


<b>MELROSE POLICE DEPARTMENT</b>		Department Manual: <b>Policy No. 7.03</b>
<b>Crowds &amp; Demonstrations</b>		
<b>MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: N/A</b>		<b>GENERAL ORDER 21-007</b>
<b>Effective Date:</b> <b>January 29, 2021</b>  <b>Revised:</b> <b>March 5, 2024</b>	<b>Issuing Authority</b> <i>Kevin Faller</i> <b>Kevin Faller</b> <b>Chief of Police</b>	

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The right of lawful assembly and freedom of speech are fundamental rights guaranteed under the First and Fourteenth Amendments to the U.S. Constitution. There are, however, limitations on the exercise of these rights and the police must enforce these limitations firmly, fairly and impartially. The police have the responsibility to protect the rights of all persons to assemble peacefully and at the same time to preserve the basic peace of the entire community.

In responding to any disturbance, whether it erupts purposely or spontaneously, the restoration of peace should be accomplished by persuasion whenever possible, and by force only when absolutely necessary. In carrying out crowd control measures, the objectives of the police are:

1. to contain the disturbance to the immediate vicinity;
2. to disperse the crowd as expeditiously as possible;
3. to prevent their regrouping or reentry to the scene;
4. to take action against the perpetrators of serious offenses and remove them immediately from the scene.

Good judgment must be exercised in making arrests as leaders of disturbances often deliberately seek arrest to become martyrs to their cause and thereby incite their followers to greater violence. Mass arrests can also dilute the effectiveness of the police by requiring officers to be withdrawn from crowd-control duty for the custody and processing of prisoners. If the leaders of a disturbance are known to the police, criminal complaints can later be sought requiring their subsequent appearance in court. Officers making arrests must be prepared to identify their prisoners in court and to testify to the specific offenses committed.

In quelling a civil disturbance, every effort must be made to avoid over-reaction by the police as the conduct and attitude of individual police officers can be the cause of escalating or expanding the original disturbance and making it much more difficult to restore order.

Officers should also be aware of the statute which codifies the authority of police to suppress all unlawful disturbances and disorders, to make entries to suppress a riot or breach of the peace, and to arrest persons who engage in an unlawful disturbance or riot and those who aid or abet them<sup>1</sup>. However, this law should not be misread as authorizing police action against persons who are simply assembled and who present no clear and imminent danger to the public peace.

Initially, persons assembled in a crowd or demonstration may be presumed to be exercising their First Amendment rights, at least until police learn otherwise. However, police may make appropriate arrests if they have probable cause to believe that an arrestable offense is being committed.

## II. PLANNED MASS DEMONSTRATION

When a police department has advance knowledge of a planned mass demonstration, it shall attempt in good faith to communicate with organizers of the event to discuss:

1. logistical plans;
2. strategies to avoid conflict; and
3. potential communication needs between police and event participants.

The department **shall make plans** to avoid and de-escalate potential conflicts and designate an officer in charge of de-escalation planning and communication about the plans within the department.

A law enforcement officer **shall not discharge or order the discharge of tear gas or any other chemical weapon, discharge or order the discharge of rubber pellets from a propulsion device or release or order the release of a dog to control or influence a person's behavior unless:**

1. de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances; and
2. the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the tear gas or other chemical weapon, rubber pellets or dog is proportionate to the threat of imminent harm.
3. **If a law enforcement officer utilizes or orders the use of tear gas or any other chemical weapon, rubber pellets or a dog against a crowd**, the law enforcement officer's appointing agency **shall file a report** with the *Massachusetts Peace Officer Standards and Training Commission* ("POST") detailing all measures that were taken in advance of the event to reduce the probability of disorder and all de-escalation tactics and other measures that were taken at the time of the event to de-escalate tensions and avoid the necessity of using the tear gas or other chemical weapon, rubber pellets or dog.

***Note:** The Massachusetts Peace Officer Standards and Training Commission ("POST") shall review the report and may make any additional investigation. After such review and investigation, the commission shall, if applicable, make a finding as to whether the pre-event and contemporaneous de-escalation tactics*

*were adequate and whether the use of or order to use such tear gas or other chemical weapon, rubber pellets or dog was justified.*

### **III. UNLAWFUL ASSEMBLY**

Officers should be aware that the elements of the crime of unlawful assembly are:

1. five or more persons, being armed with clubs or other dangerous weapons, or ten or more persons, whether armed or not;
2. are unlawfully, riotously or tumultuously assembled;
3. the police or other officials have commanded them to disperse immediately and peaceably; and
4. they do not so disperse.

When responding to any disturbance, whether it erupts purposely or spontaneously, the restoration of peace should be accomplished by persuasion whenever possible, and by force only when necessary.

When carrying out crowd control measures, the objectives of the police are to protect persons from death or injury and property from destruction by:

- a. containing the disturbance to the immediate vicinity;
- b. dispersing the crowd as expeditiously as possible;
- c. preventing their regrouping or reentry to the scene; and
- d. taking action against the perpetrators of serious offenses and remove them immediately from the scene.

M.G.L. Chap. 41, s 98 gives police officers the authority to suppress and prevent all disturbances and disorder, disperse any assembly of three or more persons and to enter any building to suppress a riot or breach of the peace therein.

### **IV. PRELIMINARY PROCEDURES**

1. The first officer on the scene shall ascertain the facts. This is a primary requirement. If a dangerous situation has arisen, assistance shall be summoned immediately.
2. No officer shall attempt to take direct police action against an aggressive or militant crowd until sufficient police are present for effective control.
3. The first officer or officers on the scene shall quickly evaluate the situation and immediately inform the Officer-in-Charge of the following:
  - a. the location and approximate size of the crowd;
  - b. the type and makeup of the crowd;
  - c. its direction of movement, if any;
  - d. the apparent intent of the crowd;
  - e. whether armed with any kind of actual or potential weapons;
  - f. the best direction of approach to the crowd;
  - g. if any leaders of the crowd have been identified and what is known about them.

4. Vehicular and pedestrian traffic shall be prevented from entering the immediate area to avoid the gathering of curious spectators. Where appropriate, bystanders and occupants of residences and businesses should be evacuated from an area threatened by a volatile mob before the mob reaches the area. Whenever homes and businesses are abandoned and if it is safe to do so, sufficient police should be stationed in the area to prevent vandalism and looting.
5. Upon notification of the existence of an aggressive crowd, sufficient assistance shall be dispatched as quickly as possible to take decisive action and to neutralize the possibility of widespread disorder.

## **V. CROWD CONTROL PROCEDURES**

1. All officers assigned to crowd control shall:
  - a. use only the amount of force necessary to obtain control, to protect themselves or other officers from physical injury or to make arrests;
  - b. maintain strict impartiality;
  - c. be courteous but firm;
  - d. not use insulting language;
  - e. not respond to verbal abuse;
  - f. not debate the issue with the crowd;
  - g. maintain a calm but determined attitude;
  - h. be vigorous and decisive when action is required;
  - i. act together as a coordinated unit;
  - j. keep emotional and agitated persons in the crowd separated;
  - k. keep counter-demonstrations from forming;
  - l. avoid individual combat as far as possible;
  - m. not make indiscriminate or unnecessary arrests;
  - n. remove any arrested persons immediately from the scene of the disturbance;
  - o. ensure that a video or photograph (preferably of a self-developing type) is taken of each arresting officer with his prisoner for accurate identification in later court proceedings; and
  - p. carefully note the specific offense committed by any person arrested to justify a later conviction for that offense.
2. The crowd shall be broken up from its outer edges and permitted to disperse as individuals or small groups. A sufficient number of avenues of dispersal shall be provided.
3. No attempt shall be made to bluff an unruly crowd or to accomplish a police objective without sufficient forces.
4. Violence or the threat of imminent violence or a violation of any criminal law on the part of individuals in an unruly or volatile crowd may require police restraint, including arrest. Officers should keep in mind that they possess a common law authority to make a warrantless arrest of any person as follows:
  - a. if any felony has been committed or the officer has probable cause to believe a felony has been, is being, or will be committed; or
  - b. for a misdemeanor if:
    - i. the misdemeanor involves an actual or threatened breach of the peace; or

- ii. it is committed in the officer's presence or view; or
  - iii. it is ongoing or only momentarily interrupted.
- 5. See the departmental policy and procedure entitled **Arrests** for a complete discussion of this topic and for a list of statutes authorizing warrantless arrests for misdemeanors not committed in the officer's presence or not involving a breach of the peace. A "breach of the peace" has been defined as a violation of public order or decorum which disturbs the public peace and tranquility; or "an act of disorderly conduct which disrupts the public peace." Arrests of violent or unruly individuals in crowds or demonstrations are most commonly based on violations of such criminal statutes as disturbing the peace, disorderly conduct, criminal trespass, malicious damage to property, assault and battery, larceny, threatening and similar offenses.

## **VI. POST-INCIDENT DEBRIEFING**

After order has been restored, a debriefing session should be scheduled involving the chief, supervisors, and all officers involved. Post-incident analyses will help the Department prepare for future incidents. In addition, department officials will be made aware of critical incidents which require their attention and which may become the subject of inquiry. Where appropriate, non-police personnel (such as psychologists or race relations experts) should participate in the post-incident analysis.

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<sup>i</sup> M.G.L. c.41 s. 98