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*"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



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expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution (First Amendment) and the California Constitution (Article 1, Sections 2 & 3.)

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

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.

### D. Demonstration

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

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

### E. Crowd Event or Crowd Situation

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

## III. GENERAL PRINCIPLES

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

### A. Planning

1. Command staff shall be notified immediately of large or potentially disruptive demonstrations and/or crowd events.
2. The Incident Commander shall be responsible for the development of a written operations plan for known, anticipated, or planned events.
3. Any crowd control Operations Plan that calls for the deployment of chemical agents or less-lethal specialty impact munitions ("SIM", which includes what Penal Code § 13652 describes as "kinetic energy projectiles") into the field must be approved by the Chief of Police in advance of that deployment.



4. The Incident Command System shall be used for managing crowds and acts of civil disobedience.
5. 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.
6. 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.
7. The Incident Commander shall coordinate with the City Attorney's Office and County District Attorney's Office for large crowd events and when the Emergency Operations Center is activated 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.

The Chief of Police can direct the Incident Commander to coordinate with the City Attorney's Office and County District Attorney's Office on any event occurring in the City of Oakland as needed.

8. OPD shall make every effort to follow the principle of establishing contact and communication with the event or demonstration planners.
9. 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.
10. 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.
11. 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.

12. 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 Operations Chief, 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, within the confines of the law<sup>1</sup>, 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.

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<sup>1</sup> Penal Code § 13652(b) - Use of kinetic energy projectiles and chemical agents.



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 helmets shall be maintained by each sworn member. Each member's helmet shall have their serial number on both sides and clearly visible.

**Purpose:** Crowd Control Helmets should only be used during a protest or demonstration to protect members head and eyes from thrown objects.

**Authorization:** Crowd control helmets should be used at the authorization of a commander or supervisor. Members do not have to wait for objects to be thrown before authorizing/donning helmets. In the event of exigent circumstances, officers can don crowd control helmets to protect themselves.

**Training:** Only sworn members who have completed the Crowd Control Training and graduated from a Post Academy and can wear a crowd control helmet.

**Prohibited Use:** Crowd Control helmets shall not be used unless there is an articulable reason to wear them in public view.



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The use of the helmets will be documented in the Incident Commander's after-action report as required by OMC 9.65.

Refer to DGO K-7 for Inquiries or the Complaint Process.<sup>2</sup>

6. Every OPD police officer shall utilize a body-worn camera device (BWC) and shall have that device activated whenever taking any enforcement action or when ordered to activate their BWC by a supervisor or commander during a crowd control situation in the City of Oakland.
7. 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.
8. 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.

9. 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.

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<sup>2</sup> DGO K-7: Military Equipment Funding, Acquisition and Use Policy



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.

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

10. 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.
11. 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.

12. Officers in non-violent crowd situations shall not display weapons before a dispersal order is given or other enforcement action is implemented.
13. 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.
14. 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.



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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 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 a Deputy Chief of Field Operations.

2. The following factors shall be considered and addressed in developing the operations plan for a large crowd event, including but not limited to:





- a. What type of event is to occur?
- b. Who are the organizers? What is their past record of conduct (peaceful, violent, cooperative, etc.)?
- c. Will outsiders visibly and/or physically oppose the planned event?
- d. Will the event involve the use or abuse of alcohol or other substances?
- e. Where is the event to occur? Consider the size, location, and ingress and egress points.
- f. What is the optimal site for a command post as well as staging areas?
- g. Have the appropriate permits been issued?
- h. Have other agencies, bureaus, and divisions been notified and included in the planning process (paramedics, fire department, Communications, Intel, etc.)?
- i. Will the EOC be needed? Is Mutual Aid needed?
- j. Will off-duty personnel be involved? Has the commander of any off-duty personnel been made part of the planning process?
- k. Is it possible and appropriate to coordinate with group organizers and explain the Department's mission, preparation, and potential responses?

Information considered sensitive or confidential shall not be released to group organizers if it will jeopardize the safety or effectiveness of police personnel.

- l. Have the proper number of personnel been scheduled to safely handle the event? Should a reserve force be available?
  - m. Has an enforcement policy been formulated and communicated to affected personnel?
3. The OPD Event Coordinator and/or Incident Commander or designee 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



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given event that details assignments, traffic and crowd flow, communications, tactics, and training.

- e. Prepare operations plan as requested.
  - f. Coordinate inspection of protest/event area prior to an event to locate any pre-positioned equipment staged by demonstrators.
  - g. Ensure that appropriate equipment and supplies are available.
  - h. Ensure that a video team(s) is established and required video equipment is available (see Section XI.)
  - 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**

*Kinetic energy projectiles and chemical agents shall not be used by any member to disperse any assembly, protest, or demonstration.*

- 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 or Operations Chief shall make the final decision as to what control action, if any, will be taken to address a given crowd situation.



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

1. Will police action likely improve the situation?
  2. Will targeting specific violent or disruptive individuals for arrest be more effective or appropriate than applying control tactics to the entire crowd?
  3. Are sufficient resources available to effectively manage the incident?
  4. Have clear and secure escape routes been established for both the crowd and the police?
  5. Has the dispersal order been given (loudspeaker, personal contact, etc.)?
  6. Have contingency plans been established in the event initial police efforts are ineffective?
- C. Commanders shall constantly reassess and adjust tactics, as necessary, as the crowd's actions change.
- D. The Incident Commander or Operations Chief 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 authorizing commander for the dispersal order 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.

**Note:** Repeated, audible announcements shall be made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.<sup>3</sup>

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.

Note: The LRAD's warning tone should not be used for prolonged periods of time (more than 5 seconds).<sup>4</sup>

#### 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

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<sup>3</sup> Penal Code § 13652(b)(2).

<sup>4</sup> DGO I-27 Long Range Requitall Device



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 VIII).

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. Weapon launch / Device Deployed Chemical Agent and Hand-Thrown Chemical Agents (Pyrotechnic and Blast Chemical Agent Devices)



Per Penal Code § 13652(a) - kinetic energy projectiles and chemical agents shall not be used by any member to disperse any assembly, protest, or demonstration.

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.

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.

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.

- a. Only trained and currently qualified members are authorized to use chemical agents.
- b. Chemical agents shall not be used in demonstrations or other crowd events without the authorization of a commanding officer or Incident Commander. If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas.
- c. Chemical agents shall only be used if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control. As an example, an isolated incident of vandalism, without more, does not rise to the level of an objectively dangerous and unlawful situation sufficient to justify the use of crowd control chemical agents.
- d. Chemical agents shall only be used if other alternatives to force, including but not limited to extraction, encirclement, and multiple simultaneous arrests or police formations have been attempted, when objectively reasonable, and have failed.
- e. Chemical agents shall not be used for crowd control without first giving repeated, audible warnings to the crowd when objectively reasonable to do so, and providing the crowd an objectively reasonable opportunity to disperse. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- f. An objectively reasonable effort must be made to identify persons engaged in violent acts and those who are not, and crowd control chemical agents must be targeted only towards those individuals engaged in violent acts. Chemical agents shall be deployed to explode at a safe distance from the crowd to minimize the risk of personal injury. Incidental impacts on peaceful



protestors, bystanders, medical personnel, journalists, or other unintended targets shall be minimized. If chemical agents are contemplated in crowd situations, Members 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). Medical assistance shall be promptly provided for injured persons when it is reasonable and safe to do so, unless that person voluntarily leaves the scene or declines medical attention. An objectively reasonable effort will be made to extract individuals in distress.

- g. Members shall use the minimum amount of chemical agent necessary to obtain compliance in accordance with Department General Order K-3, USE OF FORCE. Chemical agents are to be used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- h. CS Blast Dispersion grenades and other hand-thrown devices emitting light, sound, and Orthochlorobenzalmalononitrile (CS) shall not be thrown directly into a crowd, at persons, or where they will explode above or near people's heads, but shall be thrown at a safe distance from persons.
- i. Penal Code section 13652's restrictions on "kinetic energy projectiles" and "chemical agents" apply to CS Blast Dispersion grenades and other hand-thrown devices emitting light, sound, and chemical agent.
- j. Chemical agents shall not be used solely due to any of the following:
  - a. A violation of an imposed curfew.
  - b. A verbal threat.
  - c. Noncompliance with a law enforcement directive.

## **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.<sup>5</sup> 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**

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<sup>5</sup> DGO K-3





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. Riot Shields

Shields may not be deployed or used until approved in accordance with OMC 9.65.

F. Motorcycles and Police Vehicles

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 demonstration or crowd event.

G. Specialty Impact Less-Lethal Weapons

1. Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) are prohibited.
  - a. Skip-fired or indirect fired less-lethal specialty impact munitions include wooden dowels, multiple wood baton rounds, stinger grenades, sting ball grenades, launched sting ball munitions, stinger rubber ball rounds, multiple foam baton rounds, multiple rubber baton rounds, multi 5-foam baton rounds, and all other devices that are designed to be skip-fired or which contain pellets or projectiles that disperse in a non-directional, non-target specific manner.
  - b. No OPD officer shall use skip-fired or indirect fired less-lethal specialty impact munitions, or pepper balls, in connection with any demonstration or crowd event in Oakland.
2. Uses of Direct Fired Specialty Impact Less-Lethal Munitions (SIM)

Direct Fired SIM, also known as kinetic energy projectiles, are less-lethal specialty impact munitions that are designed to be direct fired at a specific target, including but not limited to flexible batons (“bean bags”), pepper balls, FN303s, direct impact rounds, foam rounds, foam baton rounds, exact impact rounds, sponge rounds, 40mm rubber baton rounds, and similar munitions which may or may not have a foam rubber tip. This includes kinetic energy projectiles as defined in Pen. Code § 13652, subd. (d)(1) to include items commonly referred to as “rubber bullets”.

  - a. Only trained and currently qualified members are authorized to use Direct Fired SIMs.



- b. No OPD police officer shall use Direct Fired Specialty Impact Less-Lethal Munitions (SIM) for purposes of crowd management, crowd control, or crowd dispersal in connection with any demonstration or crowd event in the City of Oakland. 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.
- c. Flexible batons, also known as bean bag or stun bag rounds, that are fired from a shotgun shall not be used at crowd events.
- d. 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.
- e. Repeated, audible announcements must be made announcing the intent to use Direct Fired SIM and the type to be used, when objectively reasonable to do so.
- f. Direct Fired SIM may not be used unless de-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed. (Pen. Code § 13652, subd. (b)(1).)
- g. Direct Fired SIM may not be used before persons are given an objectively reasonable opportunity to disperse and leave the scene. (Pen. Code § 13652, subd. (b)(3).)
- h. When circumstances permit, members shall make an attempt to accomplish the policing goal without the use of Direct Fired SIM. 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, given consideration of how close the individual is to others, whether crowd members are moving, and factors that may affect the visibility and the accuracy of shot placement, such as chemical agent deployment.
- i. The mere fact that an individual is picking up, about to throw, or throwing a chemical agent canister previously deployed by law enforcement, or other object, does not automatically constitute an immediate threat of loss of life or serious bodily injury. Among the totality of the circumstances, members must consider the size and composition of the object, the distance from which it is being thrown, and the potential effects of the object being thrown.
- j. 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 of loss of life or serious bodily injury.
- k. Direct Fired SIM shall not be aimed at the head, neck, spine, or any vital organ, including the spleen, liver, kidneys, throat, left arm pit, or groin. (Pen. Code § 13652, subd. (b)(9).)



- l. Kinetic energy projectiles shall not be used solely due to any of the following:
  - a. A violation of an imposed curfew.
  - b. A verbal threat.
  - c. Noncompliance with a law enforcement directive.
- m. Direct Fired SIM shall not be used against a person who is under restraint.
- n. Officers shall minimize the possible incidental impact of their use of Direct Fired SIM (kinetic energy projectiles) on bystanders, medical personnel, journalists, or other unintended targets.
- o. Medical assistance shall be promptly provided for injured persons when it is reasonable and safe to do so, unless that person voluntarily leaves the scene or declines medical attention. An objectively reasonable effort will be made to extract individuals in distress.

H. 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.

I. 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



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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.

### J. 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. MEDICAL

Medical assistance shall be promptly provided for injured persons when it is reasonable and safe to do so. (Pen. Code § 13652, subd. (b)(8).) Any person known to be struck by a round shall be transported to a hospital for observation and any necessary treatment, unless that person voluntarily leaves the scene or declines to be transported. 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. Members shall ensure, to the extent reasonably possible, that medical attention is available for injured persons and for people affected by crowd control chemical agents, unless that person voluntarily leaves the scene or declines medical attention.

## VIII. ARRESTS

### A. Multiple Simultaneous Arrests

1. When a large-scale event involving possible arrests is to be conducted, OPD commanders or supervisors 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 or Operations Chief 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.

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 or Operations Chief 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.

## **IX. 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.

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.

## **X. 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](http://www.calema.ca.gov).

On any occasion in which the Oakland Police Department requests mutual law enforcement aid for large demonstrations and mass gatherings, OPD shall do the following:

- 1. Ensure mutual aid agencies are briefed and provided a copy of OPD's Crowd Control Policy.



2. Provide copies of the injunction entered in *Anti Police-Terror Project v. City of Oakland*, N.D. Cal. Case No. 20-cv-03866 JCS.<sup>6</sup>
3. Brief mutual aid agencies on OPD's Unity of Command structure and, to the extent possible, ensure mutual aid agencies are in agreement with it.

Under OPD's Unity of Command structure, only OPD Commanders may authorize the use of chemical agents for crowd control and dispersal. However, OPD officers and mutual aid officers may use reasonable or necessary force as allowed by law<sup>7</sup> against an individual in self-defense or in defense of another person or officer.

4. Inventory the types of less-lethal crowd control weapons brought by mutual aid agencies. Should a mutual aid agency bring less-lethal crowd control weapons that are not authorized under OPD's Crowd Control Policy, OPD shall do the following:
  - a. Require those agencies to quarantine the weapons that are not authorized; or
  - b. Assign officers of those agencies to support functions that will not have primary contact with crowds and thus are not likely to involve the use of crowd control weapons not authorized by OPD, unless there is a public safety emergency.
5. While OPD cannot direct or control all uses of force by officers of mutual aid agencies, to the extent possible, OPD shall ensure that officers of mutual aid agencies do not use weapons or force that is prohibited under OPD's Crowd Control Policy.
6. Ensure all OPD pathfinder officers are assigned a body-worn camera device (BWC) regardless of rank. The BWC shall be used in accordance with Department policy.<sup>8</sup>

To the extent possible and/or unless there is a public safety emergency, outside law enforcement units shall not be assigned to front-line positions or used for crowd intervention, control, or dispersal, and shall be:

- a. Deployed as a unit in order to maintain department and unit integrity; and
  - b. Used for infrastructure protection, custody and control of arrestees, perimeter security, fixed post positions, etc.
7. Ensure mutual aid agencies provide the following information prior to being released from duty: Uses of force, arrests, any crime report numbers, injuries, equipment damage, and list of responding personnel.

## **XI. DOCUMENTATION**

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<sup>6</sup> Commanders or designees shall email a copy of the injunction before the operation.

<sup>7</sup> Penal Code § 13652(b)

<sup>8</sup> I-15.1, Portable Video Management System





#### 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 BWCs whenever taking any enforcement action during a crowd control situation or when ordered to activate their BWC 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.)

## **XII. 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 Incident Commander shall evaluate the need for an After-Action report which outlines the lessons learned and training opportunities, as well as an assessment of the



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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.
- D. The Operations Plan and After-Action Reports shall be reviewed by the chain of command and forwarded to the following:
- Crowd Control Coordinator
  - Uploaded on the shared drive
  - Paper copies forward to Records
- E. Incident Commanders shall input the required information into the Crowd Control spreadsheet.

### **XIII. PUBLIC INFORMATION AND THE MEDIA**

The media have a right to cover demonstrations, including the right to record the event on video, film, or in photographs. Members shall accommodate the media in accordance with Department policy.

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.

Self-identified legal observers and crowd monitors do not have the same legal status as the professional media and are, therefore, subject to all laws and orders similar to any other person or citizen. Said personnel must comply with all dispersal orders similar to any other person or citizen. A supervisor or commander may allow a person who self-identifies as a legal observer or crowd monitor to remain in an area after a dispersal order if circumstances permit and if the person's presence would not unduly interfere with the enforcement action.

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in activity that is protected pursuant to the First Amendment to the United States Constitution or Article I of the California Constitution, the following requirements shall apply:

- (1) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed areas described in this section.



- (2) A peace officer or other law enforcement officer shall not intentionally assault, interfere with, or obstruct the duly authorized representative of any news service, online news service, newspaper, or radio or television station or network who is gathering, receiving, or processing information for communication to the public.
- (3) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network that is in a closed area described in this section shall not be cited for the failure to disperse, a violation of a curfew, or a violation of paragraph (1) of subdivision (a) of Section 148, for gathering, receiving, or processing information. If the duly authorized representative is detained by a peace officer or other law enforcement officer, that representative shall be permitted to contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.

This section does not prevent a law enforcement officer from enforcing other applicable laws if the person is engaged in activity that is unlawful.<sup>9</sup> The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.

#### **XIV. TRAINING**

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

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

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

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

- C. Every OPD officer shall receive this training.

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

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

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<sup>9</sup> Penal Code § 409.7.



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- E. From 2023 to 2028, every 18 months OPD shall conduct a special training session for the Chief of Police, all Deputy and Assistant Chiefs, Incident Commanders, Operations Commanders, and Tango Team members concerning Training Bulletin III-G and the injunction entered in *Anti Police-Terror Project v. City of Oakland*, N.D. Cal. Case No. 20-cv-03866 JCS<sup>10</sup>.

### **XV. 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.
  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

The Department shall, within 60 days of each incident, publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a kinetic energy projectile or chemical agent, as those terms are defined in Section 13652, for crowd control. However, an agency may extend that period for another 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident.<sup>11</sup>

For each incident reported the summary shall be limited to that information known to the agency at the time of the report and shall include only the following:

- (1) A description of the assembly, protest, demonstration, or incident, including the approximate crowd size and the number of officers involved.

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<sup>10</sup> Plaintiffs' counsel shall be provided the opportunity to provide input into the curriculum for the special training sessions and to attend those sessions.

<sup>11</sup> Penal Code § 13652.1.



- (2) The type of kinetic energy projectile or chemical agent deployed.
  - (3) The number of rounds or quantity of chemical agent dispersed, as applicable.
  - (4) The number of documented injuries as a result of the kinetic energy projectile or chemical agent deployment.
  - (5) The justification for using the kinetic energy projectile or chemical agent, including any de-escalation tactics or protocols and other measures that were taken at the time of the event to deescalate tensions and avoid the necessity of using the kinetic energy projectile or chemical agent.
- B. This crowd control policy is impacted by settlements and court orders in the following cases: *Coles v. City of Oakland*, N.D. Cal. Case No. C03-2961 TEH; *Local 10, Int'l Longshore and Warehouse Union v. City of Oakland*, N.D. Cal. Case No. C03-2962 TEH; *Spalding v. City of Oakland*, N.D. Cal. Case No. C11-2867 TEH; *Campbell v. City of Oakland*, N.D. Cal. Case No. C11-5498 JST; *Anti Police-Terror Project v. City of Oakland*, N.D. Cal. Case No. 20-cv-03866 JCS; *Brown v. City of Oakland*, N.D. Cal. Case No. 21-cv-02881 RS. Any future modifications to this policy must ensure compliance with those settlements and court orders.