

BALTIMORE POLICE DEPARTMENT – EDUCATION AND TRAINING SECTION

LESSON PLAN

COURSE TITLE: FIP III and Use of Force (2021 In-Service)

LESSON TITLE: 1st Amendment Refresher

New or Revised Course: **New** **Revised**

Prepared By: _____ **Date:** _____

Academic Director Approval: _____ **Date:** _____

PARAMETERS	Lesson hours: 1 hour	<input type="checkbox"/> Entry-level
	Class size: 36	<input checked="" type="checkbox"/> Continuing Education
	Space needs: Classroom	<input type="checkbox"/> Other

STUDENT/COURSE PREREQUISITES/QUALIFICATIONS (if any)

None

LESSON HISTORY (previous versions, titles if applicable)

None

PERFORMANCE OBJECTIVES

1. Members will be able to identify their roles and responsibilities related to freedom of speech and expression.
2. Members will be able to identify their roles and responsibilities related to freedom of assembly.
3. Members will be able to identify their roles and responsibilities related to the public's right to observe and record police activity.

ASSESSMENT TECHNIQUE

1. Facilitated discussion and written test.
2. Facilitated discussion and written test.
3. Facilitated discussion and written test.

COURSE DESCRIPTION
Refresher on Policies 804 and 1016 pertaining to freedom of speech and assembly and public observation/recording of police officers.
MPCTC OBJECTIVES (if applicable) <i>(Include all terminal objectives. Include supporting objectives if they help elaborate what needs to be covered in the lesson. Ensure that all terminal objectives mentioned here are also added to the "Facilitator Notes" column where they are addressed in the lesson.)</i>
n/a
INSTRUCTOR MATERIALS
Lesson Plan PowerPoint Presentation
TECHNOLOGY/EQUIPMENT/SUPPLIES NEEDED
Classroom with computer and projector
STUDENT HANDOUTS
None
METHODS/TECHNIQUES
Lecture, discussion, group activity
REFERENCES
BPD Policies 804 & 1016
GENERAL COMMENTS
Members completed three e-learning modules earlier this year related to the 1 st Amendment. This lesson serves to reinforce key points from those e-learnings.

Lesson Plan Checklist (Part 1)

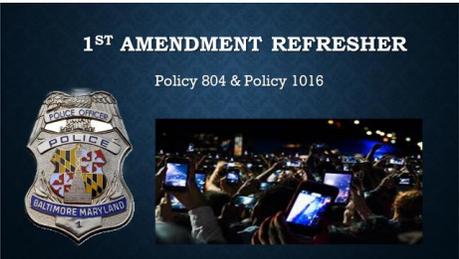
Format	Yes	No	N/A
1. All sections and boxes are completed.	X		
2. Performance objectives are properly worded and included in content.	X		
3. Assessment techniques are aligned with performance objectives.	X		
4. Copies of handouts and other instructional aids (if any) are included.			X
5. References are appropriate and up-to-date.	X		
6. Instructions to facilitators are in the right-hand column.	X		
7. Content is in the left-hand column.	X		
8. Timing of instructional content and activities is specified.	X		
9. Instructional content and PowerPoint slides are consistent & properly aligned.	X		
10. Student engagement/adult learning techniques are included.			
a. Instructional content is not primarily lecture-based.	X		
b. Questions are posed regularly to engage students and ensure material is understood.	X		
c. Case studies, role-playing scenarios, and small group discussions are included where appropriate.	X		
11. Videos are incorporated.	X		
a. Video introductions set forth the basis for showing the video and key points are highlighted in advance for students.	X		
b. Videos underscore relevant training concepts.	X		
c. Videos do not contain crude or offensive language or actions that are gratuitous or unnecessary.		X	
d. Videos portray individuals of diverse demographics in a positive light.			X
12. Meaningful review/closure is included.	X		
a. Important points are summarized at the end of lesson plan.	X		
b. Assessments are provided to test knowledge of concepts.	X		

Lesson Plan Checklist (Part 2)

Integration	Yes	No	N/A
13. Does the lesson incorporate BPD technology?		X	
14. Does the lesson plan integrate BPD policies?	X		
15. Does the lesson reinforce BPD mission, vision, and values?	X		
16. Does the lesson reinforce the Critical Decision Making Model?	X		
17. Does the lesson reinforce peer intervention (EPIC)?	X		
18. Does the lesson incorporate community policing principles?		X	
19. Does the lesson incorporate problem solving practices?	X		
20. Does the lesson incorporate procedural justice principles?	X		
21. Does the lesson incorporate fair & impartial policing principles?	X		
22. Does the lesson reinforce de-escalation?	X		
23. Does the lesson reinforce using most effective, least intrusive options?	X		
24. Does the lesson have external partners involved in the development of training?		X	
25. Does the lesson have external partners in the delivery of training?		X	
Subject Matter Expert:	Date:		
Curriculum Specialist:	Date:		
Reviewing Supervisor:	Date:		
Reviewing Commander:	Date:		

COURSE TITLE: FIP III and Use of Force (2021 In-Service)

LESSON TITLE: 1st Amendment Refresher

PRESENTATION GUIDE	FACILITATOR NOTES
<p>I. ANTICIPATORY SET</p> <p>Good afternoon, my name is ... My background in the BPD is ...</p> <p>This lesson is a refresher on BPD policies 804 and 1016 that govern our behavior in relation to 1st Amendment activities, in particular:</p> <ul style="list-style-type: none"> • freedom of speech • freedom of assembly • public observation and recording of police. <p>You should remember completing three e-learnings earlier this year related to the 1st Amendment. Earlier today you also went through a Redman Scenario that involved 1st Amendment activity.</p> <p>ASK: What was the 1st Amendment activity that you encountered in the Redman Scenario?</p> <p>ASK: What was the correct way to handle that Redman scenario?</p> <p>ASK: Why wouldn't you use de-escalation in that Redman scenario?</p> <p>In this lesson we just want to reinforce some of the important points in BPD policies related to the 1st Amendment. You'll also complete a survey and a test covering the whole 2-day course at the end of this lesson.</p>	<p>Time: 5 minutes</p> <p><i>Facilitators should introduce themselves and briefly explain what the lesson is about and why it is important.</i></p> <p>Slide 1</p>  <p><i>Look for – freedom of speech.</i></p> <p><i>Look for – observe, assess, report, and depart.</i></p> <p><i>Look for – there wasn't anything to de-escalate. The subject was exercising his 1st Amendment freedom of speech rights. There was no reason for police to intervene at all.</i></p>

II. INSTRUCTIONAL INPUT (CONTENT)

PERFORMANCE OBJECTIVES

The objectives of this lesson are to make sure you understand your roles and responsibilities related to:

- Freedom of speech and expression
- Freedom of assembly
- The public's right to observe and record police activity

Think about it – the founders of our country thought these particular freedoms were so important that they included them in the first amendment to the U.S. Constitution. Not the second or fifth or tenth, but the first.

ASK: Why did they make this one the 1st Amendment?

ASK: So why didn't they include the right to record the actions of the government, such as recording police?

Time: 30 minutes

Slide 2



Slide 3



Look for:

- *They did not trust government*
- *They had experience being oppressed by government*
- *They wanted government "of the people, by the people, for the people"*
- *People needed to be able to criticize the government and express their views to the government*

Trick question – no tape recorders or cameras were in general use back then (not until the 1800s), not to mention no cell phones.

But they certainly did believe that people had the right to know what their government was doing.

So the right to free speech is a really fundamental one in our system of government.

This applies to policing in two different ways:

- As the slide indicates, we can't use our police authority to restrict a person's exercise of free speech, except in narrowly-defined circumstances.
- Equally, it's our job to protect people who are exercising their rights, whether we agree with what they are saying or not.

In other words, it's not enough that we avoid violating people's rights. It's our job to protect those rights, and protect people who are exercising them

Slide 4

PROTECTING THE RIGHT TO FREE SPEECH: WHAT IT MEANS

1. Do not restrict the rights of any person to criticize law enforcement, unless the person is endangering a BPD member or another person or is physically interfering with law enforcement action.
2. Do not take any action in retaliation against any person who exercises their right to free speech - including their right to comment on or protest any police or government activity in strident, even offensive terms. Improper retaliation may include:
 - Ordering or threatening to order a person or group to disperse
 - Making or threatening a stop, detention, search, citation or arrest
 - Using or threatening to use force

Let's look at this 3-minute case study. You might remember it from the e-learning.

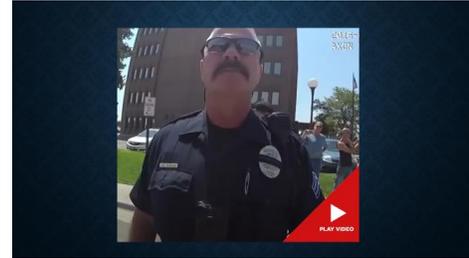
ASK: What speech was involved in this situation?

ASK: Was the person "endangering a police member or another person or physically interfering with law enforcement action"?

ASK: Since the person was "commenting on or protesting police activity in strident, even offensive terms," did that justify restricting his rights?

ASK: Any cases here in Baltimore of officers getting in a jam for using force against somebody who was mouthing off but not actually posing a threat?

Slide 5



Look for:

- *Spoken words*
- *Printed words on banners*

No

No

Yes – see if members of the class can cite examples. If not, the facilitator should be prepared to provide one.

<p>ASK: Those banners that the guys were carrying in the video – would there be any basis for making them put the banners down?</p> <p>ASK: Anyone remember any issues with protest banners here in Baltimore?</p> <p>ASK: Besides freedom of speech, what other 1st Amendment right was also part of this situation?</p> <p>Let’s quickly review BPD policy requirements related to freedom of assembly.</p>	<p><i>No</i></p> <p><i>Look for – during the protests following Freddie Gray’s death, BPD made protesters take down some banners. That was cited in the DOJ investigation as one example of BPD violating people’s rights.</i></p> <p><i>Freedom of assembly</i></p> <p><i>Note to facilitators – you should “click through” the next 10 slides one by one, but fairly quickly, just hitting the main point of each one. The objective is just to refresh our member’s awareness.</i></p>
<p>ASK: Did the officers in the case study meet this standard?</p> <p>ASK: In the case study, was the order to leave necessary to maintain public safety?</p>	<p>Slide 6</p>  <p><i>No, they didn’t protect the right to assemble and peaceably protest in a public space.</i></p> <p>Slide 7</p>  <p><i>No.</i></p>

ASK: Did the officers in the case study meet this standard?

ASK: Did the protester pose an imminent threat to the safety of a police member or others?

Slide 8

PROTECTING THE RIGHT TO ASSEMBLE AND PROTEST: WHAT IT MEANS

3. Make every reasonable effort to separate protesters from counter-protesters to avoid any potential confrontation that might quickly turn into a risk to persons' safety.

Slide 9

PROTECTING THE RIGHT TO ASSEMBLE AND PROTEST: WHAT IT MEANS

4. To de-escalate the potential for disorder and avoid mass arrests, attempt to accommodate assemblies and protests that may temporarily block traffic or otherwise obstruct public streets by regulating or rerouting traffic as much as practical.

Slide 10

PROTECTING THE RIGHT TO ASSEMBLE AND PROTEST: WHAT IT MEANS

5. Do not retaliate against any person who exercises their First Amendment right to assemble or protest, including by ordering or threatening to order dispersal, by making or threatening a stop, detention, search, citation or arrest, or by using or threatening to use force.

No, they ordered dispersal, threatened citation and arrest, and used force.

Slide 11

PROTECTING THE RIGHT TO ASSEMBLE AND PROTEST: WHAT IT MEANS

6. Do not use force unless a participant in a protest or assembly poses an imminent threat to the safety of a BPD member or others.

No.

ASK: Should the officer have interrupted the protester/speaker based on any of these criteria?

Slide 12

PROTECTING THE RIGHT TO ASSEMBLE AND PROTEST: WHAT IT MEANS

7. **Do not intimidate or harass** participants in assemblies or protests, including by using verbal threats or profanity, using video recorders, or displaying a weapon.

Slide 13

Protecting the Right to Assemble and Protest: What It Means

8. **Do not interrupt** a protest speaker, except when:
- Their speech incites imminent unlawful violent action or destruction of property—in other words, the speaker clearly directs at least one or other person to engage in violent activity that is likely to happen immediately, or
 - Their speech is likely to provoke an audience to respond to them with violence or threats of imminent violence, even after BPD has attempted to control the crowd and made a reasonable effort to protect the speaker, or
 - Their speech is a “true threat”—a threat of imminent violence that would result in harm to a person or substantial harm to the property of another person.
 - Only the highest ranking member on scene can make the decision to restrict the speaker under these exceptions.

No.

Slide 14

PROTECTING THE RIGHT TO ASSEMBLE AND PROTEST: WHAT IT MEANS

9. **Do not arrest a person engaged in a protest unless there is individualized probable cause** to believe that the person has committed a crime. BPD members may not arrest any person engaged in First Amendment activity based on the fact that other persons engaged in the same First Amendment activity also engage in violent or otherwise unlawful conduct.
- For example, if some individuals split away from a protest group, smash some windows, and then rejoin the group, those individuals could be arrested, but not the rest of the group.

Slide 15

Protecting The Right to Assemble and Protest: What It Means

10. **Do not substantially surround or enclose protestors or protest observers** and prevent them from leaving the area—in other words, no “kettling”—unless warnings to disperse have been given and the protestors or observers have been provided an opportunity to disperse.

Switching over to the topic of citizen recording of police activity – I think we have all gotten used to the fact that the public has the right to record us.

When are citizens permitted to record us? As the slide says, almost always. Of course there are exceptions, but they're pretty narrow.

Here's a list of actions that, in general, you should not take.

Remember the reasoning behind this – we are the government, and the people have a fundamental right to know what their government is doing.

In the event that someone's recording is interfering with your ability to carry out your duties, or is endangering you or someone else, this is the guidance for how you should act.

If you do need to take some action because a person is interfering, use your skills and adhere to BPD principles and values:

- Use your interpersonal skills
- Use your emotional intelligence
- Use most effective/least intrusive options
- Make sure you are being fair and impartial

ASK: How would procedural justice apply in a situation like this?

Slide 16

WHEN IS A CITIZEN PERMITTED TO RECORD POLICE ACTIVITY?

Almost always! When a person has the right to be there and "does not interfere with a member's safety, and does not obstruct, hinder, delay, or threaten the safety of another or compromise the outcome of legitimate police actions and/ or rescue efforts," their right to record is protected by federal and state law.



Slide 17

MEMBERS SHALL NOT

In general, members shall not:

- Tell the person they are not allowed to film, require a permit, or require a member's consent;
- Order the person to stop filming;
- Demand the person's identification;
- Demand that the person state a reason why the person is recording;
- Detain the person;
- Intentionally block or obstruct cameras or recording devices;
- Demand to review or erase any recording; or
- In any way threaten, intimidate or otherwise discourage an individual from recording a member's enforcement activities.

Slide 18

IF INTERFERENCE IS OCCURRING:

- Before addressing the interference, officers must activate their BWCs and record the interaction.
- Officers should address the acts of interference themselves, not the act of recording.
- Officers should do everything in their power to support the rights of civilians to record unless all efforts to create a safe zone fail.
- Asking and explaining is generally preferable to giving commands followed by taking enforcement action.

Look for – If someone's recording is interfering with our ability to carry out our duties, we still need to treat them with respect, give them "voice" by listening to them, explain what we are doing and why, and make sure our decisions and actions are fair and impartial.

ASK: How might EPIC come into play in a situation like this?

Look for – someone who is recording our actions might get under our skin. Besides doing a good job of self-regulation, we need to follow our EPIC pledge:

- *Our duty to intervene if needed if another officer is responding to the situation in an improper way.*
- *Our promise to accept peer intervention.*
- *Our promise to serve, protect, and strengthen relationships with our community.*

III. REVIEW/EVALUATION/CLOSURE

We're coming to the end of this 2-day course. Let's quickly review:

- Yesterday we explored and discussed fair and impartial policing. This isn't a new topic for most of you, but we all need to be reminded about implicit bias, stereotypes, assumptions, triggers, traps, and other things that can affect our decision making, but shouldn't. As police we make important decisions that affect people's lives every day. We have to work hard to make sure our decisions are fair and impartial.
- Today we had refreshers on BPD's policies related to use of force and the 1st Amendment, we practiced handcuffing and proper use of the baton, and we went through TI and Redman decision-making scenarios.
- There is a lot of overlapping relevance between these two days of training. Use of force situations and 1st Amendment situations are ones that can be affected by implicit bias. Think of the U.S. Capitol riot this past January – it seems very likely that the authorities under-estimated the threat because the protesters didn't fit their stereotype of a dangerous

Time: 25 minutes

Slide 19



mob.

- Decisions about using force and how to react in 1st Amendment situations are among the most serious ones we make. So it's all the more important that we make those decisions in a fair and impartial way.

We have two things left:

- Complete the post-course survey
- Take and pass the test

Slide 20

