



MASS DEMONSTRATION

General Order Number: 51

Effective Date: July 26, 2022

Purpose:

The purpose of this policy is to establish guidelines for managing crowds and preserving the peace during demonstrations and civil disturbances. It is recognized that no policy can completely cover every possible situation and thus we rely on the expertise of the commanders and supervisors to manage the situation utilizing this policy as a guideline.

Policy:

It is the responsibility of the Brookline Police Department (BPD) to protect the lives, property and rights of all people and to enforce the law. The BPD and the Town of Brookline recognize the rights of all individuals to assemble and speak freely, as guaranteed by the First Amendment of the United States Constitution and Article XVI of the Massachusetts Declaration of Rights, and will actively protect those rights. The BPD will strive to effectively manage crowds during demonstrations or civil disturbances to prevent loss of life, injury, or property damage and minimize disruption to persons who are uninvolved. In rare circumstances involving emergencies, and in widespread highly volatile civil unrest with the potential for widespread violence, the incident commander (IC) may temporarily suspend any policy, provision, or guideline contained herein when such action is determined to be the only reasonable alternative for the prevention of loss of life or major property damage.

Definitions:

Civil Disturbance - A gathering that constitutes a breach of the peace or any assembly of persons where there is a threat of collective violence, destruction of property, or other unlawful acts. Such a gathering may also be referred to as a riot or unlawful assembly.

Demonstration - A lawful assembly of persons organized primarily to engage in 1st Amendment activity. These may be scheduled events that allow for law enforcement planning. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention for legitimate purposes.

Crowd - For the purpose of this policy, a crowd is defined as a group exercising their first amendment rights by participating in a lawful protest and/or demonstration.

Crowd Control - Techniques used to address civil disturbances, to include a show of force, crowd containment, dispersal equipment and tactics, and preparations for multiple arrests.

Crowd Management - Techniques used to manage lawful assemblies before, during, and after the event for the purpose of maintaining their lawful status through event planning, pre-event contact

with group leaders, issuance of permits when applicable, information gathering, personnel training, and other means.

Chemical Crowd Control Agent - Chemical compound, other than tear gas or pepper spray as defined in this section, in any form that are meant to cause a burning irritation or sensation to the eyes, mouth, throat, lungs, or skin, including, but not limited to, mace, inert smoke, pepper pellets, and pepper balls. These chemical compounds may include, but are not limited to, chloroacetophenone (CN), chloropicrin (PS), bromobenzylcyanide (CA), dibenzoxazepine (CR), and combinations thereof.

Pepper Spray - Oleoresin capsicum spray, OC spray, capsaicin spray, capsicum spray, or any other similar lachrymatory agent, in spray or aerosol form, containing oils derived from cayenne pepper.

Tear Gas - A chemical crowd control or riot control agent whose defining chemical component is 2-chlorobenzalmalononitrile (CS), orthochlorobenzalmalononitrile, ochlorobenzylidene malononitrile, and shall not include pepper spray.

Kinetic Impact Projectile - An item or instrument fired from a gun or launcher intended to disorient and/or incapacitate and inflict pain without penetrating the skin, including, but not limited to, rubber bullets, sponge grenades, stun grenades, concussion grenades, flash grenades or flashbangs, beanbag rounds, super-sock rounds, wax bullets, and plastic bullets.

Brookline Police Officers - All sworn officers of the Brookline Police Department.

Other Law Enforcement Officers - Except to the extent prohibited by law, any law enforcement officers who are not Brookline Police Officers but who are engaged in law enforcement activities within the Town of Brookline.

Procedures:

1. Objectives of the Crowd Management and Control Policy.

- A. The BPD must carefully balance the First Amendment rights and other civil liberties of individuals with the interventions required to protect public safety and property. Officers must not be affected by the content of the opinions being expressed nor by the race, gender, sexual orientation, physical disabilities, appearances, religion, or political affiliation of anyone exercising their lawful First Amendment rights. Officers must consider:
 - 1. Public and Police Officer Safety.
 - 2. Protection of Constitutional Rights.
 - 3. Protection of Life and Property.
 - 4. Potential for disruption to Commerce and Community Affairs.
 - 5. Protection of Vital Facilities.
 - 6. Fair and Impartial Enforcement of Laws.
 - 7. Prosecution of Violators.

2. Principles of Crowd Management:

- A.** Any public assembly or gathering, whether for lawful or unlawful purposes, may require the response of law enforcement. The response can range from observation to engaging in various crowd management strategies. Officers must also be aware, not all crowd situations involve unlawful behavior. Effective response to crowd management events necessitates adherence to certain foundational principles:

- 1.** Leadership
- 2.** Knowledge of Constitutional Law.
- 3.** Knowledge of the Law and BPD policies as they relate to use of force and information gathering.
- 4.** Proper planning.
- 5.** A willingness to reach out to protest groups and stakeholders.
- 6.** Using time, patience, and communication to attempt to facilitate lawful protest activities and obtain voluntary compliance when feasible
- 7.** Use of the Incident Command System (ICS) to maximize proper command and control.
- 8.** Appropriate use of statewide mutual aid systems.
- 9.** Training
- 10.** Situational awareness.
- 11.** Proper incident documentation.
- 12.** Thorough and complete criminal investigations.
- 13.** Effective strategies and tactics.
- 14.** Objectively reasonable use of force.
- 15.** Liaison with the media and a well-managed media relationship.
- 16.** Understanding and working with social media and electronic communication.

3. Organizational Responsibilities:

- A.** The Incident Command System (ICS) and NIMS protocols shall be used in crowd management and civil disturbances to ensure control and unified command. The Chief of Police or their designee, will designate an incident commander (IC), who is responsible for overall control of the demonstration or civil disturbance.
- B.** In accordance with the National Incident Management System (NIMS), the IC shall be responsible for the preparation and implementation of an incident action plan. In addition, the IC shall also be responsible for preparing tactical plans and management details associated with the planned demonstration.
- C.** The primary objectives of the IC at a civil disturbance will be as follows: 1. Protect the lives, property and individual rights of all persons. 2. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence.
- D.** The IC shall brief Officers on what to expect and appropriate responses. They shall be informed that the IC, or his/her designee, shall be responsible for ordering any response deemed appropriate.

- E.** It is the policy of the BPD to avoid making arrests unless necessary.
- F.** Whenever practicable, all event proceedings shall be photographed and audio and video recorded.

4. Use of Force:

- A.** Any use of force by Officers shall be in accordance with guidelines set forth in BPD Policy - Use of Force and documented in accordance with that policy.
- B.** Unless exigent circumstances justify immediate action, Officers shall not independently make arrests or employ force without command authorization.
- C.** Canine units may respond as backup when appropriate but shall not be deployed for crowd control. Canines shall remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd.
- D.** Restriction on the use of tear gas, chemical crowd control agents, kinetic impact projectiles, and pepper spray during lawful protest or demonstrations.
 - 1. The use of tear gas by the Brookline police department or any other law enforcement officers shall be prohibited,
 - 2. Subject to the provisions of paragraph (3) below, the use of chemical crowd control agents and kinetic impact projectiles by Brookline police officers and other law enforcement officers shall be limited to situations where all other reasonable methods of de-escalation have been unsuccessful.
 - 3. Exceptions and exemptions. Kinetic impact projectiles and/or chemical crowd control agents may only be deployed if:
 - A.** An on-scene supervisor of the rank of Deputy Superintendent or higher, or shift commander, specifically authorizes such use in response to specific ongoing acts of violence or destruction of property that the on-scene supervisor has personally witnessed and has determined cannot be controlled or quelled through any other methods, and has determined that Crowd Management and Control no other reasonable methods of de-escalation will be successful in preventing or controlling such acts;
 - B.** the on-scene supervisor witness who authorizes such use, or an officer of equal or higher rank, has given at least two separate warnings over a loudspeaker system, including, but not limited to, a vehicle p.a. system or an amplified bullhorn,
 - 1. Directing the persons involved in the gathering to disperse, after ensuring that people have a reasonable and sufficient way to disperse after a warning is issued,
 - 2. Notifying all who could be affected that a failure to disperse will result in the use of a specific kinetic impact projectile or chemical crowd control agent, which must be identified in such warning, and

3. Notifying all who could be affected that the specific kinetic impact projectile or chemical crowd control agent will be deployed within a clearly defined period of time. Such warnings must be at least two minutes apart, and there must be no less than two minutes after the second warning has been fully read before any use of the specifically announced kinetic impact projectile and/or chemical crowd control agent.
4. The use of pepper spray by the Brookline police department or any other law enforcement officers during lawful protest or demonstrations shall not be permitted unless:
 - a. an emergency exists that requires the immediate use of pepper spray to prevent serious bodily injury or death;
 - b. an Officer:
 1. Personally witnesses on-going and illegal acts of violence, property destruction, imminent threats of violence, or imminent threats of property destruction involving a weapon,
 2. Is unable to arrest or detain an individual using a lower level of force, and
 3. Provides a clear verbal warning of the imminent deployment of pepper spray prior to its use and affords a reasonable opportunity for the individual(s) to cease and/or comply.

5. Response to Planned Demonstrations:

- A. Officers shall be deployed to monitor crowd activity. Sufficient resources to handle multiple unruly persons shall be available, depending on the fluidity of the situation and degree of actual or likely disruption.
- B. Officers shall wear their badges and other identification in a visible location on their person at all times.
- C. Officers shall be positioned in such a manner as to minimize contact with the assembly.
- D. Officers shall not engage in conversations or be prompted to act in response to comments from demonstrators. Officers shall maintain a courteous and neutral demeanor.
- E. Persons who reside, are employed, or have emergency business within the area marked off by a police line shall not be prevented from entering the area unless circumstances suggest that their safety would be jeopardized or their entry would interfere with law enforcement operations.

- F.** Supervisors shall establish and maintain communication with demonstration leaders and relay information on crowd mood and intent to the IC.
- G.** Supervisors shall maintain close contact with their assigned officers to ensure compliance with orders, monitor behavior and disposition, and ensure that they are aware of any changes in crowd behavior or intent.

6. Deactivation:

- A.** When the demonstration has concluded, the IC shall ensure that the following measures are taken:
 - 1. All personnel engaged in the incident shall be accounted for and an assessment and documentation made of personal injuries.
 - 2. All necessary personnel shall be debriefed as required.
 - 3. All written reports shall be completed as soon as possible after the incident. Comprehensive documentation of the basis for the incident, the department's response to the incident, with a statement of impact to include the costs of equipment, personnel, and related items shall be completed.