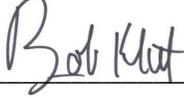


	<b>SAN MARCOS POLICE DEPARTMENT</b>	
	<b>Policy</b> 8.2 Civil Disturbances and Mass Arrests	
	<b>Effective Date:</b> July 3, 2020	<b>Replaces:</b> GO 500
	<b>Approved:</b> _____ <div style="text-align: center; margin-top: 10px;">   Chief of Police </div>	
	<b>Reference:</b> TBP: 8.07	

**I. POLICY**

How law-enforcement officers interact with crowds in civil actions, whether in demonstrations or civil disturbances, has direct bearing on their ability to prevent injury or loss of life, property damage, and to minimize disruption to persons who are uninvolved. Officers confronting civil disturbances and those called upon to assist in these incidents shall follow the procedures as enumerated in this policy to protect life, property, and first amendment rights.

In rare circumstances resulting from manufactured or natural emergencies, and in widespread, highly volatile civil unrest with the potential for widespread violence, the incident commander may temporarily deviate from 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.

It is critical to remember that the Constitution of the United States (and other important, binding documents and court decisions) afford the right of the people to express themselves in a variety of ways and for an almost infinite number of reasons. It is the policy of this police department that all human rights are respected and supported.

Further, this department will not provoke or incite demonstrators through any unnecessary show of force. Incident commanders will rely on their training and experience when faced with hostile crowds and will consult (when they are able) with the Chief of Police or appropriate commanders.

It is the policy of this department to avoid making mass arrests of persons when arrest avoidance is reasonable in the interests of safety and security. In addition, this department is committed to working with demonstrators to explore a peaceful and reasonable solution to prevailing concerns.

**II. PURPOSE**

The purpose of this policy is to establish guidelines for managing crowds and preserving the peace during demonstrations and civil disturbances.

**III. DEFINITIONS**

- A. Civil Disturbance: An unlawful assembly, as defined by state statutes and local ordinances. Normally, 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. These are typically, but not always, spontaneous occurrences requiring the emergency mobilization of police forces and related emergency services.

- B. Demonstration: A legal assembly of persons organized primarily to express a political position or other doctrinal view. These are typically scheduled events that allow for police planning. They include but are not limited to marches, protests, and other assemblies that are largely designed to attract the attention of onlookers, media, and others. Demonstrations can evolve into civil disturbances that necessitate enforcement actions. Although crowd control may be necessary at sporting events, festivals, concerts, celebratory gatherings, and related events, these are not defined as demonstrations.
- C. Crowd Control: Techniques used to address unlawful public assemblies, to include a show of force, crowd containment, dispersal equipment, and strategies, and preparations for multiple arrests.
- D. Crowd Management: Techniques used to manage lawful assemblies before, during, and after the event for the purpose of maintaining their lawful status as accomplished through event planning, pre-event contact with group leaders, issuance of permits, intelligence gathering, personnel training, and other means.
- E. Skip-Fired Projectiles: Weapons that are discharged toward the ground in front of a target in order to bounce to the target.

#### **IV. PROCEDURES:**

##### General Management and Organization Principles:

- A. By law, the City of San Marcos may impose reasonable restrictions on the time, place, and manner of expressing first amendment rights. This department shall place only those limitations and restrictions on demonstrations necessary to maintain public safety and order and, to the degree possible, allow uninhibited commerce and freedom of movement for uninvolved persons. If at all possible, any planned constraints of first amendment rights will be reviewed by city legal prior to implementation.
- B. The on-duty supervisor will assume the role of incident commander (IC) at the scene of mass demonstrations and civil disturbances until relieved by a higher-ranking supervisor.
- C. Emergency Operations Plan (TBP 8.07) – will be made available to all command staff and communications staff, and will at a minimum include provisions for the following:
  - 1. Civil disturbance
  - 2. Mass arrest
  - 3. Response to natural and manufactured disasters
  - 4. Uniform and equipment usage
  - 5. Use of less-lethal weapons
  - 6. Use of canine and horses
  - 7. Overall goal of incident management
- D. The commander of the SWAT team shall be responsible for preparing any tactical plans and management details associated with planned demonstrations.
- E. If at all possible, a member of the department should be detailed to conduct a video recording of the incident and the department's response to it, including any interactions involving use of force.

- F. The incident command system shall be used in crowd management and civil disturbances to ensure control and unified command. The incident commander shall do the following:
1. Assume responsibility for issuing and disseminating all orders to members of his or her command and for determining the resources that are necessary and the extent to which they will be used
  2. Direct the establishment and organization of an incident command post
  3. Call for any necessary assistance
  4. Authorize such use of force and engagement with the crowd as deemed necessary to resolve unlawful actions
  5. Authorize the use of arrest as a means of curtailing unlawful behavior
  6. Designate a liaison officer to coordinate with other city or county emergency service providers as well as government offices, agencies, and departments
  7. Ensure that officers at the staging area are briefed on the type of crowd being monitored. They will be told what to expect from participants and what types of responses and force can be employed. They shall also be informed that the incident commander will order the response deemed appropriate and that the unit will act in concert with and follow the direction of the incident commander.

## **V. RESPONSE TO RESISTANCE AND AGGRESSION**

- A. The department's response to resistance and aggression policy is equally applicable to enforcement actions in the context of both mass demonstrations and civil disturbances. That is, officers may use only such force as reasonably appears necessary to protect themselves or others from physical harm, to restrain or subdue a resistant individual, or to bring an unlawful situation safely and effectively under control.
- B. Unity of action, command, and control are key to effective handling of demonstrations and civil disturbances. Thus, unless exigent circumstances require immediate action, officers shall not independently make arrests or employ force without command authorization. In exigent circumstances, supervisors shall independently authorize the use of force or such other tactics in accordance with the agency's response to resistance and aggression policy and this policy.
- C. All officers providing assistance to this agency through mutual aid agreements, contracts, or other means shall be briefed on the mutually agreed upon provisions of those agreements relating to the use of force and protocols for crowd control prior to deployment.
- D. The following restrictions and limitations on the use of force shall be observed during mass demonstrations and civil disturbances:
1. Canine teams may respond as backup as appropriate, but officers shall not deploy dogs for crowd control. Canines shall remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of demonstrators. Canines may be deployed in isolated circumstances related to pursuit of suspects in buildings and related environments.

2. Horses may be used to surround and control groups in nonviolent demonstrations as appropriate. They shall not be used against passively resistant demonstrators who are sitting or lying down. Horses shall not be deployed when the use of chemical agents is anticipated or deployed, nor shall they be used in icy or snow conditions.
3. Fire hoses shall not be used for crowd containment or dispersal.
4. Motor vehicles may be used to surround and move persons as appropriate but shall not be brought into contact with them for purposes of containment or dispersion.
5. Less lethal projectiles shall not be fired indiscriminately into crowds. Skip-fired projectiles and munitions or similar devices designed for non-directional, non-target-specific use may be used in civil disturbances where life is in jeopardy.
6. Direct-fired impact munitions, to include beanbag and related projectiles, shall not be used for crowd control or management during demonstrations.
7. Direct-fire munitions may be used where reasonable during civil disorders against specific individuals who are engaged in conduct that poses a threat of death, great bodily harm, or serious property damage, when the individual can be properly targeted.
8. When reasonably possible, a verbal warning shall be issued prior to the use of impact munitions.
9. Electronic control weapons (ECW) shall be used during civil disturbances only for purposes of restraint or arrest of individuals who are actively resisting and when alternative, lesser means of control are not available or are unsuitable and only when an individual can be accurately targeted. ECWs may not be fired indiscriminately into crowds.
10. Officer-issued aerosol restraint spray (OC) may be used against specific individuals who are engaged in unlawful acts or conduct or are actively resisting arrest, or as necessary in a defensive capacity when other alternatives would likely be inadequate or are unavailable. It shall not be used indiscriminately against groups of people, in demonstrations or crowds where bystanders would be unreasonably affected, or against passively resistant individuals.
11. High-volume OC delivery systems, such as MK-9 and MK-46, are designed for use against groups of people engaged in unlawful acts or ones who are endangering public safety and security. These may be used only with the approval of the incident commander. Whenever reasonably possible, a warning shall be issued prior to the use of these systems.
12. CS chemical agents are primarily offensive weapons that shall be used with the utmost caution. CS may be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective. Such munitions shall be carried and deployed only by trained and authorized officers at the direction of the incident commander or field commander and only when avenues of escape are available to the crowd and, where possible, announced to the crowd in advance.

Whenever reasonably possible, a warning shall be issued prior to the dispersal of chemical munitions.

13. CN may not be used in any instance.
  14. The riot baton shall be used primarily as a defensive weapon or as a means of overcoming active resistance. It is used in the two-hand horizontal thrust on a police line, as a show of force, or as a means to contain or disperse a crowd.
- E. Use of Force Reporting and Investigation
- Established use of force reporting requirements of this department are equally applicable to policing mass demonstrations and civil disturbances. However, reporting, documenting, and recording uses of force in the context of civil disturbances and mass demonstrations can be hampered by logistical and safety concerns. Officers will complete use of force reports as soon as practical after the event.

## **VI. DEMONSTRATIONS**

- A. Preparation for responding to a demonstration is the responsibility of the Chief of Police or their designee. The incident commander shall ensure that a written, incident action plan is developed for approval by the Chief or their designee.
- B. Every effort shall be made to identify the leaders of the demonstration and to make contact with these leaders in advance of the demonstration. A decision on personnel, resources, and related needs shall be based in part on information obtained from leaders, department intelligence, and other sources. In addition, answers to the following questions shall be collected:
  1. What type of event is involved?
  2. When is it planned?
  3. Is outside opposition to the event expected?
  4. How many participants are expected?
  5. What are the assembly areas and movement routes?
  6. What actions, activities, or tactics does the department anticipate the demonstrators will use, including devices designed to thwart arrest?
  7. Have permits been issued?
  8. Have other agencies, such as fire and EMS, been notified?
  9. Is there a need to request mutual aid?
  10. Will off-duty personnel be required?
  11. Have demonstration leaders been identified, and, if so, what is their past history of conduct at such events?
  12. Is it possible to meet with group leaders?
- C. Based on this and related information, the department will develop an action plan together with outside agencies where necessary. The plan shall address provisions for the following and be distributed to all affected command and supervisory officers.
  1. Command assignments and responsibilities
  2. Available workforce, unit structure, and deployment

3. Liaison with demonstration leaders
  4. Liaison with outside agencies
  5. Release of information to the news media
  6. Transportation, feeding, and relief of personnel
  7. Traffic management
  8. Demonstrator devices, extrication teams, and equipment
  9. First aid stations
  10. Transportation of prisoners
  11. Prisoner detention areas
  12. Any intelligence information
- D. Officers shall monitor crowd activity. Sufficient resources to make multiple simultaneous arrests should be available, depending on the fluidity of the situation and degree of actual or likely disruption.
- E. Assigned officers shall wear their badges and nameplates or other personal identification on the outside of their uniforms or on their helmets at all times.
- F. Officers shall be positioned in such a manner as to minimize contact with the assembly.
- G. Officers shall not engage in conversations related to the demonstration or react to comments from demonstrators.
- H. Officers shall maintain a courteous and neutral demeanor.
- I. Persons who reside, are employed, or have business of an emergency nature in the area marked off by a police line shall not normally be barred from entering the demonstration area unless circumstances suggest that their safety would be jeopardized or their entry would interfere with police operations.
- J. Unit commanders shall establish and maintain communication with demonstration leaders and relay information on crowd mood and intent to the incident commander. Supervisors shall maintain close contact with officers under their charge to ensure their compliance with orders, to monitor their behavior and disposition, and to ensure that they are aware of any changes in crowd attitude or intent.
- K. Before ordering forced dispersal of demonstrators, the incident commander shall determine whether lesser alternatives may be effective. These alternatives include the use of containment and dialogue, as follows:
1. Establish contact with crowd leaders to assess their intentions and motivations and develop a mutually acceptable plan for de-escalation and dispersal
  2. Communicate to the participants that their assembly is in violation of the law, that the department wishes to resolve the incident peacefully, but that acts of violence will be dealt with swiftly and decisively
  3. Negotiate with crowd leaders for voluntary dispersal, or target specific violent or disruptive individuals for arrest. Prior to issuing dispersal orders, the incident commander shall ensure that all potentially necessary law enforcement, fire, and EMS equipment and personnel are on hand to successfully carry out tactical

requirements for all contingencies, and that logistical requirements related to the potential for making mass arrests are in place.

4. When the incident commander has made a determination that crowd dispersal is required, they shall direct unit commanders to issue warnings prior to taking physical actions to disperse the crowd if time and circumstances permit,
5. The warnings shall be issued loudly enough and often enough to be heard by the crowd from stationary vantage points or with the use of public address devices in moving patrol vehicles.
6. The warning shall consist of an announcement citing the offenses or violations being committed, an order to disperse, and designated dispersal routes. A second and a third warning shall be issued at reasonable time intervals before designated actions are taken to disperse the crowd. Where possible, the warnings shall be audio or video recorded at a point to the rear of the crowd, and the time and the names of the issuing officers recorded in the Incident Commander's event log.
7. Specific crowd-dispersal tactics shall be ordered as necessary where the crowd does not heed warnings. These include any one or any combination of the following:
  - a. Display of forceful presence to include police lines, combined with motorcycles, police vehicles, and mobile field forces.
  - b. Crowd encirclement
  - c. Multiple simultaneous arrests
  - d. Use of aerosol crowd-control chemical agents
  - e. Police formations and use of batons for forcing crowd movement

## **VII. SPONTANEOUS DEMONSTRATIONS AND CIVIL DISTURBANCES**

- A. Demonstrations or large gatherings of any kind that escalate into disturbances are governed by the policies and regulations concerning crowd management, control, and dispersal as identified here with respect to civil disturbances. The first officer to arrive on the scene of a spontaneous demonstration or civil disturbance shall do the following:
  1. Observe the situation from a safe distance to determine if the gathering is currently or potentially violent
  2. Notify the communications center of the nature and seriousness of the disturbance, particularly the availability of improvised or deadly weapons, its location and estimated number of participants, current activities (such as blocking traffic), direction of movement, and ingress and egress routes for emergency vehicles
  3. Request the assistance of a supervisor and any necessary backup, and advise as to the present course of action
  4. If approaching the crowd would not present unnecessary risk, instruct the gathering to disperse
  5. Attempt to identify crowd leaders and agitators and anyone engaged in criminal acts
- B. The first field supervisor in charge at the scene shall assess the situation and request sufficient personnel and related resources to perform the following tasks:

1. Deploy officers to the best vantage points to observe and report on crowd actions
2. Establish an outer perimeter sufficient to contain the disturbance and prohibit entrance into the affected area
3. Ensure that, to the degree possible, uninvolved civilians are evacuated from the immediate area of the disturbance
4. Establish a temporary command post based on proximity to the scene, availability of communications, space, and security from crowd participants
5. Continually assess the situation and advise communications of any change in status and any additional needs
6. Ensure that surveillance points are established to identify agitators, leaders, and individuals committing crimes, and to document and report on events as they happen
7. Where illegal gatherings engaged in civil disturbances cannot be controlled with available field personnel within a reasonable period of time, the Chief of Police or their designee shall serve as or appoint an IC to direct operations.
8. The primary objectives of the IC will be as follows:
  - a. Protect persons, including nonparticipants and participants alike, and property at risk
  - b. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence
  - c. Effect the arrest of those individual law violators and the removal or isolation of those persons inciting violent behavior
  - d. To achieve the foregoing objectives, the IC shall employ tactical operations that include but are not necessarily limited to approaches previously identified in this policy
  - e. In the area outside the perimeter surrounding the disorder site, the IC shall ensure that the following actions are taken:
    - i. Move and reroute pedestrian and vehicular traffic around the disorder
    - ii. Limit access to the disorder to those persons approved by the IC or other commander
    - iii. Control unauthorized egress from the disorder by participants who are not disbanding
    - iv. Repulse attempts to assist or reinforce the incident participants from outside the area
9. The IC shall also ensure the following matters are addressed where indicated:
  - a. Ensure that adequate security is provided to fire and EMS personnel in the performance of emergency tasks
  - b. Ensure that feeding and relief requirements of personnel have been addressed

- c. Ensure the adequacy and security of the incident command post and designate a staging area for emergency responders and equipment
- d. Establish liaison and staging point for media representatives and, to the degree possible, provide them with available information
- e. Ensure that the IC's event log is staffed for documenting activities and actions taken during the course of the incident
- f. Take photographs and make video recordings of event proceedings
- g. Take photographs of any injuries sustained by police officers or the public
- h. Determine the need for full mobilization of sworn officers and the recall of off-duty officers.

### **VIII. MASS ARRESTS**

- A. During the course of civil disturbances, it may be necessary to make arrests of numerous individuals over a relatively short period of time. In order for this process to be handled efficiently, safely, and legally, the following shall be observed:
  - 1. Except for felony offenses, officers shall not pursue demonstrators into buildings for the purpose of making arrests unless specifically instructed to do so by a supervisor. Supervisors shall accompany and exercise control over members under their command who go on private property or enter buildings to make arrests.
  - 2. Designated, supervised squads of officers shall perform mass arrests.
  - 3. If required, an adequate secure area shall be designated for holding prisoners after initial booking and while awaiting transportation.
  - 4. Arrest teams shall be advised of the basic charges to be recorded in all arrests.
  - 5. Arrestees who are sitting or lying down but agree to walk shall be escorted to the transportation vehicle for processing. Two or more officers shall carry those who refuse to walk.
  - 6. At the transport vehicle, the arrestee shall be advised of the charges. The prisoner shall be searched for weapons, evidence, and contraband, and where possible, by an officer of the same sex. Such items shall be secured and identified prior to transportation.
  - 7. Photographs shall be taken of the arrestee with the arresting officer, and of the prisoner and any property that is turned over to the transporting officer. Transporting officers shall not accept prisoners without a properly prepared field arrest form and photographs and shall ensure that all property is placed in a container that is legibly marked with the arrest-form number.
  - 8. Upon arrival at the detention facility, the transporting officer shall deliver the prisoner together with the arrest form and personal property.
  - 9. All injured prisoners and those who request medical attention shall be provided medical attention prior to transportation to the detention facility.
  - 10. Photographs shall be taken of all injuries.

- B. All arrested juveniles shall be handled in accordance with this department's procedures for the arrest, transportation, and detention of juveniles.

## **IX. DEACTIVATION**

- A. When the disturbance has been brought under control, the IC shall ensure that the following measures are taken:
  - 1. All law-enforcement officers engaged in the incident shall be accounted for, and an assessment and documentation made of personal injuries.
  - 2. Witnesses, suspects, and others shall be interviewed or interrogated.
  - 3. All necessary personnel shall be debriefed as required.
- B. All written reports shall be completed as soon as possible after the incident. They will include a comprehensive documentation of the basis for the incident, the department's response to the incident, and a statement of impact that includes the cost of equipment, personnel, and other expenses related to the incident.