

OPD Crowd Management/ Crowd Control Policy

The purpose of this order is to set forth policy and procedures regarding crowd management and crowd control:

I. POLICY

The Oakland Police Department policy regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, vital facilities and maintain public peace and order and to uphold constitutional rights of free speech and assembly. It is the policy of the OPD to use minimal reliance on the use of physical force and authority needed to address a crowd management or crowd control issue.

II. DEFINITIONS

- A. “Crowd Management” is defined as techniques used to manage lawful public assemblies before, during and after the event for the purpose of maintaining their lawful status. This can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.
- B. “Crowd Control” is defined as 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” include all forms of speech and expressive conduct used to convey ideas and/or information, to express grievances or to otherwise communicate with others, and includes both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, holding of banners or signs, use of puppets to convey a message, street theater, and other artistic forms of expression. These activities implicate the freedom of speech, association, 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).
- D. “Demonstration” is used generically in this policy 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. Thus, the term “demonstration” as used within this policy 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 policy 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 following general principles:

A. PLANNING AND DEPLOYMENT

1. 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 and narrowly tailored restrictions on the time, place, and manner of conducting these activities. However, any limitations or restrictions placed on demonstrations or other First Amendment activities must be justified by the requirements of maintaining public safety, public health, or safe access/ egress from the area, and should restrict no more speech than necessary to further these substantial governmental interests. 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.
2. The Incident Command System shall be used for managing crowds and acts of civil disobedience.
3. Decisions about crowd dispersal, 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. 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 about the potential decision. 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. This shall not preclude actions consistent with orders of the Incident Commander taken by individual commanders, supervisors, and officers to defend themselves or others from imminent danger.
4. Command staff shall be notified immediately of large or potentially disruptive demonstrations and/or crowd events.
5. The principle of establishing contact and communication with the crowd event or demonstration planners will be followed by the OPD. Stakeholder involvement is critical to the overall success of managing crowd events and/or civil disobedience during demonstrations. If there is knowledge that a demonstration or crowd event may happen or will happen, OPD shall proactively and repeatedly 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. Incident Commanders assigned to these incidents shall facilitate the involvement of stakeholders when planning for and responding to demonstrations, crowd events and civil disobedience situations. When communication is established, personnel shall 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.

6. OPD recognizes that designated police liaison may change during the course of an event and that leadership of certain groups may not exist. 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.
7. Communication with the identified police liaison shall continue even if enforcement actions commence.
8. 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.
9. Departmental 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 should be deployed to the best available vantage points to observe and report crowd actions as staffing permits.
11. Lines of control should be established, especially in events that involve protestors with opposing views. Whenever possible, hostile factions should be separated.
12. Considering the type of crowd involved is an important factor in responding properly to its behavior. Crowds may vary from cooperative or celebratory, to non-compliant and hostile or combative. Organized demonstrations in which some engage in coordinated nonviolent civil disobedience should be distinguished from crowds in which substantial numbers of people are engaged in other types of unlawful acts.

B. POLICING THE CROWD

1. Sufficient resources to make multiple simultaneous arrests should be available at demonstrations where such arrests are a reasonable possibility. However, this 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. Officers will 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. Officers shall wear a badge, nameplate or other device, on the outside of their uniforms or on their 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 less than two inches in height.
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 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 does not mean that demonstrations must be allowed to deliberately disrupt commuter traffic and 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; whether the traffic disruption is temporary as in a march; and the traffic disruption that would be entailed 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 the 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, there will be other members of the crowd who 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 by the sheer size of the crowd or because they are afraid they will move into a position of heightened danger. This 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 individual.
8. Officers in non-violent crowd situations shall not display or brandish weapons before a dispersal order is given or other enforcement action is being implemented.
9. 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.
10. 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 and authority. 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 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. 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.
2. 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) Are a significant number of the crowd participants behaving unlawfully?
- c) First Amendment activities will be evaluated by the Incident Commander, to determine lawfulness of the actions by groups and individuals. Specifically, actions and speech protected by the First Amendment include such things as rallies, protests, picketing, marches, parades, and leafleting. Actions or behavior involving trespass, destruction of property, disruption of transportation, unlawful use of amplification devices, assaults and disturbances of the peace are not protected by the First Amendment.
- d) Are there a limited number of specific individuals engaged in unlawful conduct?
- e) Is there a likelihood that the unlawful behavior will spread to other crowd participants (mimicking)?
- f) Immediate threats to the safety of the public and/or police officers
- g) The structure or vehicle(s) involved
- h) The size of the involved area
- i) The number of additional officers and police resources needed as well as requirements for specialized units (Traffic, Tactical Operations Team, Crime Reduction Teams, etc.)
- j) The manner of response (Code 2 or 3)
- k) Staging Area
- l) Location for a media staging area
- m) Ingress and egress routes
- n) 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. Operation plans for large events requiring the redeployment of personnel from regular assignments shall be approved by the Deputy Chief of Field Operations. The Incident Commander of planned events shall be responsible for the overall coordination of the event, as well as crowd control and management.
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) Identity of 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, 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?

C. The Event Coordinator shall:

- 1. Gather and analyze intelligence information about future crowd events, including review of information from both internal and external sources.
- 2. Coordinate with the Special Events regarding permits and various Departmental sections, including bureaus, divisions, and specialized units to prepare for a planned special event.
- 3. 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.

4. Coordinate with affected bureaus, divisions, police service areas and special units to prepare and coordinate the development of an operational plan for a given event that details assignments, traffic and crowd flow, communications, tactics and training.
 5. Prepare operations plans.
 6. Coordinate inspection of protest/event area, prior to event, to locate any pre-positioned equipment staged by demonstrators.
 7. Ensure that appropriate equipment and supplies are available.
 8. Ensure that a video team (s) is established and required video equipment is available.
 9. Establish protocols and procedures for the processing of arrestees and collection of evidence.
- D. **Contingency planning:** 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.
- E. When practical, personnel preparing for a large event with the potential for violence shall be retrained, 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.
- F. 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. 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 only be used 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 which may not be used for crowd dispersal:**
 - 1. **Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades)**:
 - a) Any and all less lethal specialty impact weapon 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. **Direct Fired Specialty Impact Less-Lethal Munitions (Bean Bags)**: Less lethal specialty impact weapons that are designed to be direct fired at a specific target (“Direct Fired SIM”) including but not limited to flexible batons (“bean bags”), shall not be used for crowd management, crowd control or crowd dispersal during demonstrations or crowd events.
 - 3. Direct Fired SIM shall only 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 themselves, officers or the general public when other means of arrest are unsafe, or who is engaging in substantial destruction of property which creates an imminent risk to the lives or safety of other persons, and when the individual can be targeted without endangering other crowd members or bystanders. (See Special Order No. 8135 enacted April 15, 2004.)
 - 4. 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.
 - 5. No member shall use Direct Fired SIM without formal training.
 - 6. Direct Fired SIM shall not be used against a person who is under restraint.

7. 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.
8. 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.
9. Members shall only deploy Direct Fired SIM during a demonstration or crowd event under the direction of a supervisor.
10. When circumstances permit the supervisor on the scene shall make an attempt to accomplish the policing goal without the use of Specialty Impact Munitions as described above, and, if practical, an audible warning shall be given to the subject before deployment of the weapon.
11. 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.
12. **Tasers and Stun Guns:** Electronic immobilizing devices ("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.
13. **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.
14. 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.
15. Members shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.
16. Officers must be familiar with OPD Training Bulletin V-F2, and specifically the risk factors associated with aerosol chemical agents.
17. 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.
18. Persons should be removed as quickly as possible from any area where hand held chemical agents has 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.

19. 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.

VI. 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 crowd 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 communication been established with the crowd (loudspeaker, personal contact, etc.)?
 6. Have contingency plans been considered 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 assure 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. The police may not disperse a demonstration or crowd event without first validly declaring it an unlawful assembly under state law.
5. Unless emergency 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.
6. 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 after there have been 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, and 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 there is an immediate risk to public safety, 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. 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.

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 does not preclude a command decision by OPD to reinstate dispersal techniques if crowd compliance ceases.

- H. If negotiation and verbal announcements to disperse do not result in voluntary movement of the crowd, then officers may employ additional crowd dispersal techniques, but only after orders from the Incident Commander or designated supervisory officials. The permissible techniques to disperse or control a non-compliant crowd, include all of the following as described and limited below, and not in any specific order of use:
1. Display of police officers including motorcycles, police vehicles and mobile field forces (forceful presence);
 2. Encirclement of the crowd and multiple simultaneous arrest;
 3. Police formations which advance towards the crowd to cause movement of the crowd and the use of the baton;
 4. Non aerosol crowd control chemical agents.

5. Sound and light diversionary and other distraction devices (non-pellet) including those containing optional chemical agents.
-
- I. All of these crowd dispersal techniques shall be used consistent with the department policy of using the minimal police intervention needed to address a crowd management or control issue.]]
 - J. **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.
 - K. **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. Persons who make it clear (e.g., by sitting down) 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 "Weaponless Defense III-I.1 at pages 28-31.) Control holds should only be used 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 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. A Supervisor's decision to authorize control holds and the reasons for said decision should be documented.
 - L. **Police Formations and Use of Batons**:
 1. After the required announcements, if a crowd refuses to disperse, the police may use squad or platoon formations (skirmish line, wedge, echelons, etc.) to move the crowd along.
 2. Batons shall not be used for crowd control, crowd containment or crowd dispersal, except as specified below.
 3. 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.

4. Batons shall only be used as set forth in General Order K-3 and Departmental Training Bulletin III (H.2.) 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.

M. **Non hand held crowd control chemical agents :**

1. Crowd control chemical agents are those chemical agents designed and intended to move or stop large numbers of individuals in a crowd situation, and which are administered in the form of a delivery system, which emits the chemical agent diffusely without targeting a specific individual or individuals.
2. Chemical agents can produce fatalities 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 only be used 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.
3. Members shall use the minimum amount of chemical agent necessary to obtain compliance.
4. 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.
5. Chemical agents shall not be used for crowd control or dispersal without first giving audible warning of their imminent use, and reasonable additional time to disperse, to the crowd, media and other observers, as well as to OPD and members of any other law enforcement agencies that might be present.
6. If chemical agents are contemplated in crowd situations, OPD shall have medical personnel on site prior to its use and shall make provision for decontamination and medical screening to those persons affected by the chemical agent.

N. **Sound, Light and Chemical Diversionary Devices**

1. Sound, Light and Chemical Diversionary Devices shall not be used for crowd control or crowd dispersal without the approval of a supervisor or command officer.

2. The use of sound and light diversionary/distraction devices presents 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 while moving the crowd in the direction that will accomplish the policing objective
3. Sound and light distraction/diversion devices shall not be used for crowd control without first giving audible warnings to the crowd and additional reasonable time to disperse.
4. Sound and light diversionary/distraction devices shall only be used 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.

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 mass 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 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; and 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 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), where 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. **Civil Disobedience:**

1. Some demonstrators commit “civil disobedience” by sitting down or otherwise blocking streets, intersections, sidewalks, entranceways or 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 then to arrest those who deliberately remain in violation of the law. To the greatest extent practical, demonstrators in civil disobedience situations shall be talked into compliance rather than forcibly moved.
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 only be used where 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 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 locks or 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. While 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. **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. Juveniles arrested in demonstrations shall be handled consistent with OPD policy on arrest, transportation and detention of juveniles.

VIII. CITE AND RELEASE PROCEDURE

- A. Individuals arrested for minor offenses may be cited and released in compliance with Penal Code § 853.6 and existing Department policy. Where it is impractical to cite arrestees at or near the site of the demonstration because of a substantial risk that this 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.
- B. The only reasons for not releasing a person arrested for a misdemeanor are as follows:
1. The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
 2. The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
 3. The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.
 4. There were one or more outstanding arrest warrants for the person.
 5. The person could not provide satisfactory evidence of personal identification.
 6. The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.
 7. There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.
 8. The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

9. There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.
- D. 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.
- E. 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. 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 Or 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 only take place 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 other 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 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. 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 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 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 with information as to the nature of any criminal charges, the location where arrestees are being taken and whether they will 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.

XI. 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.

XII. TRAINING

- A. All OPD crowd control policies and procedures shall be set forth in a Crowd Control Policy and a 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 departmental policies.

No officers shall use less-lethal weapons unless they have received the training required by departmental 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, identity of each instructor and archived copies of both student curriculum materials and instructor curriculum materials.