stairs, walls, of any enclosure thereof, or any movable property.

Jurisdiction: United States Attorney's Office

Applicability: Someone spray-paints (or in any manner disfiguring) the Washington Monument, a subway car, the fence surrounding the IMF building, or any other public or private property, without permission.

**CHARGE: Arson, D.C. Official Code § 22-301 (felony)**

Elements of the Charge: (1) defendant burned or attempted to burn a building; (2) the building was the property, in whole or in part, of someone other than the defendant; and (3) defendant set or attempted to set the building on fire on purpose; and (4) defendant acted with the intent to kill or seriously injure another person; with the intent to threaten the security of anyone who lived in or occupied that building; or in conscious disregard of a known and substantial risk that his actions would endanger human life or threaten the security of anyone who lived in or occupied the building; and (5) defendant acted without mitigation.

Jurisdiction: United States Attorney's Office

Applicability: Suspect set fire (or attempted to set fire) to a building intending to kill or injure someone. The charge is destruction of property if the object burned is a car, for example, or if we do not have proof (direct or circumstantial) that the defendant's intent was to kill or seriously injure another person.

**CHARGE: Manufacture, Transfer, Use, Possession, or Transportation of Molotov Cocktails, or Other Explosives for Unlawful Purposes, D.C. Official Code § 22-4515a (felony)**

Elements of the Charge: (a) No person shall manufacture, transfer, use, possess, or transport a Molotov cocktail. *Molotov cocktail* means: (1) a breakable container containing flammable liquid and having a wick or similar device capable of being ignited; or (2) any other device designed to explode or produce uncontained combustion upon impact; but such term does not include a device lawfully and commercially manufactured primarily for the purpose of illumination, construction work, or other lawful purpose.

Jurisdiction: United States Attorney's Office

Applicability: Someone transports or possesses an explosive device intending to use the device unlawfully against a person or property. **In cases of mass seizures of property or evidence, every attempt shall be made to document the seizure and preparation of said items via videotape or photographs.** This documentation will strengthen the Department's position as to the treatment of these items to reduce the likelihood of frivolous claims of damage.

**CHARGE: Placing Explosives with Intent to Destroy or Injure Property, D.C. Official Code § 22-3305 (felony)**

Elements of the Charge: (1) defendant places, or causes to be placed, in/on/under/against/near any building, vessel, car, monument, statue, structure, gunpowder any type of explosive substance; (2) with intent to destroy or injure the same (in whole or part).

Jurisdiction: United States Attorney's Office

Applicability: Someone places any explosive device in a public or private area intending to destroy property.

**CHARGE: Unlawful Entry, D.C. Official Code § 22-3302 (misdemeanor)**

Elements of the Charge: (1) defendant entered, or attempted to enter, a public or private dwelling, building, or other property, or part of same; (2) defendant did not have lawful

authority; (3) the entry or attempt to enter was against the will of the lawful occupant or the person lawfully in charge of the premises, and the defendant refuses to leave when ordered to do so; and (4) defendant's entry or attempt to enter was on purpose.

Jurisdiction: United States Attorney's Office

Applicability: Someone enters the grounds of a private residence, or a restricted public building, and refuses to leave when ordered to do so [remember that to have a burglary, we must be able to prove that at the time the suspect entered the area in question, he or she had formulated intent to commit a separate crime (e.g., assault, destruction of property, theft)].

**CHARGE: Burglary, D.C. Official Code § 22-801 (felony)**

Elements of the Charge: **(1st degree):** (1) defendant entered any dwelling, or room used as a sleeping apartment in any building (2) at the time of the entry, any person was in any part of that dwelling or room; and (3) at the time of the entry, defendant had the specific intent to commit a crime (such as theft, assault, etc.) (Note: if element 3 is not satisfied, the offense is unlawful entry.) **(2nd degree):** defendant entered any room, apartment, dwelling, store, bank, or other building of another; and (2) at the time of the entry, defendant had the specific intent to commit a crime (such as theft, assault, etc.) (Note: if element 3 is not satisfied, the offense is unlawful entry.)

Jurisdiction: United States Attorney's Office

Applicability: We must be able to demonstrate that a suspect entered the place with the specific intent to commit a crime. Otherwise, the correct charge is unlawful entry.

### III. WEAPONS

**CHARGE: Carrying a Dangerous Weapon, D.C. Official Code § 22-4504 (felony)**

Elements of the Charge: (1) defendant carried a deadly or dangerous weapon **openly or concealed** on or about his person; (2) defendant carried the weapon on purpose; (3) defendant **intended to use the object as a weapon**; (4) the weapon **could be concealed**; (5) the weapon was not being carried on land/property possessed/controlled by defendant (Note: a dangerous weapon is any object likely to produce death or great bodily injury by the use made of it).

Jurisdiction: United States Attorney's Office

Applicability: Many objects (such as crowbars or wrenches) may be used as tools or for other useful purposes, and the law does not prohibit carrying those objects for those purposes. We must therefore prove that defendant intended to use the object as a deadly or dangerous weapon. Legitimate considerations include: the design/construction of the object; defendant's conduct prior to his arrest; and the time and place defendant was found in possession of the object. Walking down the street during a demonstration carrying a crowbar is not a crime.

**CHARGE: Possession of a Prohibited Weapon, D.C. Official Code § 22-4514 (a) and (b) (misdemeanor)**

Elements of the Charge: (PPW) (a): (1) defendant possessed a machine gun, sawed-off shotgun, black jack, slungshot (note: this is different than a slingshot), sand club, sandbag, switch-blade knife, metal knuckles, or silencer; and (2) such possession was

knowing and intentional. (PPW) (b): (1) defendant possessed an imitation pistol, dagger, dirk, razor, stiletto, knife with blade longer than 3", or other dangerous weapon; **and** (3) at the time of the possession, defendant had the specific intent to use it unlawfully against another.

Jurisdiction: United States Attorney's Office

Applicability: Some objects may be used as tools or for other useful purposes, and the law does not prohibit carrying those objects for those purposes. Unless specifically set forth in PPW(a) as being per se unlawful, we must in all other circumstances prove that defendant intended to use the object as a deadly or dangerous weapon. Legitimate considerations include: the design/construction of the object; defendant's conduct prior to his arrest; and the time and place defendant was found in possession of the object.

**CHARGE: Possession of Implements of a Crime ("PIC"), D.C. Official Code § 22-2501 (misdemeanor)**

Elements of the Charge: (1) defendant possessed any instrument, tool, or implement for picking locks or pockets; (2) with the intent to use such instrument, tool, or implement to commit a crime.

Jurisdiction: United States Attorney's Office

Applicability: Some objects may be used as tools or for other useful purposes, and the law does not prohibit carrying those objects for those purposes. We must prove that defendant intended to use the tool to commit a crime. Simply possessing crowbars, tripods, concrete sleeves, axes, sledge hammers, and any other tool that arguably has a legitimate purpose is not sufficient to convict someone under this statute.

#### IV. ASSAULTIVE CRIMES

**CHARGE: Simple Assault, D.C. Official Code § 22-404 (misdemeanor)**

Elements of the Charge: (1) defendant made an attempt or effort, with force or violence, to injure another person, **or** the defendant committed a threatening act that reasonably would create in another person a fear of immediate injury; (2) that at the time he or she made the attempt or effort to injure, **or** committed the threatening act, the defendant had the apparent ability to injure the person; and (3) the defendant committed the act voluntarily, and on purpose, and not by accident or mistake.

Jurisdiction: United States Attorney's Office

Applicability: Someone spits upon, hits, swings at, throws an object at, or injures in any manner, another person.

**CHARGE: Assault D.C. Official Code § 22-404 (felony)**

Elements of the Charge: (a)(1) Whoever unlawfully assaults, or threatens another in a menacing manner, shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 180 days, or both. See above for elements of assault. Felony if: (2) Whoever unlawfully assaults, or threatens another in a menacing manner, and intentionally, knowingly, or recklessly causes significant bodily injury to another shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 3 years, or both. For the purposes of this paragraph, the term "significant

bodily injury" means an injury that requires hospitalization or immediate medical attention.

Jurisdiction: United States Attorney's Office

Applicability: Where someone threatens another, and the threat not only was intended to threaten and frighten another that he or she was in danger of serious bodily injury or harm, **but the ordinary hearer would feel so frightened**, then the suspect may be charged with threats. Without more intimidating or threatening behavior, the case will be treated as a misdemeanor.

**CHARGE: Assault on a Police Officer, D.C. Official Code § 22-405 (b) (misdemeanor)**

Elements of the Charge: (1) complainant was a member of a police force operating in D.C.; (2) defendant assaulted the complainant; (3) complainant was engaged in the performance of his/her official duties; (4) defendant knew or had reason to know that complainant was a member of a police force; and (5) defendant did not act by mistake.

(c)(felony) (1) complainant was a member of a police force operating in D.C.; (2) defendant assaulted the complainant; (3) complainant was engaged in the performance of his/her official duties; (4) defendant knew or had reason to know that complainant was a member of a police force; and (5) defendant did not act by mistake (6) causes significant bodily injury to the law enforcement officer, or commits a violent act that creates a grave risk of causing significant bodily injury to the officer.

Jurisdiction: United States Attorney's Office

Applicability: Mere interference with a police officer generally will not be deemed sufficient to prosecute an APO. More is needed, particularly during a demonstration, where tempers may flare, and otherwise inappropriate behavior may be tolerated. If serious bodily injury is suffered by the officer, or the suspect uses a weapon against the officer and injury is sustained, an APO may be the appropriate charge. If a weapon (other than a gun) is used, and no injuries are sustained, Simple Assault and PPW(b) are probably the more appropriate charges.

**CHARGE: Resisting Arrest, D.C. Official Code § 22-405(a)**

Elements of the Charge: (1) complainant was a member of a police force operating in D.C.; (2) defendant resists the complainant or prevents that individual from making or attempting to make an arrest of or detain another person; (3) complainant was engaged in the performance of his/her official duties; (4) defendant knew or had reason to know that complainant was a member of a police force; and (5) defendant did not act by mistake.

Jurisdiction: United States Attorney's Office

Applicability: An individual attempts to stop a police officer from lawfully arresting another person by standing in front of the arrestee or blocking the officer's access to the person. The distinction between this charge ("Resisting Arrest") and "Assault on a Police Officer" is whether or not the officer is assaulted.

**CHARGE: Assault on a Federal Police Officer, 18 U.S.C. § 111**

*(misdemeanor/felony)*

Elements of the Charge: (1) person forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while

engaged in or on account of the performance of his or her official duties (Note: where the acts constitute only simple assault, defendant is fined or imprisoned not more than one year, or both; in all other cases, defendant is fined or imprisoned not more than three years, or both; enhanced penalty if suspect uses a deadly or dangerous weapon, or inflicts bodily injury, suspect is fined or imprisoned not more than ten years, or both).

Jurisdiction: United States Attorney's Office

Applicability: A federal law enforcement officer is assaulted during the course of his law enforcement responsibilities. We will use this federal charge **rarely**, and under only the most serious circumstances. Normally, the Superior Court Assault on a Police Officer charge will be the most applicable charge. See APO, above.

**CHARGE: Harassing, Interfering with, Injuring, or Obstructing a Police Animal, D.C. Official Code § 22-861**

Elements of the Charge: Any person who intentionally and without justifiable and excusable cause, harasses, interferes with, injures, or obstructs a police animal when he or she has reason to believe the animal is a police animal. It is a felony if the person causes significant bodily injury to, or the death of, a police animal.

Jurisdiction: United States Attorney's Office

Applicability: Any law enforcement officer's dog or horse is assaulted during the course of the officer's/animal's law enforcement responsibilities. See Cruelty to Animals, below.

**CHARGE: Harming Animals Used in Law Enforcement, 18 U.S.C. § 1368**

Elements of the Charge: (1) person maliciously harms any police animal, or attempts to do so; (2) and the animal is "employed" by a federal agency (in the executive, legislative, or judicial branch) for the principal purpose of aiding in the detection of criminal activities, enforcement of laws, or apprehension of criminal offenders.

Jurisdiction: United States Attorney's Office

Applicability: A federal law enforcement officer's dog or horse is assaulted during the course of the officer's/animal's law enforcement responsibilities. We will use this federal charge **rarely**, and under only the most serious circumstances. Normally, the Superior Court charge of Harassing, Interfering with, Injuring, or Obstructing a Police Animal or Cruelty to Animals will be the more applicable charge. See Harassing, interfering with, injuring, or obstructing a police animal, above or Cruelty to Animals, below.

**CHARGE: Cruelty to Animals, D.C. Official Code § 22-1001 and 1002 (misdemeanor)**

Elements of the Charge: (1) person beats, tortures, mutilates, or causes any animal to be beaten, tortured or mutilated.

Jurisdiction: United States Attorney's Office

Applicability: A local law enforcement officer's animal is assaulted during the course of the officer's/animal's law enforcement responsibilities.

**CHARGE: Assault with a Dangerous Weapon, D.C. Official Code § 22-402 (felony)**

Elements of the Charge: (1) the three elements of simple assault must be proved; and (2) the assault must have been committed with a dangerous weapon. A weapon is anything that is designed to be used, **or** actually is used to attack or threaten another



person. A weapon is dangerous if it is used in a manner to produce death or great bodily injury. Need not prove that defendant actually injured or even touched complainant with the weapon; pointing it in a threatening manner is sufficient, for example.

Jurisdiction: United States Attorney's Office

Applicability: Where person acts in a threatening manner while brandishing or using a weapon that could cause death or great bodily injury. Not sufficient merely to be in possession of an object that could, in some circumstances, be deemed dangerous.