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OFFICE OF THE CITY CLERK
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2015 JUL -2 PM 12: 12

AGENDA REPORT

TO: Sabrina B. Landreth
CITY ADMINISTRATOR

FROM: Sean Whent

SUBJECT: Informational Report Re: Request of
100 Black Men of the Bay Area, Inc. –
Use of Force

DATE: June 26, 2015

City Administrator
Approval

Date

7/1/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the Public Safety Committee accept:

An Informational Report from the Oakland Police Department (OPD) in Response to the Rules Request from 100 Black Men of the Bay Area (Frank Tucker) Concerning Use of Force Training.

OUTCOME

This report will help facilitate discussion between the Oakland Police Department and the Public Safety Committee regarding a request from 100 Black Men of the Bay Area (Frank Tucker) concerning use of force training.

BACKGROUND / LEGISLATIVE HISTORY

At the April 16, 2015 Rules and Legislation Committee, the Committee approved for scheduling the 100 Black Men of the Bay Area Inc.'s (100 Black Men) request for Council reports. The City Administrator assigned many of the 100 Black Men requests to the Oakland Police Department (OPD) for further response. This report is responsive to the second request, which is to "Receive an information Report and Possible Action Adopting policies and procedures which require OPD to train officers more effectively in the use of force, especially letla force. Such training should not only define conditions in which officers may use lethal force but also, more broadly, show them how to avoid it."

OPD has become a national model in implementing use of force de-escalation protocols. In 2013, OPD reformed its UOF program and instruction to include more officer-training focused on force options. While OPD has trained officers on use of force for many years, the department

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drastically increased the hours of which officers are trained more recently. This change is ensure that all force-related training stressed the concept of constitutional policing as well as a broad range of appropriate officer responses concerning use of force. Policy Link and the Advancement Project, two well-regarded social justice organizations, recently wrote about OPD's efforts to train OPD leadership and community members limiting use of force and promoting procedural justice and police legitimacy (*Limiting Police Use of Force: Promising Community Centered Strategies*, October 2014).¹

ANALYSIS

In helping to lead the national discussion and direction concerning force de-escalation, OPD has adopted training that no longer focuses exclusively on the use of force continuum. Officers are now trained to explore force options and de-escalation techniques and have been trained this way since 2013. OPD training stresses the importance of constantly evaluating the most reasonable force option so resistance may be overcome by using the least-intrusive method available. This promotes safety within the community while upholding the every resident's constitutional civil liberty rights.

OPD values the protection and sanctity of human life; and is committed to accomplishing the police mission with respect and minimal reliance on the use of physical force. OPD allows its officers to use a reasonable amount of force based on the totality of circumstances. OPD values the requirement for officers to de-escalate the force when the officer reasonably believes a lesser level or no further force is appropriate.

Through continual training on force options, de-escalation techniques, constitutional policing, and procedural justice, OPD will continue to be a pioneer of progressive policing and work in alliance with its valued community.

Best Practices: Use of Force

As provided in a 2012 publication from the Police Executive Research Forum (PERF)², best practices concerning police use of force and de-escalation include:

- An effective audit division
- Quantified use of force
- An early warning system

OPD's Office of the Inspector General (OIG) serves as the OPD audit division. The OIG provides OPD with analysis of OPD policies and procedures, conducts audits and reviews, and helps to ensure that OPD achieves compliance with ongoing Federal Negotiated Settlement

¹ http://www.advancementprojectca.org/sites/default/files/imce/police_use%20of%20force_101414.pdf

² An Integrated Approach to De-Escalation and Minimizing Use of Force; *Police Executive Research Forum: Critical Issues in Policing Series*

Agreement. UOF is quantified in OPD, and discussed in detail in the Analysis section of the accompanying report on use of force reporting (Informational Report re: 100 Black Men of the Bay Area, Inc. – Reporting Use of Force, June 26, 2015). In that report, all four levels of force at OPD are explained. OPD uses an early warning system as discussed in the Analysis section of the accompanying report on psychological testing and screening (Informational Report Re: Request of 100 Black Men of the Bay Area, Inc. – Psychological Testing and Screening, June 26, 2015).

Best Practices: Public Demonstrations and Protests

“Crowd Management and Control” (October 2014) is a model policy written by the International Association of Chiefs of Police (IACP) National Law Enforcement Policy Center. This policy’s Section B “Use of Force” is as follows:

1. Unless exigent circumstances justify immediate action, officers shall not independently make arrests or employ force without command authorization.
2. All officers providing assistance to this agency through mutual aid agreements, contracts, or related means shall be informed that they are under the direction and control of this department's command and supervisory personnel.
3. The following restrictions and limitations on the use of force shall be observed during demonstrations and civil disturbances. In all cases, weapons should be carried and deployed only by trained and authorized officers:
 - a. Canine teams may respond as backup when appropriate but shall not be deployed for crowd control (i.e., containment or dispersal). Canines shall remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd. Canines may be deployed in appropriate circumstances related to bomb detection, pursuit of suspects in buildings, and related situations.
 - b. Horses may be used to surround and control groups in nonviolent demonstrations as appropriate. They shall not be used against passively resistant demonstrators who are sitting or lying down. Horses shall not be utilized when the use of chemical agents is anticipated or deployed, nor shall they be used in icy or snow conditions or when similar lack of footing may jeopardize the animal, rider, or others.
 - c. Motor vehicles may be used to surround and move persons as appropriate but shall not be brought into contact with them.
 - d. Impact projectiles shall not be fired indiscriminately into crowds.
 - (1) Non-direct (skip-fired) projectiles and munitions may be used in civil disturbances where life is in immediate jeopardy, or the need to use the devices outweighs the potential risks involved.
 - (2) Direct-fired impact munitions, to include beanbag and related projectiles, have a proven track record of safe and effective use in public order management, when deployed in a manner that recognizes the unique factors involved, including the potential risk of hitting an unintended target due to officer-subject range and crowd density. Accordingly, direct-fire munitions can generally be used during civil disturbances against specific individuals who are engaged in conduct that

poses an immediate threat of death or serious injury or significant levels of property damage.

(3) A verbal warning should be given prior to the use of impact projectiles when reasonably possible.

- e. Electronic control weapons (ECWs) shall be used during civil disturbances only for purposes of restraint or arrest of actively resistant individuals when alternative less forceful means of control are not available or are unsuitable and only when the individual can be accurately targeted. ECWs shall not be fired indiscriminately into crowds.
- f. Aerosol restraint spray, known as oleoresin capsicum (OC), may be used against specific individuals engaged in unlawful conduct or actively resisting arrest, or as necessary in a defensive capacity when appropriate. OC spray shall not be used indiscriminately against groups of people where bystanders would be unreasonably affected, or against passively resistant individuals. High-volume OC delivery systems (such as MK-9 and MK-46) are designed for and may be used in civil disturbances against groups of people engaged in unlawful acts or endangering public safety and security when approved by the IC. Whenever reasonably possible, a warning shall be issued prior to the use of these systems.
- g. CS (2-chlorobenzalmalononitrile) chemical agents are primarily offensive weapons that shall be used with the utmost caution. CS may be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective. Such munitions shall be deployed at the direction of the [Incident Commander] and only when avenues of escape are available to the crowd. When reasonably possible, their use shall be announced to the crowd in advance. CN (phenacyl chloride) may not be used in any instance.
- h. A baton or similar device can be used primarily as a defensive weapon; as a means of overcoming resistance (e.g., used in the two-hand horizontal thrust on a police line); as a show of force; or as a means to contain or disperse a crowd.

OPD's Crowd Control and Crowd Management Policy is consistent with the above model policy. OPD's use of force training for crowd control and crowd management is based on the OPD Crowd Control and Crowd Management Policy (Training Bulletin III-G, revised October 4, 2013 and attached in its entirety as *Attachment A*).

As, Eric P. Daigle, Esq. explains in "Crowd Management and Protecting Civil Rights," 2013, in a report for the National Tactical Officers Association, "during a protest, rally or other large group gathering, the role of law enforcement officers is to ensure the public's safety and to protect lives and property as well as the First Amendment rights of all persons involved in the events." As police departments must prioritize public safety and protecting lives, Mr. Daigle explains that police departments "should also have an operational plan in place," a critical task that OPD completes as the City has seen many protests and demonstrations in recent years. Eric Daigle has served as a member of the OPD Federal Independent Monitoring Team.

OPD's Crowd Control and Crowd Management Policy is consistent with The Rutgers University Police Department written Directive 8:19-1: GENERAL PROTESTS, LABOR DISPUTES AND

DEMONSTRATIONS. This policy states that the Rutgers University Police must emphasize the importance of a peaceful demonstration, and that the rights to legally assemble and protest will not be interfered with so long as the event does not interfere with the legal rights of others. The policy also states that the police department should communicate their existing policy to the public on the “need to maintain communication at all times between police personnel and picket line/protest leaders.” Furthermore, 8:91-1 states that the police should “obtain necessary and relevant operational information related to planned or potential protest/demonstration activities (i.e. city permits, equipment, participant movements, etc.)”

Use of Force Training in OPD

In the Basic Recruit Academy OPD provides 359 hours of force training. After completing the basic academy, officers are mandated to complete approximately 38 hours of UOF training annually. All instruction incorporates constitutional law, policy, and the factors when determining reasonable force and de-escalation techniques.

The following table represents the annual use of force training OPD currently mandates for all officers:

Description	Application	Hours
Firearms Qualification	Pistol/Shotgun qualification	4
Supplemental Firearms Training	Tactical Pistol, Scenario training	10
Firearms	Tactical Pistol, Scenario training	10
Use of Force Case Law Review	Lecture	2
Defensive Tactics	Defensive Tactics Techniques	6
Electronic Control Weapon (ECW)	Recertification	2
Oleoresin Capsicum (OC)	Recertification	2
Less-Lethal (Bean Bag)	Recertification	2

Recognizing that UOF training may be comprised of a variety of different training activities, OPD incorporates the following lessons with all UOF instruction:

- A. Foundational and refresher training on OPD Policy, legal requirements, and case law. This training includes the following factors to determine whether force is reasonable:
 - a) The severity of the alleged crime at issue;
 - b) Whether the suspect poses an immediate threat to the safety of officers and/or others;
 - c) Whether the suspect is actively resisting or attempting to evade arrest by flight;

- d) Whether the circumstances are tense, uncertain, rapidly evolving (pace of events), and split-second judgments;
 - e) Warning that force may be used if the subject fails to comply;
 - f) Allowing the subject the opportunity to comply with directives prior to each force application;
 - g) Allowing the subject to recover from the extreme pain experienced from the force, and allow him/her to gather themselves (de-escalation);
 - h) A constant evaluation of what other tactics are available to affect arrest (less-intrusive measures;
 - i) The number of officers versus suspects;
 - j) The subject's proximity to potential weapons;
 - k) The age, size, gender comparison between the officer and subject;
 - l) Any special knowledge or skill level comparison between the officer and subject;
 - m) Injury or exhaustion to the officer or subject;
 - n) The subject's mental illness;
 - o) The subject's possible influence of drugs or alcohol;
 - p) Any prior contacts with the subject; and
 - q) The environmental factors.
- B. Techniques training on the various means by which OPD members apply force. This training covers all technical aspects involved in the use of pistol, shotgun (with both lethal and less lethal ammunition), electronic control weapon (ECW), oleoresin capsicum (OC), and defensive tactics techniques. Training activities in this category focus on how to use force options tools, not on the circumstances in which the tools may be used. This training is provided by Training Section staff and certified adjunct instructors.
- C. Scenario training (also called Reality Based Training – RBT). This training provides officers with the “next level” in force options decision-making. It involves training iterations using projectile-based weapons, modified force options tools (batons, ECW, OC), and protective equipment - for officers and live role players alike.

RBT is the optimal training activity for teaching officers to exercise prudence on when and how to apply the most reasonable, least-intrusive force option, including de-escalation techniques. This training complies with OPD policy and Constitutional law during stressful and uncertain circumstances.

This training is provided by Training Section staff and certified adjunct instructors.

Summary

OPD strives to be a leader in constitutional policing and follows policies and procedures that not only help officers to use the least force necessary but to also develop methods for de-escalating situations so as to minimize UOF. OPD will continue to research best practices, collaborate with other leading national police agencies, and train OPD officers in these best practices.

PUBLIC OUTREACH/INTEREST

This is of public interest as it directly relates to safety within the Oakland community.

COORDINATION

The Office of the City Attorney was consulted in preparation of this report.

COST SUMMARY/IMPLICATIONS

There are no costs associated with this report.

SUSTAINABLE OPPORTUNITIES

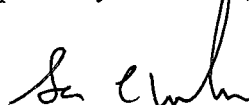
Economic: There are no economic opportunities identified in this report.

Environmental: No environmental opportunities have been identified.

Social Equity: This report provides valuable information to the Oakland community regarding social equity through transparent, fair, and impartial policing.

For questions regarding this report, please contact Police Services Manager Timothy Birch, Research and Planning, at (510) 238-6443.

Respectfully submitted,



Sean Whent
Chief of Police
Oakland Police Department

Prepared by:
Timothy Birch
Police Services Manager I
Research and Planning
Office of the Chief
Oakland Police Department

Attachment A: Training Bulletin III-G OPD Crowd Control and Crowd Management Policy

Item: _____
Public Safety Committee
July 14, 2015

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 04 Oct 13

SUBJECT: Revision of Training Bulletin III-G, CROWD CONTROL AND CROWD
MANAGEMENT POLICY (Rev. 28 Oct 05)

The purpose of the revision to this order is to update Departmental policy and procedures regarding crowd control and crowd management.

This following summary of the substantive changes to TB III-G shall not take the place of the review and understanding of the entire document:

- Added Part III, A, 4 (General Principles-Planning): Internal Affairs personnel and civilian staff will not have operational/tactical assignments or decision making roles for crowd control events.
- Added Part III, A, 4 (General Principles-Planning): Internal Affairs and Criminal Investigations Division shall have sufficient personnel available to conduct internal and criminal investigations during a crowd control event.
- Added Part III, A, 5 (General Principles-Planning): The Incident Commander of a crowd control event shall coordinate with the City Attorney and County District Attorney to ensure policies and case law information are current.
- Deleted the following from Part III, C, 1 (General Principles-Policing a Crowd): "Where additional resources are needed, they should be deployed to the greatest extent possible so they are not readily visible to the crowd".
- Deleted the following from Part V, H, 1 (Display of Officers): "Once this tactic is selected, officers should be assembled in formation at a location outside the view of the crowd" and "Do not bluff the crowd."
- Deleted from Part V, H, 3, c (Police Formations and Use of Batons): "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".
- Added Part V, H, 4, d (Non Hand-held Crowd Control Chemical Agents): Indirect use of chemical agents shall not be used unless approved by the Incident Commander. Under exigent circumstance, a commander or supervisor can use chemical agents. The Incident Commander shall be notified immediately upon an exigent use of chemical agents.
- Added Part V, H, 5, a (Hand-thrown chemical agents or pyrotechnic gas dispersal devices): Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall not be used unless approved by the Incident Commander.

Attachment A


Under exigent circumstance, a commander or supervisor can use hand-thrown chemical agents or pyrotechnic gas dispersal devices chemical agents. The Incident Commander shall be notified immediately upon an exigent use of hand-thrown chemical agents or pyrotechnic gas dispersal devices.

- Added Part VI, G (Electronic Immobilizing Devices): "Officers are not restricted from using Tasers in accordance with Department General Order K-3, USE OF FORCE."
- Added Part VI, I (Munitions Inventory Log): Documentation and responsibilities for a munitions inventory log.
- Added Part VIII, B (Cite/Release and Booking Procedures): "...officers may cite and release arrestees from temporary processing stations or police facilities as near the site of the arrest as possible. While detained during the citation and release process, arrestees shall have reasonable access to toilet facilities and to appropriate medical attention."
- Added Part VIII, C (Cite/Release and Booking Procedures): "No fingerprinting will be done as part of the citation and release process. Arrestees may be instructed to appear for booking prior to or after arraignment. Commanders shall exercise discretion as to whether property searches are necessary. Property of persons who qualify for citation and release will not be confiscated unless it is found to contain contraband. The intention of this policy is to release citation-eligible arrestees as promptly as possible, and to obviate the need to transfer such arrestees to the Sheriff's custody. Persons for whom a valid warrant is confirmed, or who do not produce valid identification or who are otherwise found ineligible for citation will be transferred to the Sheriff's custody".
- Added Part IX, 1-7 (Mutual Aid and Multi-Agency Coordination). Roles and responsibilities.
- Added Part X, 1 (Documentation): "Officers shall utilize their Personal Digital Recording Device (PDRD) in accordance with DGO I-15.1. In addition, officers shall activate their PDRDs whenever taking any enforcement action during a crowd control situation or when ordered to activate their PDRD by a supervisor or commander".
- Added Part XI, B, C, 1-5 (Reporting): The Incident Commander will be responsible for conducting a debrief of the crowd control event within 72 hours and an After Action Report within 30-days.
- Added Part XIV Crowd Management Coordinator): The responsibilities of the Crowd Control Coordinator.

The provisions of Special Orders 7088 and 8135 are incorporated into this order and are hereby canceled.

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of


for Sean Wheat
Interim Chief of Police

Date Signed: 03 OCT 13

Attachment A



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 control and crowd management.

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.



Crowd Control and Crowd Management, Index Number III-G

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. Internal Affairs personnel and civilian staff shall not be included in any planning, tactical or strategy component of an anticipated crowd control or management scenario, other than to help plan for the specific role of IAD functions such as complaint intake and investigations.



Ensure there are sufficient Criminal Investigation Division (CID) and Internal Affairs Division (IAD) personnel that are not assigned to uniformed field assignments where a reasonable possibility of confrontation, force, or subsequent alleged misconduct or officer involved criminal complaints may occur, so that they are available for investigating such allegations.

5. The Incident Commander shall coordinate with the City Attorney and County District Attorney to solicit and ensure information is current regarding but not limited to:
 - a. Criteria for unlawful assembly.
 - b. Appropriate penal codes for enforcement and arrest criteria.
 - c. Appropriate Oakland Municipal Codes for enforcement and arrest criteria.
 - d. Legal updates regarding force, search and seizure and arrest.
6. 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.

7. 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

1. 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.

2. 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.
3. Communication with the identified police liaison shall continue even if enforcement actions commence.
4. As staffing permits, officers should be deployed to the best available vantage points to observe and report crowd actions.
5. Lines of control should be established, especially in events that involve protesters with opposing views. Whenever possible, hostile factions should be separated.
6. Considering the type of crowd involved is an important factor in responding properly to its behavior.
7. 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.
2. 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.



3. In general, OPD officers shall work together in squads or platoons when policing a demonstration.
4. 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.

5. 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.
6. 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.

7. 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.



Crowd Control and Crowd Management, Index Number III-G

Verbal abuse against officers shall not constitute a reason for an arrest or for any use of force against such individuals. Officers shall avoid responding to abusive comments

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 criminal conduct which endangers persons or property, 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.)?



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- 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 Part X.)
 - 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?



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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 (specify amount) 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 in accordance with Department General Order K-3, USE OF FORCE.

1. Display of police officers (forceful presence).

A police formation may be moved as a unit to an area within the crowd's view to assist with crowd management. 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, pages 28-31.)

When dealing with non-violent or passive persons, 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.

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.
- d. Batons shall only be used as set forth in Department General Order K-3, USE OF FORCE 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 immediate 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 in accordance with Department General Order K-3, USE OF FORCE.
- 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 the Incident Commander. Only under exigent circumstances may a supervisor or commander authorize the immediate use of chemical agents.



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The Incident Commander shall be notified immediately when an exigent use of chemical agents has occurred.

- 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 the Incident Commander. Only under exigent circumstances may a supervisor or commander authorize the immediate use of hand-thrown chemical agents or pyrotechnic gas dispersal devices. The Incident Commander shall be immediately notified when an exigent use of hand-thrown chemical agents or pyrotechnic gas dispersal devices has occurred.
 - 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.) is prohibited. 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.
 - 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 him or herself, officers, or the general public or who is engaging in substantial destruction of property which creates an immediate 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.



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- 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 immediate 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 Department General Order I-4, AMBULANCE SERVICE. First aid, when necessary, shall be administered per Training Bulletin III-K, FIRST AID.
- 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)

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. Officers are not restricted from using Tasers in accordance with Department General Order K-3, USE OF FORCE.

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 in accordance with Department General Order K-3, USE OF FORCE.

Officers must be familiar with OPD Training Bulletin V-F.2, USE OF OLEORESIN CAPSICUM (OC), 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.

I. Munitions Inventory Log

The Training Section shall maintain the munitions inventory log for all less-lethal munitions which are checked out during crowd control events. Officers shall update the munitions inventory log after each event to specify how many munitions were used and by which person. A copy of the inventory log shall be included in the after-action report.

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 or his/her designee 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.



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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 (non-compliance 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 III-I.1, WEAPONLESS DEFENSE, 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, Part 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, officers may cite and release arrestees from temporary processing stations or police facilities as near the site of the arrest as possible. While detained during the citation and release process, arrestees shall have reasonable access to toilet facilities and to appropriate medical attention.
- C. No fingerprinting will be done as part of the citation and release process. Arrestees may be instructed to appear for booking prior to or after arraignment.



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Commanders shall exercise discretion as to whether property searches are necessary. Property of persons who qualify for citation and release will not be confiscated unless it is found to contain contraband. The intention of this policy is to release citation-eligible arrestees as promptly as possible, and to obviate the need to transfer such arrestees to the Sheriff's custody. Persons for whom a valid warrant is confirmed, or who do not produce valid identification or who are otherwise found ineligible for citation will be transferred to the Sheriff's custody.

- 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.
- F. 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.
- G. Individuals may not be booked into jail on the sole basis of a felony charge consisting of conspiracy to commit a misdemeanor.

IX. MUTUAL AID & MULTI-AGENCY COORDINATION

For large demonstrations and mass gatherings, OPD may be required to rely on Mutual Aid agencies for assistance (see DGO L-3, ASSISTANCE TO OUTSIDE JURISDICTIONS AND MUTUAL AID.) The Department is responsible for following the protocols of the Mutual Aid Plan in accordance with the California Emergency Services Act, commencing at Government Code Section 8550, for contacting law enforcement partners for assistance. Department leaders and commanders should be familiar with the process and responsibilities of requesting and receiving law enforcement mutual aid. See, the Law Enforcement Mutual Aid Plan and its companion document, Law Enforcement Guide for Emergency Operations, at www.calema.ca.gov. In addition, the IC shall be responsible for ensuring to the extent possible that mutual aid agencies:

- 1. Are briefed and in agreement with OPD's Unity of Command structure under which only OPD Commanders may authorize the use of less lethal munitions for crowd control and dispersal;
- 2. Are briefed on OPD's policy on prohibited weapons and force;
- 3. Do not bring or use any weapons or force that is prohibited under OPD's policy;
- 4. Are provided a copy of OPD's Crowd Control Policy and Use of Force policies;
- 5. Are not assigned to front-line positions or used for crowd intervention, control or dispersal unless there is a public safety emergency;
- 6. Complete required reports prior to being released from duty. Agencies should provide the following documents/reports when they are applicable: Use of force report, arrest report, crime report, injury report, equipment damage report and list of responding personnel; and



7. These provisions do not affect an OPD or mutual aid officer from taking action or using force against an individual in self-defense or in defense of another person or officer.

X. 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.

Officers shall utilize their Personal Digital Recording Device (PDRD) in accordance with DGO I-15.1, PORTABLE VIDEO MANAGEMENT SYSTEM. In addition, officers shall activate their PDRDs whenever taking any enforcement action during a crowd control situation or when ordered to activate their PDRD by a supervisor or commander.

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.).



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. The Incident Commander shall ensure that a debrief is conducted within 72 hours of the critical incident.
- C. The IC shall evaluate the need for an After-Action report which outlines the lessons learned and training opportunities, as well as an assessment of the effectiveness and quality of the Operations Plans. An After Action Report will be completed within 30 days of the event if one of the following events occurs:
 - 1. Mutual Aid is requested;
 - 2. An unlawful assembly is declared;
 - 3. Arrests are made for acts of civil disobedience;
 - 4. Significant police resources are used to control the event; or
 - 5. Chemical agents or SIMS are used

The Operations Plan and After Action Report shall be reviewed by the chain of command and forwarded to the Bureau of Risk Management and the Crowd Control Coordinator for retention.

XII. 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.
- E. 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.



- F. 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.
- G. The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.

XIII. 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.

XIV. CROWD MANAGEMENT COORDINATOR (CMC)

- A. The Chief of Police shall designate a Departmental Crowd Management Coordinator whose responsibilities will include:
 - 1. Coordinating the training of personnel on crowd control, planning, operations and after-action reporting.
 - 2. Conducting reviews of crowd control policies and case law.



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3. Conducting quarterly reviews of all crowd control incidents and their respective operation plans and after action reports and providing a quarterly report to the Chief of Police. In the course of the producing the quarterly reports, the Crowd Management Coordinator shall:
 - a. Look to identify training points for publication in Training Bulletins;
 - b. Look to identify Departmental training needs;
 - c. Ensure Departmental policy and training comports with new case law and industry standards;
 - d. Ensure that the City Attorney and District Attorney are consulted when revising Departmental policy and planning Departmental training on crowd control and management and related topics; and
 - e. Produce a non-classified public quarterly crowd control report