



SPECIAL ORDER

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FIRST AMENDMENT ACTIVITIES

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Revisions are italicized

RESCINDS
**SPECIAL ORDER 22-43,
FIRST AMENDMENT
ACTIVITIES (205.4)**

EXPIRATION DATE
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DISTRIBUTION
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PURPOSE

This directive establishes the Department policy related to the First Amendment and members of the public engaged in First Amendment conduct. This policy describes the First Amendment and the rights of members of the public upon the public way, while outlining members' responsibilities when responding to First Amendment activities, including managing crowds and issuing crowd dispersal orders. Members are informed herein of their obligations to protect the First Amendment rights of law-abiding individuals who encounter a hostile audience threatening to create public disorder.

POLICY

The Department's goal is to safeguard life and property, restore and maintain order while protecting the constitutional rights of all parties involved.

Definitions

Crowd Dispersal Order

A lawful command given by a Department member for all persons to leave a designated area when three or more persons are committing acts of disorderly conduct that are likely to cause substantial harm in the immediate vicinity.

First Amendment Assembly

A gathering conducted for the purpose of persons expressing any opinion, idea, or belief.

Incident Commander

The Incident Commander (IC) is the individual responsible for the management of all incident operations at the incident site. The first arriving member at a critical incident scene should be prepared to assume the duties and responsibilities of the incident commander until relieved by proper authority.

Public Way

Any street, alley, or other parcel of land open to the outside air leading to a public street, which has been deeded, dedicated, or otherwise permanently appropriated to the public for public use.

Speech Peddling

When a licensed peddler sells or exchanges for value anything containing words, printing, or pictures that predominantly communicates a non-commercial message.

The First Amendment

The First Amendment to the United States Constitution is as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

First Amendment conduct means speech or activity related to the freedom of speech, free exercise of religion, freedom of the press, the right to assemble, and the right to petition the government. The First Amendment protects, but is not limited to, the following rights:

- a. The right to hold any opinion, idea, or belief.
- b. The right to communicate or receive opinions, advice, ideas, beliefs, or information.
- c. The right to associate and to assemble with others for the purpose of expressing, receiving, or exchanging ideas, beliefs, or information.
- d. The right to advocate for ideas or beliefs, including the right to advocate for an alternative system of government and to advocate for "the use of force or of law violation," except where such advocacy is directed to inciting or producing imminent lawless conduct and is likely to incite or produce such action.
- e. The right to petition the government or governmental officials for redress of grievances.
- f. The right to observe and record events, including approaching individuals to ask questions for news gathering purposes, and disseminating information.

First Amendment rights exercised in a public forum may be subject to reasonable time, place, and manner restrictions, which means content-neutral time, place, and manner restrictions that are narrowly tailored to serve a significant governmental interest and leave open alternative communication channels.

GENERAL PROCEDURES

First Amendment and Code of Conduct

All Department members shall act consistently per the Department's Code of Conduct Policy (Directive 102.3).

Department members **shall not**:

- a. Disrupt, intimidate, harass, or discriminate against, or unlawfully arrest any persons engaged in First Amendment conduct, including for the purpose of preventing the person from lawfully exercising their First Amendment Rights;
- b. Use force to punish, retaliate against, deter, or respond to the lawful expression of First Amendment rights;
- c. Hinder or prevent members of the public from recording Department members who are in the performance of their law enforcement duties in a public place or when the member has no reasonable expectation of privacy; or
- d. Interrogate or otherwise question participants concerning their views unless essential to an investigation of an apparent violation of law.

NOTE: Department members may take reasonable action to maintain safety and control, secure crime scenes and accident sites, protect the integrity and confidentiality of investigations, and protect the public safety and order.

Consistent with the Department's Code of Conduct Policy (Directive 102.3), the Department protects the lives, rights, and property of all people, including protecting public health, safety, welfare, property, and the interest of persons not participating in a First Amendment assembly to use the streets, sidewalks, and other public ways to travel to their intended destinations and use the parks for recreational purposes.

First Amendment and Use of Force

Department members shall only use force that is objectively reasonable and for a lawful purpose based upon the totality of the circumstances consistent with the Department's Use of Force Policy (Directive 304.2), including using the minimum necessary force as described in 304.2 - 5.2 and Training Directive 04-03, Use of Force Continuum.

Pursuant to 304.2 - 4.1(2) De-escalation: "Whenever possible and when such delay will not compromise the safety of the member or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, members shall allow an individual time and opportunity to submit to verbal commands before force is used, and consider any potential barriers to understanding the verbal commands (e.g. language barrier, behavioral crisis, etc.)."

Consistent with the Department's PR-24 Collapsible Batons Policy (Directive 304.4), batons may not be used to intentionally strike a subject in the head or neck except when deadly force is justified. Pursuant to the Department's Chemical Spray Device Policy (Directive 304.3), a chemical spray device is an authorized force option against passive resisters that are part of noncompliant groups, crowds, or an individual taking part in a group or crowd after obtaining authorization from a supervisor, if possible. 304.3 - 5.1 (4) and (5). Furthermore, a chemical spray device is an authorized force option against active resisters as described in Department directive 304.3 – 5.1 (1)(b). If an active resister is part of a group or crowd, a chemical spray device is authorized after obtaining authorization from a supervisor, if possible. 304.3 - 5.1 (4) and (5).

Special equipment that dispense chemical agents such as tear gas or larger volumes of chemical agents are authorized force options against active and passive resisters that are part of noncompliant groups, crowds, or an individual taking part in a group or crowd only under the following conditions:

- a. Authorized users are members of the Mobile Field Force (MFF) and the Special Response Team (SRT), who have been trained in its use;
- b. When the chemical agent is used only for area saturation; and
- c. Only after obtaining authorization from the supervisor, if possible.

Department members will document reportable uses of force consistent with the Department's Use of Force/Detainee Injury Reporting/Investigation Policy (Directive 201.11) and Use of Force Policy (Directive 304.2) for proper reporting requirements.

First Amendment and Recording of Law Enforcement Activity

The First Amendment protects the act of photographing or filming members conducting their official duties in public. The right to record public officials is not limited to streets and sidewalks – it includes areas where individuals have a legal right to be present, including their home or business, and common areas of public and private facilities and buildings. A person may record public police activity unless the person engages in actions that jeopardize the safety of an officer, the suspect, or others in the vicinity, violate the law, or incite others to violate the law. However, a person's recording of police activity from a safe distance without any action intended to obstruct the activity or threaten the safety of others does not amount to interference. Nor does a person's conduct amount to interference if they merely express criticism of observed police activity. The public does not have a right to interfere with policing activity. Interference consists of conduct, threats, actions, or activities that prevent or hinder, or intend to prevent or hinder, members from doing their job.

Limitations on Recording Rights and Enforcement Action

The right to record police activity may be limited only by "reasonable time, place, and manner restrictions" if the person recording is interfering with law enforcement duties. Members shall adhere to the following when being filmed by a citizen:

- a. Members should allow bystanders the same access for filming as members of the news media.
- b. Members should be aware that a bystander has the same right to film as long as the bystander has a legal right to be present where they are located and has the right under the First Amendment to observe and record members in the public discharge of their duties.
- c. The fact that a bystander is recording does not entitle the bystander to cross a police line; to enter an area that is closed to the public; or to enter any area designated as a crime scene.
- d. As long as the filming takes place in a setting at which the person has a legal right to be present and does not interfere with a member's safety, members should not inform or instruct people filming that filming is not allowed, requires a permit, or requires a member's consent.
- e. Members shall not order a person to cease filming; demand the person's identification unless the person has committed a crime; demand the person to state a reason why they are filming; or detain the person absent a crime being committed.
- f. Members shall not intentionally block or obstruct cameras or recording devices, or in any way, threaten, intimidate or otherwise discourage an individual from recording members' enforcement activities.
- g. If a person is filming or recording police activity from a position that impedes or interferes with the safety of members or their ability to perform their duties, a member may direct the person to move to a position that will not interfere. This is an appropriate "time, place, or manner" restriction.
- h. The member must be able to articulate why the citizen's conduct actually interferes with the member's duties. A member should not order the person to stop filming. Acting reasonably to create distance, give warnings, and mitigate the impact the person filming is having on the investigation are all facts that will aid the member in the event enforcement action is taken upon the person filming.
- i. If issued, orders pertaining to the time, place, or manner of filming must be narrowly tailored to mitigate the actual danger or risk posed by the person

recording and leave open ample alternative channels to engage in filming. The time, place, and manner restriction on photographing or filming must also be specific and clearly and unambiguously communicated.

- j. The right to record is of public officials and police officers. The case law is silent as to the recording of private citizens. Therefore, it is recommended the member inform the citizen that they are free to record the member but that if they intend on publishing they may not record citizens without the express written permission of that citizen. This **does not** mean that a member may arrest a citizen if they continue to record under the aforementioned circumstances; relaying this information to the citizen is only meant to be utilized as a tactic to dissuade recording.
- k. A member should never threaten; cite; or decide to arrest a citizen solely because their First Amendment protected speech may be offensive or upsetting to the member.

Seizing Recordings and Recording Devices without a Warrant Prohibited

Pursuant to Fourth Amendment protections, absent a warrant or consent, seizing recordings or recording devices of a citizen filming is not legally justified in most circumstances. Temporarily seizing a cell phone while seeking to obtain a warrant is only permitted (1) if an officer has probable cause to believe that the phone holds contraband or evidence of a crime and (2) the exigencies of the circumstances demand seizing the phone or (3) some other recognized exception to the warrant requirement is present. Seizures must be limited to a reasonable amount of time. ¹

Once temporarily seized, officers may not search the property, in this case, a cell phone without first obtaining a warrant. If an officer wishes to temporarily seize a cell phone in order to obtain a warrant, it is recommended to do so with supervisory approval, seize it for no longer than reasonably necessary while acting with diligence to obtain a warrant, and only if the recording on the phone contains critical evidence of a felony crime. Following this very narrow application diminishes the likelihood of constitutional violations.

First Amendment and Other Department Procedures

- a. The Department prohibits any and all forms of retaliation, including arrest, against any member of the public for engaging in protected lawful exercise of First Amendment rights. (e.g., protected speech, lawful demonstrations, observing or filming police activity, or criticizing the Department, a Department member, or a member's conduct).
- b. Consistent with the Department's Body Worn Cameras Policy (Directive 304.6), Department members equipped with a body-worn camera (BWC) will activate the camera at the beginning of all law enforcement-related activities, such as issuing a dispersal order or making an arrest.

¹ *The U.S. Supreme Court in Illinois v. McArthur, 531 U.S. 326, 334 (2001) held that an officer's warrantless seizure (not a search) of a house for two hours was lawful because the officers had good reason to fear that evidence would be destroyed and the seizure lasted no longer than reasonably necessary for the police, acting with diligence, to obtain a warrant.*

- c. Any allegations of misconduct or policy violations will be reported, initiated, and investigated consistent with the Department's Discipline/Misconduct Investigations Policy (Directive 102.4); Citizen Complaints Policy (Directive 102.6); Use of Force/Detainee Injury Reporting/Investigation Policy (201.11); and Use of Force Policy (Directive 304.2). In response to allegations of misconduct or policy violations, the Chief of Police retains the discretion to take action to restrict the duties of an active duty sworn Department member.

FIRST AMENDMENT RIGHTS

First Amendment Rights in the public way may come in many forms such as Labor Unrest/Strikes and Demonstrations. This Department recognizes each type of public gathering presents a unique set of dynamics requiring a measured response appropriate to the circumstances. The Department shall respond quickly and effectively to civil disturbances and disorders. The Incident Command System (ICS) shall be used to handle such events.

Labor Unrest/Strikes

Sworn members responding to or coming upon the scene of labor unrest or a strike shall make an initial assessment of the situation and notify the zone dispatcher of the size and scope of the strike. Sworn members need to assess the potentiality for violence and notify a supervisor to respond. If necessary, the responding supervisor shall notify the officer-in-charge of the precinct desk and depending on the severity of the situation, executive notifications will be made through Communications Operations. A patrol supervisor shall be dispatched to the location of the incident, to determine the legality of the strike. Picketing strikers cannot loiter on sidewalks, streets, or other public places and cannot block or hinder access to a facility. Additionally, picketing strikers shall not be engaged unless absolutely necessary or ordered to do so by a supervisor.

Demonstrations

The Detroit Police Department has the statutory responsibility to preserve the public peace, safeguard lives and property while protecting the constitutional rights of free speech and assembly. However, if the assembly is unlawful, or the demonstrators resort to unlawful activity, the department must respond to restore public order. To accomplish this goal, the department will endeavor to utilize verbal commands as the primary means to maintain control of the demonstration. In the event force is required to control or disperse the assembly, only that force necessary to accomplish the mission or to overcome resistance will be authorized.

Limits on First Amendment Activities

The rights protected by the First Amendment and exercised on the public way are not absolute and are subject to time, place, and manner restrictions, as well as other applicable laws.

- a. Persons expressing views protected by the First Amendment on the public way are required to comply with Detroit City Ordinance Chapters 4, 34, and 49.
- b. After a reasonable amount of time following the issuance of a crowd dispersal order, participants in a First Amendment assembly who disobey a lawful

- crowd dispersal order issued as prescribed in this directive are subject to Department enforcement actions.
- c. Department members will protect the free speech rights of all persons, no matter what the particular message, position, or philosophy espoused, as long as the person expressing that message, position, or philosophy is not violating the law and has abided by any reasonable time, place, and manner restrictions placed on the expression of such ideas.
 - d. If an incident where a hostile audience threatens a speaker, artist, exhibitor, or artwork or there is a danger of harm to persons or property, Department members shall:
 - If artwork or other expressive material is involved, attempt to ascertain who owns or has right of custody of the material;
 - Advise the speaker, artist, or exhibitor, if present, of the right to continue the expression at the current site;
 - Begin or continue police protection so as to allow the speaker, artist, or exhibitor to continue the expression of speech or art; and
 - Request that a supervisor respond to the scene.
 - e. When an expression of speech or art is threatened by a hostile audience, the incident commander will determine if the assignment of additional police personnel will allow for the continuation of the expression.
 - f. If it is determined that the expression cannot continue at the original site due to the activities of persons hostile to the expression, the on-scene the incident commander will consider if:
 - All police resources reasonably available have been deployed to maintain the peace and allow the expression to take place;
 - Police efforts to take direct action against those violating the law have not been successful;
 - There remains a threat of imminent violence that police personnel are unable to control; and
 - If reasonably possible, the incident commander should consult with the Legal Advisor or Law Department prior to taking action to discontinue a public expression of speech or art.
 - g. The expression may be discontinued at the original site when the incident commander determines that:
 - Order can be restored only by taking the expressive material into custody, or otherwise discontinuing the expression;
 - Available alternatives of continuing private custody have been considered but cannot be deployed; and
 - When expression is discontinued, it should be permitted to resume as soon as the incident commander determines that order has been restored and can be maintained if the expression resumes.

- h. Any expressive material taken into protective custody will be inventoried according to existing inventory procedures. The owner of the material will be advised of the right to immediately reclaim the material at Property Control.

CROWD MANAGEMENT DURING FIRST AMENDMENT ASSEMBLIES

The primary objectives of crowd management are as follows:

- a. Support and protect lawful First Amendment activity, including the public's right to free speech and of free speech expression;
- b. Observe the crowd and assess for potential safety concerns;
- c. Communicate with the crowd and its leaders; and
- d. Obtain voluntary compliance to lawful direction and orders with minimal Department response or enforcement actions.

Department communications with the crowd should convey law enforcement expectations and support of lawful First Amendment activity. The incident **commander shall:**

- a. Ensure on-scene communications, instructions, or warnings given to the crowd are clear, understandable, and attainable;
- b. Attempt to give instructions and warning to the leaders or spokesperson of the crowd or the other participants in regards to potentially unlawful actions or about any observed unlawful conduct;
- c. Allow sufficient time for individuals and the crowd to receive and comply with the communications, to the extent feasible; and
- d. Use multiple methods of communication to provide effective communication with the crowd, including people with disabilities, to the extent feasible.

NOTE: Multiple methods of communication may include a device to amplify sound, qualified language interpreters, visual aids (e.g. gestures, writings, or posted written communications), and digital messaging (e.g., social media, electronic notification services).

When encountering noncompliance to lawful verbal direction, Department members will consider, to the extent feasible, if the noncompliance may be due to limited English proficiency or other language barriers, a medical condition, or disability.

In managing the crowd, the incident commander must consider the following:

- a. Establishing contact with crowd leaders to assess their intentions and developing a mutually acceptable plan for the lawful expression of the First Amendment rights as well as cooperation of the crowd in identifying specific individuals suspected of undermining the lawful expression of the message of the First Amendment assembly;
- b. Isolating specific individuals engaged in unlawful activity for enforcement actions, such as citations or arrest for specific offenses, while allowing the First Amendment assembly to continue; and
- c. The potential positive and negative impact of a significant display of a law enforcement presence including officer line formations, vehicles, bicycle units, and the Mounted Patrol and combinations thereof.

Department members will attempt to avoid arrest of members of the news media who are credentialed by giving verbal direction before taking enforcement action.

CIVIL DISORDER

Generally, a civil disorder can be defined as a large group of persons, acting individually or in concert, committing criminal acts with the unlawful purpose of causing injury and/or property damage, or causing persons to fear personal injury or property damage, where the acts result in a general disobedience to law and the disruption of public order.

To effectively manage a civil disorder, supervisors shall adhere to four basic principles: communication, coordination, containment and control.

Communication

Supervisors must provide clear, concise direction to subordinates as well as communicate operational needs to ranking officers.

Coordination

Supervisors must formulate a plan and coordinate personnel to provide a rapid, unified response.

Containment

Supervisors should direct personnel to seal off the area of disturbance. Containment is essential both to prevent innocent civilians from entering the area and being exposed to personal injury as well as restricting the movement of persons engaged in illegal activity.

Control

The control phase implements the plan of action designed to restore order. It is the culmination of containment, communication and coordination. Personnel are directed to perform specific tasks intended to suppress illegal activity through an appropriate display of force and prompt arrest of perpetrators.

MOBILE FIELD FORCE

The Mobile Field Force (MFF) is designed to provide a rapid, organized, and disciplined response to civil disorder, crowd control or other tactical situation. Generally, a basic MFF consists of one (1) lieutenant, seven (7) sergeants, and fifty (50) police officers, for a total of fifty-eight (58) members.

Crowd Dispersal Orders during Civil Disorders

During a First Amendment assembly, crowd dispersal orders shall not be issued unless three or more persons are committing acts of disorderly conduct in the immediate vicinity and those acts are likely to cause substantial harm to persons and/or property.

The primary objectives of crowd dispersal orders are to:

- a. Provide lawful orders to the crowd and its leaders;
- b. Attempt to gain voluntary compliance with lawful direction and orders;
- c. Clearly identify the designated and available dispersal routes.

Incident Commander Responsibilities – Crowd Dispersal

During a First Amendment assembly, the incident commander is the issuing authority for a crowd dispersal order.

Before issuing a crowd dispersal order, the incident commander must consider if there are and attempt any available less intrusive options to stop the unlawful behavior necessitating the issuance of the crowd dispersal order. In considering whether a less intrusive option is available, the incident commander will consider whether attempting such option would result in an immediate risk of physical harm to a person or property or would be clearly ineffective under the circumstances at the time.

When a determination has been made to disperse a crowd and give a dispersal order, the guidelines listed below will be followed. The incident commander shall:

- a. Notify Dispatch that the MFF is on site. The MFF shall position themselves approximately a block away and in view of the crowd. The Incident Commander will ask dispatch to generate an Incident Report Number for the incident.
- b. Issue, or direct a supervisor to issue, the crowd dispersal order. The crowd dispersal order will:
 - Include a lawful order for the crowd to disperse by order of the Detroit Police Department;
 - Be given in a clearly audible and understandable manner and will contain attainable instructions over a loud speaker such as the Long Range Acoustic Device (LRAD);
 - Clearly identify the designated and available dispersal routes;
 - Provide clear direction that the crowd is expected to immediately disperse and leave the area; and
 - Be given three (3) times, except where there is imminent danger of personal injury or substantial harm to property.
- c. Allow sufficient time for individuals and the crowd to receive and comply with the dispersal order, to the extent feasible.
- d. Use multiple methods of communication to provide effective communication with the crowd, including people with disabilities, to extent feasible. (Multiple methods of communication may include a device to amplify sound such as LRAD, qualified language interpreters, visual aids [e.g. gestures, writings, or posted written communications], and digital messaging [e.g., social media, electronic notification services].)
- e. Document the crowd dispersal order with Department-authorized video and audio recording devices, if available.
- f. Provide notification to Dispatch to generate an Incident Report Number for the incident and note the dispersal order to be documented on the incident Computer Aided Dispatch (CAD) event, including, but not limited to:
 - The location of the crowd being dispersed;
 - The size of the crowd;
 - The time of the initial dispersal order; and

- If multiple dispersal orders were given, the number of dispersal orders issued and the time the additional orders were given.
- g. Prior to arresting individuals for failure to disperse, provide a reasonable amount of time after issuing the crowd dispersal order and seek to ensure that the individual has heard and understood the dispersal order.
- h. If the Order to Disperse are not followed by the crowd, an Order of Surrender will be given. This will give individuals that were disobeying the lawful order an opportunity to surrender for an arrest. Orders will be given to the individuals to break off from the group, head towards the MFF, to lay on the ground, and place their hands behind their back. The individuals will then be detained by the MFF.

After the issuance of a dispersal order, nothing in this Directive, except as provided above, restricts the ability of the Department members to take appropriate enforcement action against any member of the public who (1) commits a misdemeanor offense that involves a threat to a personal's physical safety or property, or a more serious criminal offense; (2) poses an immediate threat to the safety of the community, or others, or of causing property damage; or (3) fails to comply with dispersal order after being given the opportunity to do so.

Members making arrests shall follow the Department's Arrests Policy (Directive 202.1) and Training Directive 08-02, Handcuffs. When using other restraints such as Flex Cuffs, members will ensure that they are not so tight as to cause lacerations or discoloration due to blood circulation constriction.

Members of the news media who are credentialed and who display or tender their credential will not be required to disperse following the issuance of a crowd dispersal order issued during a First Amendment assembly.

MASS ARREST

A mass arrest shall be defined as the taking into custody of an unusually large number of persons. These situations generally occur in incidents involving large crowds or civil disorder. In the event of a small, localized disturbance, initial processing of prisoners shall be the responsibility of the officer-in-charge of the Detroit Detention Center (DDC). If the disturbance escalates to a point where mass arrests occur, the Department's Incident Command System shall be initiated and the incident commander shall assume command of the situation. The Incident Commander shall notify Support Operations Deputy Chief, and the Captain of the DDC to notify of an impending mass arrest. In addition, the Incident Commander shall request for additional resources from other commands to assist in the mass arrest. The incident commander may designate a prisoner processing team and request deployment of the prisoner bus. All requests for additional resources shall be routed through Communications Operations.

Prisoner Processing Team, Detective Bureau

The general purpose of the prisoner processing team is to maintain an orderly, thorough and expedient transition of unusually large numbers of prisoners through the initial processing stage. The Narcotics Prisoner Processing (PPU) shall staff and comprise the Detective Bureau's Prisoner Processing Team. The team will be mobilized at the

discretion of the incident commander in cases of mass arrest or anticipated civil disorder. The team will be responsible for all prisoner processing functions including:

1. Prisoner transport from the scene;
2. Utilizing and staffing the prisoner processing bus;
3. Prisoner booking procedures;
4. Maintaining security control at mass arrest sites;
5. Providing for the care and treatment of prisoners;
6. Coordinating on-site defendant screening, prosecutors and magistrates;
7. Conducting video arraignment procedures in absence of on-site charging and arraignment;
8. Providing adequate facilities for defense counsel visits;
9. Providing and maintaining separate facilities for the mass detention of juvenile offenders;
10. Providing for all prisoner transportation including courts and medical treatment;
11. Providing public information liaison and prisoner information; and
12. Maintain liaison with City of Detroit Law Department.

The officer-in-charge of the Prisoner Processing Team shall review all circumstances of arrest, to determine if the prisoner is to be held. Members must have probable cause before making an arrest and the circumstances of the arrest and a specific charge should be listed on the incident report. In addition, arresting officers should be photographed with their prisoners for evidentiary purposes.

REPORTING REQUIREMENTS FOR CROWD DISPERSAL ORDERS

Following any crowd dispersal order issued during a First Amendment assembly, the incident commander will ensure that the circumstances leading to the issuance of the crowd dispersal order are documented in one incident report. This report will include the following:

- a. An articulation of the acts likely to cause substantial harm to persons and/or property;
- b. The consideration of less intrusive options that were available to stop the unlawful behavior necessitating the issuance of the crowd dispersal order;
- c. A description of less intrusive options that were attempted and any other available less intrusive options that were considered; and
- d. The content of the crowd dispersal order, including the dispersal routes.

These reports will give an overview of the entire incident and will be turned over to Force Investigation Unit for investigation. If a use of force is presented at the scene or discovered, and no Use of Force Report has already been prepared by the individual officer involved, Force Investigation will order the involved officer involved to prepare an independent Use of Force Report, documenting the circumstances surrounding the use of force.

When Department members physically respond to a crowd's actions or inactions in response to verbal directions, supervisors will document the issuance of the crowd dispersal order.

CONSTITUTIONAL POLICING UNDER UNIQUE CIRCUMSTANCES

Nothing in this Policy suspends any laws that prohibit violent or destructive actions by participants in a First Amendment assembly or prevents Detroit Police from the following:

- a. Reasonably and lawfully protecting themselves and the public against violence perpetrated by participants in a First Amendment assembly that could harm officers or the public (including participants throwing objects at police, such as frozen water bottles, bricks, bottle rockets, or cherry bombs); or
- b. Taking reasonable and lawful action against participants in a First Amendment assembly who violate any laws or resist arrest (e.g. ordering participant to cease unlawful activity, or using reasonable force to arrest a participant if there is probable cause to believe that the participant violated the law); or
- c. Taking other reasonable and lawful action to address unique circumstances that may arise in the field.

JAMES E. WHITE
Chief of Police