

MINNEAPOLIS PARK POLICE
DEPARTMENT

BY ORDER OF THE CHIEF OF POLICE

SPECIAL ORDER 2023-07



DATE ISSUED: June 21, 2023	DATE EFFECTIVE: June 21, 2023	NUMBER: SO 23-07	PAGE: 1 of 14
TO: All Park Police Personnel			RETENTION DATE: Until Rescinded
SUBJECT: Crowd Management Policy (Public Assembly/First Amendment Activity)			APPROVED BY: Chief J. Ohotto

Introduction: This policy is being updated to incorporate the POST model policy on crowd management and first amendment activities.

7-805 Crowd Management (Public Assembly/First Amendment Activity)

- A. The First Amendment to the Constitution of the United States of America states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."
- B. The Bill of Rights in Article 1 of the Minnesota Constitution addresses the rights of free speech and the liberty of the press. However, neither the state nor federal constitutions protect criminal activity or threats against citizens, businesses, or critical infrastructure.
- C. The Minneapolis Park and Recreation Board (MPRB) Park Police Department (MPPD) supports all people's fundamental right to peaceably assemble and their right to freedom of speech and expression.
- D. The purpose of this policy is to provide guidelines to MPPD employees regarding the application and operation of law enforcement actions during public assemblies and First Amendment activity.

I. Definitions

Assembly: An assembly is a group of people gathered together in one place for a common purpose.

Civil Disturbance: A civil disturbance, also known as civil disorder or civil unrest, is when a gathering or assembly becomes violent or involves a collective threat of imminent violence, including but not limited to, assaults, significant property damage, arson fires, and bodily injury to people.

Control Holds: Control holds are soft empty hand control techniques as they do not involve striking.

Crowd Control: Techniques used to address unlawful public assemblies.

Crowd Control Purposes: Using tactics or weapons to contain, control or disperse a crowd or assembly.

Crowd Control Weapons: Crowd control weapons include any weapon (or tool used as a weapon) used to address a civil disturbance or other unlawful public assembly. These include chemical aerosols, chemical munitions or projectiles (CS or OC), smoke munitions or projectiles, marking rounds (40mm direct, exact or blunt impact projectiles or rounds), rubber bullets, impact weapons (ASP batons, riot sticks, bicycles or other items used as impact weapons), and light sound distraction devices (inert, CS or OC blast balls). Authorization for use of crowd control weapons is set forth in section [D] below.

Crowd Escort Actions: Actions to escort crowds, moving or directing them back, with contact that does not rise to the level of a forceful shove or strike.

Crowd Management: Techniques used to manage lawful public assemblies before, during, and after an event. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and based on the specific circumstances presented and in light of prior crowd events.

Deadly Force: Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm.

Demonstration: An assembly of people organized primarily to engage in First Amendment activity. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention.

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.

1. Common First Amendment activities include, but are not limited to:

- Speeches
- Demonstrations
- Vigils
- Picketing
- Distribution of literature
- Displaying banners or signs
- Street theater, and
- Other artistic forms of expression.

2. 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 and the Minnesota State Constitution.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Legal Observers: Individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests and other activities. The following may be indicia of a legal observer: Wearing a green National Lawyers' Guild issued or authorized Legal Observer hat and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.

Media: Media means any person who is an employee, agent, or independent contractor of any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite station or network, or audio or audiovisual production company, or any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution. For purposes of this policy, the following are indicia of being a member of the media: visual identification as a member of the press, such as by displaying a professional or authorized press pass or wearing a professional or authorized press badge or some distinctive clothing that identifies the wearer as a member of the press.

Munitions:

Chemical Agent Munitions: Munitions designed to deliver chemical agents from a launcher or be propelled by hand.

Less-Lethal Impact Munitions: Impact munitions which can be fired, launched, or otherwise propelled.

Direct Fired Munitions: Less-lethal impact munitions that are designed to be direct fired at a specific target.

Indirect-Fired Munitions: Less-lethal non-direct impact munitions that are discharged toward a surface in front of a target, intended to impact the subject following contact with the surface.

Unlawful Assembly: According to MN Statute section 609.714, “When three or more persons assemble, each participant is guilty of unlawful assembly, which is a misdemeanor, if the assembly is:

1. with intent to commit any unlawful act by force; or
2. with intent to carry out any purpose in such manner as will disturb or threaten the public peace; or
3. without unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace.”

II. Policy

A. Facilitating Exercise of Rights

1. MPPD employees shall not unlawfully interfere with people engaged in the lawful exercise of their rights.
2. The MPPD will uphold the constitutional rights of free speech and assembly while using the minimum amount of physical force and authority required to address a crowd management or crowd control issue.
3. The policy of the MPPD regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, and vital facilities while maintaining public peace and order during a public assembly or First Amendment activity.

B. Policy Application

This policy concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder applies to:

- Spontaneous demonstrations,
- Spontaneous crowd event situations, and
- Planned demonstration or crowd events regardless of the permit status of the event.

C. Use of Force

1. Nothing in this policy prohibits officers' abilities to use appropriate force options to defend themselves or others.
2. Use of any crowd control weapons shall be reported and reviewed in accordance with the sections on Force Reporting and Supervisor Force Reviews.

D. Supervisor Responsibility for Oversight

Supervisors shall be responsible for:

1. Ensuring that officers assigned launchers or munitions have completed relevant training and certification as applicable.
2. Describing to on-scene officers the rules of engagement for the deployment of munitions, including a review of the applicable use-of-force policy sections.
3. Maintaining responsibility for the munitions issued and deployed.
4. Ensuring appropriate radio notification of deployments where practical and ensuring subsequent reporting.
5. Ensuring officers complete proper written documentation for the deployment of less-lethal weapons after deploying such tools.

E. Incident Commander

In some cases, the Incident Commander role in this policy may be the same person as the on-scene supervisor.

F. Annual Policy Review

This policy is to be reviewed annually.

III. Procedures/Regulations

A. Uniform

1. All officers responding to public assemblies shall at all times, including when wearing protective gear, display their agency name and a unique personal identifier.

2. The Park Chief or the Park Chief's designee shall maintain a record of any officer at the scene who are not in compliance with this requirement due to exigent circumstances.

B. Officer Conduct

1. Officers shall maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members.
2. Verbal abuse against officers does not constitute a reason for an arrest or for any use of force against such individuals.
3. Officers shall not take action or fail to take action based on the opinions being expressed.
4. Officers shall not interfere with the rights of members of the public to observe and document police conduct via video, photographs, or other methods unless doing so interferes with on-going police activity.
5. Officers shall not use a weapon or munition unless the officer has been trained in the use and qualified in deployment of the weapon/munition.
6. This policy does not preclude officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

C. Responses to Crowd Situations

1. Spontaneous Disturbances

Officers responding to large-scale disturbances, or those that are likely to become violent, shall notify their supervisor. The responding supervisor shall assume the role of Incident Commander and determine the need for additional assistance, equipment, and tactics to be used.

- a. The Incident Commander shall inform the Park Police Chief and MPD Watch Commander, who shall contact MECC with information of the situation. MECC shall follow their notification protocol.
- b. The first level of additional assistance shall be on-duty Park Officers, followed by a request for precinct officers and designated response cars. The Incident Commander shall establish a field command post with a designated staging area. The Incident Commander shall designate officers for security details for police vehicles and equipment.
- c. The Incident Commander may request the activation of the MPD SWAT team to provide additional demonstration management resources. Upon activation, the SWAT team will be deployed and directed by the SWAT Lieutenant in consultation with the Incident Commander.
- d. The Incident Commander shall be in charge of the incident as a whole, however, the MPD SWAT Lieutenant shall direct the specific actions of SWAT members once they have been activated, consistent with the mission outlined by the Incident Commander.

2. Lawful Assembly

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest, or otherwise express their views and opinions through varying forms of communication including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting and loitering.

3. Unlawful Assembly

- a. 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.
- b. 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.
- c. Whenever possible, the unlawful behavior of a few participants shall not result in the time, place or manner of expression being impacted for majority of peaceful protestors, unless other participants or officers are threatened with dangerous circumstances.
- d. 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.

4. Declaration of Unlawful Assembly

- a. If the Incident Commander has declared an unlawful assembly, the reasons for the declaration and the names of the decision maker(s) shall be recorded.
 - i. The declaration and dispersal order shall be announced to the assembly.
 - ii. The name(s) of the officers announcing the declaration should be recorded, with the time(s) and date(s) documented.
- b. The dispersal order shall include:
 - i. Name, rank of person, and agency giving the order.
 - ii. Declaration of Unlawful Assembly and reason(s) for declaration.
 - iii. A minimum of two egress routes that may be used.
 - iv. Specific consequences of failure to comply with dispersal order.
 - v. How long the group has to comply.

- c. Whenever possible, dispersal orders should also be given in other languages that are appropriate for the audience. Officers shall recognize that not all crowd members may be fluent in the language(s) used in the dispersal order.
- d. Dispersal announcements shall be made in a manner that will ensure that they are audible over a sufficient area.
 - i. Dispersal announcements shall be made from different locations when the demonstration is large and noisy.
 - ii. The dispersal announcements should be repeated after commencement of the dispersal operation so that people not present at the original broadcast will understand that they must leave the area.

5. Crowd Dispersal

- a. Crowd dispersal techniques should not be initiated until officers have made repeated announcements to the crowd, or are aware that repeated announcements have been made, asking members of the crowd to voluntarily disperse and informing them that, if they do not disperse, they will be subject to arrest.
- b. 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 officer commands before action is taken.
- c. If negotiations 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, and by using the minimum amount of physical force and authority needed to address the issue.
- d. 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 a new declaration of unlawful assembly has been made.

D. Authorization for Crowd Control Weapon Use

- 1. Except as provided in [E] below, during civil disturbances or assemblies (as defined in this policy), authorization for use of crowd control weapons shall only come from the Park Chief, or if the Park Chief is unavailable, the Park Chief's designee at the rank of lieutenant or above.
 - a. Such authorization shall be given over the police radio via radio transmission to personnel on scene, whenever possible.
 - b. The Incident Commander shall ensure that any authorization for crowd control weapons (which must come from the Park Chief or if the Park Chief is unavailable, the Chief's designee at the rank of lieutenant or above) is documented in the Police Report, including the person who authorized the use of crowd control weapons. MPPD shall retain such documentation for a period of not less than seven years.

- c. Sworn MPPD employees shall not use crowd-control weapons in a civil disturbance or an assembly until they have been authorized under this policy, unless there is an immediate need to protect oneself or another from objectively imminent physical harm, as detailed in [E] below.
2. Crowd control weapons shall not be authorized for peaceful gatherings or assemblies (such as peaceful protests and demonstrations).
3. In situations not involving civil disturbances or assemblies, the use of weapons listed in this policy shall be in accordance with the Use of Force Policy specific to those weapons.

E. Objectively Imminent Physical Harm to Oneself or Another

1. If there is an immediate need to protect oneself or another from objectively imminent physical harm and crowd control weapons have not been authorized under [D] above:
 - a. Crowd control weapons, excluding chemical munitions, smoke munitions and light sound distraction devices, may be used without prior authorization in order to stop the assaultive conduct or act of violence.
 - b. In these circumstances, crowd control weapons may only be used against specific people who are posing a threat of objectively imminent physical harm to another person.
 - c. Chemical munitions, smoke munitions and light sound distraction devices may not be used in these circumstances.
2. The sworn officer using crowd control weapons under such circumstances must notify their supervisor of the use of crowd control weapons as soon as it is safe to do so.
3. The supervisor shall notify the Incident Commander as soon as it is safe to do so.
4. Any sworn officer who uses crowd control weapons under this section (against specific people in an assembly without prior authorization) shall document and detail in the police report the specific circumstances establishing that there was an immediate need to protect themselves or another from objectively imminent physical harm. MPPD shall retain such documentation for a period of not less than seven years.
5. The Incident Commander who is notified shall email a brief notification before the end of their shift that an officer used crowd control weapons without prior authorization, including the case number and circumstances establishing the need to use the weapon, to the Park Chief of Police and MPPD lieutenants for further review and handling.

F. Crowd Control and Crowd Dispersal Tactics

Crowd control weapons may only be authorized and used during civil disturbances and assemblies in accordance with the Use of Force Policy and the conditions set forth in this policy, including the authorization requirements in section [D].

1. Canine use prohibited

Park Police officers do not use canines.

2. Fire hoses prohibited

Fire hoses shall not be used for crowd control, crowd containment, or crowd dispersal.

3. FSDDs prohibited

Park Police officers do not use FSDDs (also known as “flash-bangs”).

4. Electronic Control Weapons (ECWs) prohibited

Electronic Control Weapons (ECWs) shall not be used for crowd control, crowd containment, or crowd dispersal. This provision does not limit the use of ECWs under the conditions of [E] regarding objectively imminent physical harm.

5. Vehicles

- a. Police vehicles shall not be used for crowd dispersal.
- b. Vehicles may be used for purposes of observation, visible deterrence, traffic control, transportation, use of the public address system, and area control during a crowd event.

6. Bicycles

- a. Bicycles may be used to control and move people as appropriate. Bicycles may be authorized for crowd escorts by the Incident Commander.
- b. Strikes with bicycles and other uses of a bicycle as a weapon shall follow the policies and procedures for impact weapon use.

7. Horses

Park Police officers do not ride horses.

8. Munitions and 40mm Launchers

a. 40mm launchers

In accordance with the section on 40mm launchers in Use of Force Policy, during civil disturbances or assemblies:

i. Carrying 40mm launchers

Only when authorized by the Park Chief, or when the Chief is unavailable, the Chief’s designee at the rank of lieutenant or above, officers who have been trained in the use of 40mm launchers may carry them.

b. Less-lethal impact munitions

i. Use of less-lethal impact munitions

aa. Less-lethal impact fired munitions shall never be used indiscriminately against a crowd or group of people.

ab. Less-lethal impact munitions shall be used only against a specific individual who is engaging in conduct that poses an immediate threat of objectively imminent physical harm (as covered by section [E]).

ac. When circumstances permit, the Incident Commander shall make an attempt to accomplish the policing goal without the use of less-lethal impact munitions as described above, and, if practical, an audible warning shall be given to the subject before use of the weapon.

ii. Areas to avoid targeting

In accordance with the Use of Force Policy, officers shall intentionally not discharge less-lethal impact munitions at a person's head, neck, throat, face, armpit, spine, kidneys, or groin unless deadly force would be justified.

c. Chemical munitions

Park Officers do not use chemical munitions.

9. Impact weapons

a. Display of batons or riot sticks

Batons and riot sticks may be visibly displayed and held in a ready position during squad or platoon formations.

b. Crowd movement

Impact weapons (such as batons, riot sticks and riot shields) may be used as tools for crowd escorts when authorized by the Incident Commander.

c. Use of impact weapons

i. Impact weapon strikes shall not be used indiscriminately against a crowd or group of people, but only against specific individuals who are physically aggressive or actively resisting arrest.

ii. Impact weapon strikes should not be used in a crowd control situation against an individual who is attempting to comply but is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle.

d. Areas to avoid targeting

Officers shall not strike a person with any baton to the head, neck, throat, kidneys, spine, or groin, or strike with force to the armpit unless the person has created an imminent threat of great bodily harm to another.

e. Use against a person in handcuffs

Impact weapons shall not be used against a person who is handcuffed except when permissible under the Use of Force Policy and state law.

10. Aerosol hand-held chemical agents

- a. Use of aerosol hand-held chemical agents
 - i. Aerosol hand-held chemical agents shall only be used against specific individuals who are engaged in conduct that poses an immediate threat of objectively imminent physical harm. Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used indiscriminately for crowd management, crowd control, or crowd dispersal.
 - ii. Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.
 - iii. Officers shall only use department approved chemical agents.
- b. Subject exposure treatment
 - i. When possible, people should be removed quickly from any area where hand-held chemical agents have been used. Officers shall monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent.
 - ii. A subject who has been sprayed with a hand-held chemical agent shall not be left lying on their stomach once handcuffed or while restrained with any device.

G. Arrests

1. Encircle crowd

If the crowd has failed to disperse after the required announcements and sufficient time to disperse, officers may encircle the crowd or a portion of the crowd to make multiple simultaneous arrests.

2. People seeking to be arrested

- a. People who make it clear (e.g., by non-violent civil disobedience) that they seek to be arrested may be arrested and shall not be subjected to other dispersal techniques, such as the use of impact weapons or chemical agents.
- b. People refusing to comply with arrest procedures may be subject to the reasonable use of force.

3. Arrests of non-violent people

Arrests of non-violent people shall be accomplished by verbal commands and persuasion, handcuffing, lifting, carrying, the use of dollies and/or stretchers, and/or the use of soft empty hand control holds.

4. Arrestee injuries

- a. Officers shall document any injuries reported by an arrestee.

- b. As soon as practical, officers shall obtain professional medical treatment for the arrestee, if applicable.

5. Juvenile arrests

Juveniles arrested in demonstrations shall be handled consistent with policy on arrest, transportation, and detention of juveniles.

6. Arrests of people with disabilities and Limited English Proficiency

- a. Officers arresting a person with a disability affecting mobility or communication shall follow the MPD policy on arrest, transportation, and detention of people with disabilities.
- b. Officers shall follow policy for providing services to people who are Limited English Proficiency.

7. Handcuffing arrestees

a. Handcuff policies

All people subject to arrest during a demonstration or crowd event shall be handcuffed in accordance with policy.

b. Flex-cuffs

- i. 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.
- ii. When an arrestee complains of pain from overly tight flex cuffs, officers shall examine the cuffs and ensure proper fit.
- iii. Arrestees in flex-cuffs shall be monitored to prevent injury.
- iv. Each unit involved in detention or transportation of arrestees with flex-cuffs should have a flex-cuff cutter and adequate supplies of extra flex-cuffs readily available.

H. Media.

The media have a First Amendment right to cover public activity, including the right to record video or film, livestream, photograph, or use other mediums.

- 1. The media shall not be restricted to an identified area and shall be permitted to observe and shall be permitted close enough access to view the crowd event and any arrests. An on-scene supervisor or the Incident Commander may identify an area where media may choose to assemble.
- 2. Officers shall not arrest members of the media unless they are physically obstructing lawful efforts to disperse the crowd, or efforts to arrest participants, or engaged in criminal activity.
- 3. The media shall not be targeted for dispersal or enforcement action because of their media status.

4. Even after a dispersal order has been given, clearly identified media shall be permitted to carry out their professional duties unless their presence would unduly interfere with the enforcement action.

I. Legal Observers

1. Legal observers, including unaffiliated self-identified legal observers and crowd monitors, do not have the same legal status as the media, and are subject to laws and orders similar to any other person or citizen.
2. Legal observers and monitors must comply with all dispersal orders unless an on-scene supervisor or the Incident Commander chooses to allow such legal observers and monitors to remain in an area after a dispersal order.
3. Legal observers and crowd monitors shall not be targeted for dispersal or enforcement action because of their status.

J. Documentation of Public Assembly and First Amendment Activity

1. Public assembly or first amendment activity shall not be visually documented, except under the following circumstances:
 - a. When required by the Body-Worn Camera (BWC) or Mobile Video Recording (MVR) policies, or
 - b. Documentation of the event for the purposes of debriefing,
 - c. Documentation to establish a visual record for the purposes of responding to citizen complaints or legal challenges (including through required BWC or MVR activations), or
 - d. Creating visual records for training purposes.
 - e. When authorized under MN Statute section 626.19 Subd. 4 regarding UAV use.
2. Any authorized video or photo documentation shall be done in a manner that minimizes interference with people lawfully participating in First Amendment activities.
3. Videotaping and photographing of First Amendment activities shall take place only when authorized by an on-scene supervisor or the Incident Commander.
4. Individuals should not be singled out for photographing or recording simply because they appear to be leaders, organizers, or speakers.
5. Unless evidence of criminal activity is provided, 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.
6. 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 photographs shall be destroyed in accordance with policies, retention guidelines and state law.

7. This policy shall not prohibit employees from using these videos or footage from such videos as part of training materials for officers in crowd control and crowd dispersal techniques and procedures.

K. Training

1. Initial and ongoing training

- a. All officers should receive yearly training on appropriate responses to crowd control and crowd management.

2. Joint training

Joint training should also be conducted with all agencies who are involved in crowd management activities.

3. Less-lethal 40mm launcher and munition training

- a. The MPPD shall ensure that officers assigned the weapons or munition have completed relevant training and certification as applicable, ideally well in advance of an incident.
 - b. The training shall describe the rules of engagement for the deployment of munitions, including a review of the applicable use-of-force policy sections.

Department policy approved by:

 6-21-2023
Al Bangoura, Superintendent Date