

TOWN OF CHEEKTOWAGA POLICE DEPARTMENT

Effective: March 19, 2015	Subject: CROWD MANAGEMENT and CIVIL DISTURBANCES
Rescinded:	

GENERAL ORDER O-9-3

Freedom of speech rights are part of the New York State and United States Constitutions.

The First Amendment of the United States Constitutions states:

“Congress shall make no laws 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 to assemble, and to petition the government for a redress of grievances.”

“(a) Every person may freely speak, write and publish his or her statements on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.”

Article I, Sections 8 and 9 of the New York State Constitution states:

“§8. Every citizen may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.”

“§9. 1. No law shall be passed abridging the rights of the people peaceably to assemble and to petition the government, or any Department thereof...”

I. PURPOSE

The purpose of this policy is to establish guidelines for managing crowds and preserving the peace during lawful demonstrations and unlawful civil disturbances.¹

II. POLICY

It is the responsibility of the Cheektowaga Police Department to preserve the peace while protecting the rights of demonstrators to assemble peacefully and exercise free speech. Officers will make reasonable efforts to employ non-arrest methods of crowd control; but shall make arrests for violations of the law when necessary.

This agency will strive to effectively manage crowds during lawful demonstrations or unlawful civil disturbances to prevent loss of life, injury, or property damage and minimize disruption to persons who are uninvolved. Officers encountering such incidents shall adhere to this policy to protect life, property, and the exercise of First Amendment rights. In circumstances involving emergencies or highly volatile civil unrest with the potential for widespread violence, the Incident Commander (IC) may temporarily suspend any policy, provision, or guideline contained herein when such action is determined to be the only reasonable alternative for the prevention of loss of life or major property damage.¹

In the event of any civil disturbance (riots, uprisings, demonstrations) in Cheektowaga, the Chief of Police and the Captain of Patrol Division will be notified pursuant to the chain of command. Police shall respond upon orders from Dispatch or a Supervisor and display an attitude

¹ IACP National Law Enforcement Policy Center, 2014

of neutrality and shall not engage in demonstration related discussion with participants. The Watch Commander of the shift will respond to civil disturbances.

III. DEFINITIONS

Civil Disturbance (Unlawful): 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.²

Demonstration (Lawful): A lawful assembly of persons organized primarily to engage in First Amendment activity. These may be scheduled events that allow for law enforcement planning. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention. Lawful demonstrations can devolve into unlawful civil disturbances that necessitate enforcement action.²

Crowd Control (used for Unlawful Assemblies): Techniques used to address civil disturbances (unlawful assemblies), to include a show of force, crowd containment, dispersal equipment and tactics, and preparations for multiple arrests.²

Crowd Management (used for Lawful Assemblies): Techniques used to manage lawful assemblies before, during, and after the event for the purpose of maintaining their lawful status through event planning, pre-event contact with group leaders, issuance of permits when applicable, information gathering, personnel training, and other means.²

Impact Projectiles: Projectiles designed and intended to deliver non-penetrating impact energy from safer than contact range. These may include direct fire or non-direct skip-fired rounds. The latter are projectiles that are discharged toward the ground in front of a target, theoretically delivering the energy to the subject following contact with the ground.

Scheduled Event: An event that is publicized or has obtained a permit through advance planning; for which large numbers of persons may gather or participate.^{2,3}

Spontaneous Event: A public demonstration incident which is not anticipated and for which the Department does not have adequate time to develop and action plan or otherwise prepare for the event. Such activities may be lawful or they may create a risk to public safety and peace, or damage to property.³

Riot: A public demonstration involving assemblage of five or more persons engaging in tumultuous and violent conduct and causing public alarm.⁴⁴

Unlawful Assembly: four or more persons assembled for the purpose of engaging or preparing to engage in tumultuous and violent conduct, likely to cause public alarm.⁴

IV. PROCEDURES – GENERAL

A. General Management and Organization Principles

1. Government may impose reasonable restrictions on the time, place, and manner in which persons engage in First Amendment activity. The Department shall place only those limitations and restrictions on demonstrations necessary to maintain public safety and order and, to the degree possible, facilitate uninhibited commerce and freedom of movement.²
2. The Cheektowaga Police Department chain of command will be followed; the highest ranking officer at the scene will be considered the Incident Commander.
3. Officers shall be briefed on what to expect and appropriate responses. They shall be informed that the Incident Commander (IC) or his or her designee(s) shall be responsible for ordering any response deemed appropriate.²
4. It is the policy of this Department to avoid making mass arrests unless necessary.²
5. All event proceedings shall be photographed as well as audio and video recorded when possible.²

² IACP National Law Enforcement Policy Center, 2014

³ Charleston County SC Sheriff's Office, 2011

⁴ NYS Penal Law

V. PROCEDURES – CIVIL DISTURBANCE (UNLAWFUL)

- A. The primary objectives of this Department at a civil disturbance will be as follows:
1. Protect persons, regardless of their participation in the disturbance; and protect property.
 2. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence.
 3. Arrest law violators and remove or isolate persons inciting violent behavior.⁵
- B. Pre-disturbance preparation and planning:
1. All Department members will be alert for and report any intelligence information indicating a disturbance is being planned, or potential situations or events that could foster a civil disorder (i.e., concerts, planned demonstrations, etc.). This information will be forwarded to a supervisor through the chain of command.⁶
 2. The Chief of Police or his designee will be responsible for allocating the appropriate equipment and members necessary to prepare and deal with a potential problem, to include as necessary:
 - a. Intelligence information indicating a disturbance is being planned.
 - b. Potential situations or events that could foster a civil disorder (i.e., concerts, planned demonstrations, etc.).
 - c. Assigning additional officers or dispatchers.
 - d. Coordination of and/or access to personnel and equipment from other Departments consistent with established mutual aid agreements pursuant to General Order O-9-1 Mutual Aid.
 - e. Preliminary preparations for other equipment and for establishment of a command post at a suitable location.⁶
 3. The legal considerations of the Department's response to any potential civil disturbance should be evaluated in advance. This may include but not be limited to consideration of:
 - a. The legal authority of officers responding from another jurisdiction.
 - b. The legal requirements relating to the detention of arrestees (health, safety, counsel, etc.).⁶
- C. Response to Spontaneous Civil Disturbances:
1. The first officer to arrive on the scene of a spontaneous civil disturbance shall:
 - a. Observe the situation from a safe distance to determine if the gathering is currently or potentially violent;
 - b. Notify dispatch of the nature and seriousness of the disturbance, particularly the availability of improvised or deadly weapons, the location and estimated number of participants, current activities (e.g. blocking traffic), direction of movement, and ingress and egress routes for emergency vehicles;
 - c. Request the assistance of a supervisor and necessary backup;
 - d. If approaching the crowd would not present unnecessary risk, instruct the gathering to disperse; and
 - e. Attempt to identify crowd leaders and agitators engaged in criminal acts.⁵
 2. The first supervisor in charge at the scene shall:
 - a. Deploy officers at vantage points to report on crowd actions;
 - b. Establish a perimeter sufficient to contain the disturbance and prohibit entrance into affected area;
 - c. Ensure that, to the degree possible, uninvolved civilians are evacuated from the immediate area of the disturbance⁵;

⁵ IACP National Law Enforcement Policy Center, 2014

⁶ Exeter NH Police Department, 2011

- d. Establish a temporary command post and maintain the position of incident commander until relieved by a higher authority⁷; and
- e. Provide ongoing assessment to Dispatch.
3. In the area outside the perimeter, the IC shall ensure that the following actions are taken:
 - a. Move and reroute pedestrian and vehicular traffic around the disorder.
 - b. Control unauthorized ingress and egress by participants.
 - c. Prevent attempts to assist or reinforce the incident participants from outside the area.¹
4. The IC shall also ensure that:
 - a. Adequate security is provided to Fire and EMS personnel in the performance of emergency tasks;
 - b. Support and relief of personnel are available;
 - c. A secure staging area for emergency responders and equipment is designated;
 - d. Liaison and staging points for media representatives are established and available information is provided as appropriate;
 - e. The IC event log is staffed for documenting activities and actions taken during the course of the incident;
 - f. Photographs are taken and video recordings of event proceedings are made if possible;
 - g. Photographs are taken of any injuries sustained by law enforcement officers or the public⁸;
 - h. Adequate steps are taken to protect the security of any vital public facilities that may be threatened by the disturbance.⁹
5. All officers assigned to any activity related to the Department's response to a civil disturbance will be in uniform or wear a badge or other identification conspicuously so as to clearly designate themselves as police personnel.⁹
6. The Incident Commander or his designee will be responsible for liaison with law enforcement and non-law enforcement support agencies. This includes the Erie County Crowd Management Team under the ECTTF. If the IC determines that Cheektowaga Police Department's SWAT Team is to be called out, the SWAT Team Commander will be responsible for any necessary ECTTF notification. The Incident Commander is also responsible for determining if the New York State Police Mobile Field Unit will be called for.¹⁰ Non-law enforcement agencies may include fire, medical, and ambulance support.
 - a. Non-SWAT Law Enforcement Officers from other jurisdictions should be used in supporting roles such as traffic control, transportation, or detention of prisoners, rather than in a direct enforcement role, whenever possible.

VI. PROCEDURES – UNLAWFUL CIVIL DISTURBANCE: CROWD CONTROL AND DISPERSAL

- A. Before ordering forced dispersal of a civil disturbance, the IC 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 and 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.⁸

⁷ Myrtle Beach VA Police Department, 2006

⁸ IACP National Law Enforcement Policy Center, 2014

⁹ Exeter NH Police Department, 2011

¹⁰ Mobile Field Unit Batavia can be activated by calling 716-759-6831; response time 90-120 minutes

- B. Prior to issuing dispersal orders, the IC shall ensure that all potentially necessary law enforcement, fire, and EMS equipment and personnel are on hand to successfully carry out tactical operations and that logistical needs for making mass arrests are in place.¹¹
- C. When the IC has made a determination that an unruly gathering is present and crowd dispersal is required, he or she shall ensure that, where time and circumstances permit, warnings are issued prior to taking action to disperse the crowd.
 - 1. 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 and the time and the names of the issuing officers recorded in the IC's event log.
 - 2. Specific crowd dispersal tactics shall be ordered as necessary where the crowd does not heed warnings. These include, but are not limited to, any one or combination of the following:
 - a. Display of forceful presence to include police lines, combined with motorcycles, law enforcement vehicles, bicycle units and mobile field forces;
 - b. Crowd encirclement;
 - c. Multiple simultaneous arrests;
 - d. Use of aerosol crowd control chemical agents;
 - e. Law enforcement formations and the use of batons for forcing crowd movement.¹¹
 - f. Canine Teams may respond as backup **but will not be used for crowd control** or dispersal. Canines shall remain in patrol vehicle or secure location, out of sight if possible.
- D. All officers assigned to crowd control shall:
 - 1. Maintain strict impartiality;
 - 2. Be courteous but firm;
 - 3. Not use insulting language;
 - 4. Not respond to verbal abuse;
 - 5. Not debate the issue with the crowd;
 - 6. Maintain a calm but determined attitude;
 - 7. Be vigorous and decisive when action is required;
 - 8. Act together as a coordinated unit;
 - 9. Keep emotional and agitated persons in the crowd separated;
 - 10. Keep counter-demonstrations from forming;
 - 11. Avoid individual combat as far as possible;
 - 12. Use only the amount of force necessary to obtain control, to protect themselves, other officers, or others from physical injury, or to make arrests;
 - 13. Remove any arrested persons immediately from the scene of the disturbance;
 - 14. Carefully note the specific offense committed by any person arrested to obtain a later conviction for that offense
- E. 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.¹²

VII. PROCEDURES – MASS ARREST¹¹

In a civil disturbance it may be necessary to make arrests of numerous individuals over a relatively short period of time. If time permits, the Cheektowaga Police Department Support Team will be activated to initially search, process, and transport mass arrests. The IC may make a determination to utilize Emergency Arrest Booking. The mobile command post trailer may be activated as needed. An Emergency Arrest Booking Team (EABT) will consist of an administrative division

¹¹ IACP National Law Enforcement Policy Center, 2014

¹² Exeter NH Police Department, 2011

lieutenant, 5 detention officers, and supplemented by police officers if necessary. The lieutenant will assign the following posts to the (EABT), 1 property officer, 2 booking officers, 1 prints and mugs officer, 1 escort officer, 1 Public Safety Dispatcher to process criminal histories and if necessary an additional matron may be called in for female prisoners. If a large number of juvenile offenders are arrested the (EABT) lieutenant will notify the Youth & Family Lieutenant for assistance in the arrest and processing of the juveniles.

- A. Upon activation of the (EABT) the Administrative Lieutenant will call the sitting judge for emergency arraignments, if it is determined that offenders will not be released on appearance ticket or an overcrowding situation exists. The EABT lieutenant will provide for bailiffs as necessary.
- B. Mass arrests shall be conducted by designated squads.
- C. An adequate secure area shall be designated for temporary holding of prisoners after initial arrest and awaiting transportation to headquarters for booking. Possible staging areas for potential mass arrest are:
 1. Town Park Ice Rink
 2. Community Room – Galleria Mall
- D. Temporary staging area will be posted with adequate security of police officers or detectives, with possible assistance from mutual aid police Departments.
- E. Arrest teams shall be advised of the basic offenses to be charged in all arrests, and all arrestees shall be advised of these charges.
- F. Arrestees who are sitting or lying down but agree to walk shall be escorted to the temporary holding staging area to await transport to headquarters. Two or more officers shall carry those who refuse to walk.
- G. Prisoners shall be searched incident to arrest for weapons, evidence of the crime of arrest, and contraband.
- H. Juvenile offenders detained will be kept separate from adult offenders if possible. Established juvenile arrest procedures will be followed.¹³
- I. Injured prisoners and those who require medical attention shall be provided medical attention prior to transportation to the police Department. Photographs shall be taken of all injuries.
- J. Emergency Booking Procedures:
 1. Officers at the staging area will complete a hand written (EABT) Emergency Arrest Booking Form as best as possible, along with signed hand prewritten information that has the listed charge. This paperwork will accompany the prisoners when transported for further processing. Any arrested person who is not identified or does not identify him/herself will be assigned an ID number from the Unknown Male or Unknown Female ID Number Log. Use the numbers in sequential order and use each number only once. Unknown Male ID numbers start with an "M" followed by a dash "-" and a four (4) digit number. Unknown Female ID numbers start with an "F" followed by a dash "-" and a four (4) digit number. Examples: M-0101, F-0216.
 2. Any property in the possession of the defendant will be recorded on a standard Prisoner Property Receipt and the property will be transported with the defendant to the police station and handled in the already established manner.
 3. Two officers will transport no more than 10 prisoners in the prisoner transport van, to headquarters, from the holding/staging area.
 4. Upon arrival to headquarters prisoners will be held in holding cages and separated by male and female.
 5. To prevent the overcrowding of CPD booking the sally port will be designated as a secondary holding area and additional security will be provided for.

¹³ City of Creve Coeur, MO, 2011

6. Upon arrival at the police station, the defendants will be turned over to the Administrative Lieutenant who will ensure arrested persons are properly processed and defendants are arraigned.

VIII. PROCEDURES – USE OF FORCE¹⁴

- A. Unless exigent circumstances justify immediate action, officers shall not independently make arrests or employ force without command authorization.
- B. All officers providing assistance to this agency through mutual aid agreements, contracts, or related means shall be informed that they are under the direction and control of this Department's command and supervisory personnel.
- C. The following restrictions and limitations on the use of force shall be observed during demonstrations and civil disturbances. In all cases, weapons should be carried and deployed only by trained and authorized police officers:
 1. Canine teams may respond as backup when appropriate but **shall not be deployed for crowd control** (i.e., containment or dispersal). Canines shall remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd. Canines may be deployed in appropriate circumstances related to bomb detection, pursuit of suspects in buildings, and related situations.
 2. Motor vehicles may be used to surround and move persons as appropriate but shall not be brought into contact with them.
 3. Impact projectiles shall be used only by trained officers. They shall not be fired indiscriminately into crowds.
 - a. Non-direct (skip-fired) projectiles and munitions may be used in civil disturbances where life is in immediate jeopardy, or the need to use the devices outweighs the potential risks involved.
 - b. Direct-fired impact munitions, to include beanbag and related projectiles, have a proven track record of safe and effective use in public order management, when deployed in a manner that recognizes the unique factors involved, including the potential risk of hitting an unintended target due to officer-subject range and crowd density. Accordingly, direct-fire munitions can generally be used during civil disturbances against specific individuals who are engaged in conduct that poses an immediate threat of death or serious injury or significant levels of property damage.
 - c. A verbal warning should be given prior to the use of impact projectiles when reasonably possible.
 4. Electronic control weapons (ECWs) shall be used during civil disturbances only for purposes of restraint or arrest of actively resistant individuals when alternative less forceful means of control are not available or are unsuitable and only when the individual can be accurately targeted. ECWs shall not be fired indiscriminately into crowds.
 5. Aerosol restraint spray, known as oleoresin capsicum (OC), may be used against specific individuals engaged in unlawful conduct or actively resisting arrest, or as necessary in a defensive capacity when appropriate. OC spray shall not be used indiscriminately against groups of people where bystanders would be unreasonably affected, or against passively resistant individuals. High-volume OC delivery systems (such as MK-9 and MK-46) are designed for and may be used in civil disturbances against groups of people engaged in unlawful acts or endangering public safety and security when approved by the IC and only by trained SWAT members. Whenever reasonably possible, a warning shall be issued prior to the use of these systems.
 6. CS (2-chlorobenzalmalononitrile) 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

¹⁴ IACP National Law Enforcement Policy Center, 2014

munitions shall be deployed at the direction of the IC, only by trained SWAT members, and only when avenues of escape are available to the crowd. When reasonably possible, their use shall be announced to the crowd in advance.

7. A baton or similar device can be used primarily as a defensive weapon; as a means of overcoming resistance (e.g. 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.
8. All Use of Force shall be documented as per General Order A-12-1.

IX. PROCEDURES – LAWFUL SCHEDULED EVENTS AND DEMONSTRATIONS¹⁵

- A. A supervisor designated by the Chief of Police shall prepare a written action plan when possible prior to a scheduled event.
- B. Every effort shall be made to make advance contact with the leaders of a scheduled event and to gather information about the event to ensure accurate assignment of personnel and resources. Necessary information includes:
 1. What type of event is involved?
 2. When is it planned?
 3. Will the event coincide with other routine, large scale events (e.g. sporting events)?
 4. Is opposition to the event expected?
 5. How many participants are expected?
 6. What are the assembly areas and movement routes?
 7. What if any critical infrastructures are in the proximity of the event?
 8. Have permits been issued?
 9. Have other agencies such as fire and EMS been notified?
 10. Is there a need to request mutual aid?
 11. Will off-duty personnel be required?
 12. What is the past history of conduct at such events and whether group leaders are cooperative?
- C. The action plan shall address provisions for the following and be distributed to all affected command and supervisory officers:
 1. Command assignments and responsibilities.
 2. Personnel, unit structure, and deployment.
 3. Liaison with event leaders.
 4. Liaison with outside agencies, if necessary.
 5. Release of information to the news media.
 6. Transportation, support, and relief of personnel.
 7. Staging points for additional resources and equipment.
 8. Traffic management.
 9. First aid stations established in coordination with emergency medical service providers, if necessary.
 10. Transportation of prisoners, if necessary.
 11. Prisoner detention areas, if necessary.
- D. If needed, officers shall be deployed to monitor crowd activity. Sufficient resources to handle multiple unruly persons shall be available, depending on the fluidity of the situation and degree of actual or likely disruption.
- E. Personnel shall wear their badges and nameplates or other identification in a visible location on their person at all times.
- F. Officers shall be positioned in such a manner as to minimize contact with the assembly.
- G. Officers shall maintain a courteous and neutral demeanor.

¹⁵ IACP National Law Enforcement Policy Center, 2014

- H. Persons who reside, are employed, or have emergency business within the area marked off by a police line shall not be prevented from entering the area unless circumstances suggest that their safety would be jeopardized or their entry would interfere with law enforcement operations.
- I. Unit commanders shall establish and maintain communication with event leaders and relay information on crowd mood and intent to the IC.
- J. Supervisors shall maintain close contact with their assigned officers to ensure compliance with orders, monitor behavior and disposition, and ensure that they are aware of any changes in crowd behavior or intent.
- K. If a scheduled, lawful event devolves into an unlawful civil disturbance, the procedures outlined in Sections V through VIII shall be followed.

X. PROCEDURES – DEACTIVATION¹⁶

When the disturbance has been brought under control, the IC shall ensure that the following measures are taken:

- A. All personnel engaged in the incident shall be accounted for an assessment and documentation made of personal injuries.
- B. Witnesses, suspects, and others shall be interviewed or questioned.
- C. Any necessary evidence will be collected as per established guidelines.⁸
- D. All necessary personnel shall be debriefed as required.
- E. All written reports shall be completed as soon as possible after the incident. Comprehensive documentation of the basis for the incident, the Department's response to the incident, with a statement of impact to include the costs of equipment, personnel, and related items shall be completed.

¹⁶ IACP National Law Enforcement Policy Center, 2014

EQUIPMENT LIST

Container of Mass arrest supplies will be stored in the storage area attached to the supervisor's office

Digital Camera

Magic Markers (Permanent Type)

"Sharpie" Fine Point Pens

Emergency Arrest Booking Forms (300)

Prisoner Property Receipts (300)

Self-Sealing Prisoner Property Bags

Flex cuffs

Wire cutters

Unknown Male & Female Logs

Emergency Arrest Booking Numbers

Emergency Arrest Booking Log

Laptop

Information's (Preprinted)

Portable Radio / Cell Phone

Law Books

Refer: Cheektowaga Police Disaster Preparedness Manual; Cheektowaga Police Tactical Unit Operation Procedure Manual

References:

IACP National Law Enforcement Policy Center: CROWD MANAGEMENT AND CONTROL. Model Policy, (October 2014)

Charleston County Sheriff's Office. Procedure 6-25, "Civil Disturbance Team" (2011)

NYS Penal Law Section

San Francisco CA Police Department. Crowd Control Manual

Exeter NH Police Department General Order 55-02; Special Operations/Unusual Occurrences and Special Events (2011)

Myrtle Beach VA Police Department. Administrative Regulations and Operating Procedures, 108-A. "Civil Emergency Response". (2006)

City of Creve Coeur, MO. SOP 364-11. Civil Disturbance/Mass Arrest. (2011)

Virginia Department of Criminal Justice Services: "Civil Disturbances" Sample Directive (2010)

Date:

Chief of Police: