

To: Shammias Malik, City of Akron Mayor
Friedman, Gilbert + Gerhardtstein, Akron Bail Fund Representatives
Spencer Fomby, Law Enforcement Tactical Consultants
Re: Akron Police Public Order Policy
Date: August 8, 2025

Dear Mayor Malik, Akron Bail Fund Representatives, and Mr. Fomby,

We, a coalition of local organizations, hereby present public comment to the initial Public Order Policy drafted through the settlement with the City of Akron and Akron Bail Fund. This coalition represents many members of the Akron community who wish to preserve First Amendment rights and some who have experienced police violence at Akron protests.

Our collective agrees that what has been drafted simply does not measure up to the desperate need for accountability and transparency in police activities at protests and assemblies. The initial draft does not address the historic police violence and unwarranted aggression toward protesters, their children, bystanders, and members of the media at assemblies. Indeed, many areas of this proposed draft leave gaping loopholes for officers to disregard the rules, opening the possibility of further harm to the community. We also found the draft to be negligent of the basic and minimum requirements mandated in the Settlement Agreement.

Our coalition rests on Nine Principle Amendments to the draft policy that we consider to be of paramount importance:

1. Preserve First Amendment protections;
2. Adopt bystander and commuter protections;
3. Strictly require public identification of all officers and mutual aid policing groups;
4. Require orders to be determined at a higher command level and establish clearer dispersal protocols;
5. Ban the use of mass detentions and mass arrests;
6. Restrict the towing and impounding and destruction of personal property by police;
7. Require all reports, plans, inventories, and expenses related to police activity at public assemblies to be public record;
8. Ban police use of drones, license plate readers, sonic and acoustic weapons, stingrays and other cellular-data-capturing devices; and
9. Restrict police use of tear gas, batons, canine units, and less than lethal munitions.

Per the Settlement Agreement, the City and consultant shall take public comment and then adopt appropriate changes to the draft based on public input and Plaintiff feedback. Our coalition calls for justice, healing, and for the will of the People to be written into this policy.

For convenience, we have attached a draft that includes linguistic edits to address the above Nine Principle Amendments in the policy. These edits are not perfect, but they capture the sentiments of the coalition and are meant to aid in the final drafting process. We have also included explanations for each edit.

We encourage all members of the public to submit public comments on this policy draft before the August 15th deadline, by emailing crowdpolicy@akronohio.gov.

Signed,

Akron CAN

Akron NAACP

PSL Akron

Akron DSA

Indivisible Akron

The Freedom BLOC

Big Love

Peace Builders Academy

Contact: Fran Wilson (270) 438-2091

CITY OF AKRON, OHIO

POLICE DIVISION BRIAN
HARDING, CHIEF OF POLICE

NUMBER	EFFECTIVE DATE	RESCINDS
SUBJECT Public Order Procedure		ISSUING AUTHORITY Chief Brian Harding

I. POLICY

This policy establishes guidelines for managing crowds, protecting individual rights, and preserving peace during demonstrations and civil disturbances. This agency's policy is to protect individual rights related to assembly and free speech, effectively manage crowds to prevent loss of life, injury, or property damage, and minimize disruption to non involved persons.

Most of the assemblies within the City of Akron are peaceful and do not require direct police intervention. The balance between enforcement actions and de-escalation should always be considered during an assembly. Tactics used should allow for the continuance of the assembly and exercise of First Amendment rights when possible while addressing public safety and criminal behavior as safely as possible.

The Akron Police Department follows national best practices for crowd monitoring, intervention, and control. Absent immediate safety concerns, the department begins by monitoring the crowd, prioritizing engagement of event participants, and encouraging crowd self-regulation.

While the First Amendment protects freedom of speech, it does not protect criminal acts. The department's goal is to protect public safety and maintain peace and order. It recognizes that a police response that impedes otherwise protected speech must be narrowly tailored to serve a significant government interest. Events may simultaneously involve persons lawfully assembling and expressing speech and persons unlawfully committing crimes. The department must assess the totality of the circumstances to determine whether and to what extent police action is needed.

II. DEFINITIONS

A. Active Aggression: Includes a ~~threat or~~ overt act of an assault (through physical ~~or verbal~~ means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

Reason for edit:

People have the right to be verbally confrontational.

~~B. Active resistance: Includes physical force, a show of force, or verbal hostility coupled with a failure to comply with police orders.~~

A suspect's physical motions or movements; OR physical force, or show of force to counteract an officer's legal attempts to affect an arrest, or verbal hostility coupled with failure to comply with police orders.

Reason for edit:

This language should mirror P-21-2013(2)(i) (Resisting Arrest / Use of Force Procedure) language. However, any restrictions on "verbal" hostility should not be included. People have the right to be verbally confrontational. A "show of force" is vague.

C. Arrest Teams: Personnel assigned to arrest duties during PUBLIC ORDER EVENTS ~~civil disobedience/civil disorder incidents.~~

D. Chemical Munitions: Any chemical that can rapidly produce sensory irritation or disabling physical effects in humans, which disappear within a short time following termination of exposure. For purposes of this procedure, the term includes but is not limited to 2-chlorobenzalmalononitrile gas, commonly known as tear gas or CS gas, and items commonly referred to as Pepper Balls, pepper spray, or oleoresin capsicum, KNOWN AS OC SPRAY OR CHEMICAL DEFENSE SPRAY. ~~Chemical munitions are intended to achieve a strategic objective by changing or influencing the individual actions of a crowd member or the collective behavior of multiple crowd members.~~ SOME CHEMICAL MUNITIONS CAN HAVE LASTING EFFECTS AND LONG TERM HEALTH DAMAGE.

Reason for edit:

CS gas/tear gas, pepper balls, and OC spray can be used in a manner that affects large crowds. Indeed, CS gas/tear gas and pepper ball emissions are nearly impossible to control and can have disparate impact on people over a large space, for a prolonged period. It is commonly understood that people with breathing issues, asthma, and other conditions, such as pregnancy, may face prolonged pain and irritation and disabling effects due to CS gas/tear gas, pepper balls, and OC spray.

The originating circumstances of this lawsuit, a gathering on Copley Road and in Downtown Akron met with tear gas and pepper spray give additional context to this edit.

E. Civil Disobedience: An unlawful and non-violent action involving a planned or spontaneous demonstration by one or more person(s).

- F. Civil Disturbance: A gathering that constitutes a breach of the peace or any assembly of persons with a threat of collective violence, ~~destruction of property~~ **SUBSTANTIAL DESTRUCTION OF PROPERTY WHICH CREATES AN IMMEDIATE RISK TO THE LIVES OR SAFETY OF OTHER PERSONS**, or other unlawful acts. Such a gathering may also be referred to as a riot or unlawful assembly.
- G. Commander's Intent: The commander's intent is a broad description and definition of what a successful mission will look like in its end state. It is the single unifying focus for all subordinate elements, so everyone below the commander must understand it. The commander's intent helps communicate the vision clearly.
- H. Crowd Control: Techniques used to address civil disturbances, including a show of force, crowd containment, **AND** dispersal equipment and tactics, ~~and preparations for mass detention or mass arrests.~~
- I. Crowd Intervention: Implementing strategies and tactics to mitigate and remove unlawful behavior during public gatherings so as not to disrupt an otherwise lawful assembly. Intervention strategies and tactics include communicating with all crowd factions and utilizing resources to identify, prevent, locate, and remove unlawful behavior.
- J. Crowd Management: Techniques used to manage lawful assemblies before, during, and after the event for the purpose of maintaining lawful status through event planning, pre-event contact with event organizers, issuance of permits when applicable, information gathering, personnel training, and other means.
- K. De-escalation – Using non-confrontational verbal skills, empathy, and active listening to stabilize the incident. De-escalation may also incorporate the use of additional time, distance, and resources as well as persuasion, command presence, repositioning, and warnings to reduce the intensity of a potentially violent situation and decrease the potential need to use force.
- L. Dispersal Order: Lawful order communicated by law enforcement personnel commanding individuals assembled unlawfully to disperse. **THIS ORDER SHALL BE DETERMINED AT THE LEVEL OF OPERATIONS CHIEF, THE INCIDENT COMMANDER, OR HIGHER.**

Reason for edit:

This order can have a variety of serious consequences and therefore should be defined as being given by a high-ranking official. This language mirrors decisionmaking commands in §D(2).

M. Grenadier: Specifically designated officers trained and certified to deploy less-lethal impact munitions and/or chemical munitions in a public order environment.

N. Incident Action Plan (IAP): A written document containing general management objectives that reflect the overall incident strategy and specific plans for using personnel and resources. Depending on the kind and size of an incident, IAPs will vary in content and form. **IAPs WILL BE CONSIDERED PUBLIC RECORD AND SUBJECT TO RECORDS REQUEST.**

Reason for edit:

A common goal for this policy is to provide transparency and accountability to this subject and process. IAPs should be considered public records because they should not be hidden from the public in any manner after any events have taken place.

O. Incident Commander (IC): A supervisor who coordinates the activities of a major incident. The commander may operate out of the Incident Command Post.

P. Incident Command System (ICS): A standardized, modular emergency management model for management of emergencies. ICS is specifically designed to allow its user(s) to adopt an integrated organizational structure equal to the complexity and demands of single and multiple incidents without being hindered by jurisdictional boundaries.

Q. Less-lethal Impact Munition (LLIM): Any type of device designed as less-lethal, to be launched from any device as a projectile that may cause bodily injury through the transfer of kinetic energy and blunt force trauma. LLIMs are known by several interchangeable terms: specialty impact munitions, kinetic energy projectiles, kinetic impact weapons, extended range batons, sponge rounds, baton rounds, beanbags, and kinetic rounds. Modern less-lethal impact munitions are typically made of foam, plastic, or a flexible sock. They are designed to deliver blunt impact to the large muscle groups without risk of penetration. When used properly, they allow police to deliver force on a specific individual while maintaining a safe distance.

R. Mass Arrest: The tactic of simultaneously arresting, in one action, numerous people in a short amount of time during a public order event, with the intent of taking them into custody or issuing them criminal citations when there is individualized probable cause. **THIS ACTION IS PROHIBITED AT PUBLIC ORDER EVENTS.**

S. Mass Detention: The tactic of simultaneously detaining, in one action, numerous people ~~during a crowd management event~~ for an investigation when there is individualized reasonable suspicion. **THIS ACTION IS PROHIBITED AT PUBLIC ORDER EVENTS.**

Reason for edit:

The common agnostic naming convention used for events in this policy is “public order event” and, therefore, all mentions of events should be “public order event”, or else confusion of definitions could lead to misdirection or misinterpretation.

T. Mobile Field Force (MFF): A platoon of police officers and sergeants led by a lieutenant. It consists of three to five squads and may be supplemented by the SWAT team.

U. Passive resistance: ~~A minimal physical action to prevent an officer from performing their lawful duty. For example, a subject fails to comply with a lawful command, stands motionless, and/or goes limp when being taken into custody. A SUSPECT'S NONVIOLENT OPPOSITION TO AN OFFICER'S COMMANDS THAT DOES NOT INVOLVE PHYSICAL RESISTANCE OR VERBAL HOSTILITY.]~~

Reason for edit:

This language should mirror P-21-2013 (Resisting Arrest / Use of Force Procedure) language. However, any restrictions on "verbal" hostility should not be included. People have the right to be verbally confrontational.

V. Public Order Event: A lawful assembly of a large number of people. Generally, persons primarily organize to exercise their First Amendment right to express political or social views and influence public opinion; however, these events may include assembling people to participate in a social, sporting, or community event. Events can be planned or spontaneous and may include, but are not limited to, distributing literature, displaying banners, assembling, marching, picketing, participating in festivals or concerts, or other similar activities. ~~Public order events can devolve into unlawful assemblies or riots.~~

Reason for edit:

This term should be a neutral term and remain the main term used throughout the policy.

W. Riot: Per the Ohio Revised Code Section 2917.03, four or more people engaged in disorderly conduct with the purpose of committing or facilitating a misdemeanor, intimidating a public official, hindering government functions, or interfering with an educational institution.

X. Unlawful Assembly: A gathering of persons who engage in trespass or intentionally cause, or with reckless disregard, ~~create a risk of causing, public inconvenience, annoyance, or alarm~~ by engaging in one or more of the following activities, ~~which may include but are not limited:~~

1. Fighting or violent, tumultuous or imminently threatening behavior;
- ~~2. Making unreasonable noise;~~
- ~~3. Disturbing any lawful assembly of persons without lawful authority;~~
- ~~4. Obstructing vehicular or pedestrian traffic on a public way;~~
5. Initiating or circulating a report, knowing it to be false, concerning an alleged or

impending fire, explosion, crime, catastrophe, or other emergency;

6. SUBSTANTIALLY DESTRUCTION OF PROPERTY, WHICH CREATES AN IMMEDIATE RISK TO THE LIVES OR SAFETY OF OTHER PERSONS Damaging property; or

~~7. Creating a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.~~

Reason for edit:

“Risk of causing” should not allow the determination for an assembly to be named “unlawful.” Potential “risk of causing” actions is an undefined, unquantifiable measurement. People have a right to assemble.

Unreasonable noise should not be grounds to declare an assembly unlawful. People have a right to make noise. “Unreasonable noise” is an undefined, unquantifiable measurement.

Obstructing traffic without harm or imminent harm should not be grounds to declare an assembly unlawful.

Subsection 7 is undeniably vague and can be interpreted in ways that may impede on constitutional rights to free speech and assembly.

Y. Unified Command: In ICS, unified command is described as a unified team effort that allows all agencies responsible for an incident, geographical or functional, to manage it by establishing a common set of incident objectives and strategies. It maintains agency authority, responsibility, and accountability. In most instances, unified command will require co-locating commanders in one command post.

III. PROCEDURES

A. Core Principles

1. Constitutional policing is a framework for law enforcement that upholds the rights and freedoms guaranteed by the U.S. Constitution. This policy aims to ensure that all policing activities are conducted fairly, impartially, and effectively while fully respecting the civil liberties of all individuals.

2. Law enforcement practices must be free from bias and discrimination. Officers shall treat all individuals equally, regardless of race, color, creed, national origin, ancestry, disability, marital status, familial status, sex, gender, sexual orientation, religion, political affiliation, military status, or socioeconomic status.

3. Officers shall respect the First Amendment rights of all persons, including the freedom to peacefully assemble, freedom of speech, freedom of the press, freedom of religion, and the freedom to redress government grievances.

4. Officers must continuously evaluate the need to take enforcement action, balancing the benefits, risks, and consequences of each action or inaction.
5. Any force used ~~to effect an arrest, prevent escape, overcome resistance, defend an officer or another person, or disperse a riotous crowd shall be objectively reasonable based on the totality of circumstances~~ **AT A PUBLIC ORDER EVENT MUST HAVE PROBABLE CAUSE.**

Reason for edit:

All uses of force should have probable cause.

The Settlement Agreement clearly states: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

6. Officers shall not target or harass anyone based on their political activity or participation in First Amendment-protected activity.

B. Management and Organization Principles

1. The government can impose specific time, place, and manner restrictions on free speech and assembly, but these restrictions must be narrowly tailored to serve a legitimate governmental interest. They ~~should~~ **SHALL** not be based on the content of the speech, and whenever possible, an alternative means of expression should be offered. This agency will take steps to maintain public safety and order and, to the degree possible, facilitate uninhibited speech, commerce, and freedom of movement.

Reason for edit:

The word “should” establishes a possible loophole.

2. The Incident Command System (ICS) ~~may be~~ **SHALL BE** used during public order events to ensure control and unified command.

Reason for edit:

ICS should be required, not optional. Making it optional allows a loophole, and goes against the spirit of the Settlement Agreement.

3. The organization of responsibilities shall be as follows:

- a. The chief or a deputy chief shall designate an Incident Commander (IC) responsible for overall control of a public order event.
 - b. The IC shall designate an Operations Section Chief, Logistics Section Chief, and Planning Section Chief.
 - c. The Planning Section Chief creates the Incident Action Plan (IAP).
 - d. The Logistics Section Chief is responsible for providing all the support needs for an incident, including facilities, transportation, supplies, equipment, communications, food, and medical services for incident personnel.
 - e. The Operations Section Chief is responsible for managing all tactical operations during an incident to achieve the incident objectives, overseeing the implementation of the IAP, and reporting to the Incident Commander.
4. The IC will establish and maintain communication with the relevant stakeholders. The IC will communicate the commander's intent or desired end state to all assigned personnel via the chain of command. The primary objectives of the IC at a public order event are as follows:
- a. Ensure the protection of constitutional rights.
 - b. Prioritize the protection of ~~life safety and property.~~ **LIFE AND SAFETY.**
 - c. Establish and maintain communication with crowd members to facilitate lawful protest activity.
 - d. Determine the mission objectives and consider what crowd tactics are objectively reasonable under the totality of the circumstances.
 - e. Establish rules of engagement and thresholds for using force and crowd dispersal.
 - f. Authorize the deployment of authorized less-lethal weapons **ON A TARGETED INDIVIDUAL** ~~when objectively reasonable~~ **ONLY WHEN NECESSARY AT UNLAWFUL ASSEMBLIES.**

Reason for edit:

LLIMs should not be used at lawful assemblies and should not be used on crowds or for crowd management.

The Settlement Agreement clearly states a minimum requirement for this policy: "The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity." In addition, "The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights."

- g. Approve the use of authorized protective gear.
- h. Ensure announcements communicated to the crowd are clear, consistent (non-conflicting), lawful, and appropriate for the circumstances. Document the content and timing of the announcement and, if feasible, audio record it.
- i. Request additional resources to manage the event based on the available intel.
- j. Arrest law violators, including those responsible for ~~property damage~~ **SUBSTANTIAL DESTRUCTION OF PROPERTY WHICH CREATES AN IMMEDIATE RISK TO THE LIVES OR SAFETY OF OTHER PERSONS**, and remove or isolate persons inciting violent behavior.
- k. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence.
- l. Write an After-Action Review (AAR) of the **PUBLIC ORDER** event that assesses the agency's response and squad actions in relation to the IAP objectives and IC direction and considers lessons learned (e.g., effective vs. ineffective action). The AAR should inform future IC decision making. **THE AAR SHALL INCLUDE DESCRIPTIONS OF ALL USES OF FORCE, MUNITIONS DEPLOYED, RELATED DEPARTMENTAL EXPENSES, AND A LIST OF PERSONNEL INVOLVED. ALL AARs SHALL BE PUBLIC RECORD AND MUST BE POSTED PUBLICLY ON THE APD WEBSITE WITHIN A TIMELY MANNER OF COMPLETION. THE AAR SHALL BE SENT TO THE CITIZENS POLICE OVERSIGHT BOARD AND INDEPENDENT POLICE AUDITOR.**

Reason for edit:

Records regarding police interactions with public order events should be considered public record and should explicitly be stated as such in this policy. This allows for greater transparency and accountability.

AARs for public order events should contain more information than other related report mechanisms by the department.

5. The primary objectives of Squad Leaders and/or field supervisors are as follows:

- a. Verify that all assigned squad members have the proper equipment
- b. Ensure that squad members are briefed before the start of the event
- c. Communicate orders from the IC or the Operations Section Chief to their squad.

- d. Only issue direction that conforms with the IAP and event objectives and ensure that squad members act in accordance with the IAP.
- e. By the end of shift, account for the number of munitions deployed by each less-lethal operator or grenadier.
- f. If members need additional munitions during an event, the supervisor is responsible for tracking the issuance of those munitions.
- g. At the end of shift, notify the IC, through email or other written format, of any use of force and report on munition deployment (types and number) and any injuries to APD Officers or event participants (when known).
- h. Officers shall be briefed on what to expect and appropriate responses. They shall be informed that the IC or their designee(s) shall be responsible for ordering any appropriate response related to the large scale operation.
- i. Investigate uses of force in accordance with the Resisting Arrest/Use of Force Procedure.

C. Preparation and Planning

1. Planned events are those that the department is aware of in advance, either through the submission of a permit request or other means that allow for the advance planning of resources and response procedures. When large-scale, planned, or permitted First Amendment assemblies are anticipated, APD will use the following procedures:

Command staff shall be notified immediately of large or potentially disruptive demonstrations and/or crowd events. APD shall proactively and repeatedly make every reasonable attempt to establish and maintain communication and cooperation with the representatives or leaders of the demonstration or crowd event, regardless of whether a permit has been applied for or issued. APD shall not take retaliatory actions or adverse action against a group because it has failed or refused to appoint a police liaison or otherwise establish lines of communication with APD.

Every reasonable effort should be made to gather the following necessary information about the event to ensure accurate assignment of personnel and resources:

- a. What type of event is involved, and when is it planned?
- b. Will the event coincide with other routine, large-scale events?
 - c. How many participants are expected?
 - d. Is opposition to the event expected?
- e. What are the assembly areas and movement routes?
- f. What actions, activities, or tactics are anticipated?
- g. What critical infrastructure is in the proximity of the event?
- h. Have other agencies, such as fire and EMS, been notified?
 - i. Is there a need to request mutual aid?

- j. Has the appropriate level of properly equipped personnel been allocated?
- k. Will off-duty personnel be required?
- l. What is the history of conduct at such events?
- m. Are event organizers cooperative?
- n. Is there a history of violence between the group demonstrating and potential counter-protest groups?

2. Community Dialogue Team

Dialogue policing is a law enforcement method that focuses on communication and engagement with the public to manage social conflicts and maintain order effectively. It emphasizes building trust between police and community members by creating open communication channels, fostering collaboration, and promoting understanding. This approach aims to reduce tension, prevent conflict escalation, encourage group self-policing, and ultimately improve the relationship between law enforcement and the public. APD will use dialogue policing as a primary tactic and continue communication efforts throughout every public order event.

3. Incident Command

The National Incident Management System (NIMS) defines an incident commander as an individual having the authority to establish objectives, make assignments, and order resources. The incident commander should have the training, experience, and expertise to serve in this capacity. Additionally, per NIMS, qualifications to serve as an incident commander should not be based solely on rank, grade, or technical knowledge.

The incident commander will designate a Planning Section Chief to prepare a written IAP subject to the approval of the chief of police or their designee. The plan should address the following and be distributed to all participating agencies.

- a. Command assignments and responsibilities
- b. Personnel, unit structure, and deployment considerations to include the need for special response teams (i.e., Mobile Field Force, SWAT, emergency medical personnel, and plainclothes officers)
- c. Regular communication with legal advisors
- d. Liaison with event planners, to include their legal advisors, where applicable
- e. Liaison with outside agencies
- f. Communications plan, including the release of information to the media.
- g. Pre-event intelligence analysis
- h. Weather and terrain at the event location
- i. Transportation, support, and relief of personnel
- j. Staging points for additional resources and equipment

- k. Traffic management, including perimeter security
- l. Coordination with emergency medical service providers
- m. Demonstrator devices, extrication teams, and equipment
 - n. Transportation of prisoners
 - o. Arrestee processing areas
 - p. Any laws, ordinances, or administrative rules specific to the event.

4. Mutual Aid

The size, duration, and magnitude of an event/incident requiring law enforcement response will dictate the need for multi-agency coordination and cooperation to provide adequate mutual aid resources efficiently. Critical elements of applying mutual aid to an event should include pre-event planning (if possible), well-defined missions and objectives, specific uniform and equipment requirements, identified staging areas and incident facilities, adequate briefings, an incident action plan, use of force considerations, communication plan, arrest protocols, and logistical support

The purpose of police mutual aid is to provide assistance and support to law enforcement agencies during emergencies, large-scale events, or situations that may overwhelm the resources of a single agency. It is a collaborative effort among different police departments or agencies to pool their resources, expertise, and personnel to respond to and manage critical incidents effectively. When a police agency faces an emergency that depletes its resources, the agency can request assistance from allied agencies in the region. In some instances, law enforcement agencies from other States may send resources. Akron PD has existing agreements with mutual aid agencies.

The requesting agency will inform responding agencies of any operational restrictions, the commander's intent, and rules of engagement. It will also establish an incident command post and provide responding agencies with the IAP and briefing. Responding agencies will assign a commander to the incident command post to establish a unified command. Responding agencies will follow their own training and policy.

ALL AGREEMENTS, CONTRACTS, AND MEMORANDUMS OF UNDERSTANDINGS THAT BIND OR FACILITATE COORDINATION BETWEEN AGENCIES SHALL BE PUBLIC RECORD AND MUST BE POSTED PUBLICLY ON THE APD WEBSITE.

Reason for edit:

Records regarding police interactions with public order events should be considered public record and should explicitly be stated as such in this policy. This allows for greater transparency and accountability.

This Agency shall not:

Use a proxy law enforcement agency to use crowd management or control

measures that are prohibited by APD policy or that a court or statute has barred the law enforcement agency from using or acting in concert with another law enforcement agency to engage in misconduct barred by court order, statute, or APD policy.

D. General Crowd Response

1. Crowd Behavior

Be aware of the various types of behaviors associated with crowds that may result in a public safety response. Crowds, at times, can be a blend of both lawful and unlawful conduct. Conduct can be lawful, individual and or group criminal acts, civil disobedience, and rioting. During some events, individuals or groups may exploit a lawful assembly to help conceal or otherwise facilitate criminal acts. If feasible, law enforcement should identify, isolate, and attempt to surgically remove unlawful behavior in an effort to protect lawful assemblies.

2. Decisions about crowd dispersal and general strategies about crowd containment or crowd redirection, ~~multiple simultaneous arrests,~~ planned individual arrests, or planned use of force shall be made at the level of the ~~Operations Chief,~~ the Incident Commander, or higher.

Reason for edit:

Mass arrests and detentions should be prohibited.

Center for Policing Equity in its “Guiding Principles for Crowd Management” White Paper outlines parameters appropriate for crowd dispersal:

Do not arrest demonstrators unless reasonable and probable grounds exist to charge them with serious criminal offenses. Mass arrests should not be used for crowd management. The IACP recommends that, “wherever possible, mass arrests should be avoided.”³⁴ During recent demonstrations, police in cities such as Dallas and New York arrested hundreds of demonstrators while charging only a handful of them with serious felonies.³⁵ The mass arrest of demonstrators for whom no probable cause exists to charge a serious criminal offense tends to undermine community trust. Additionally, recent examples of mass arrests during the COVID-19 pandemic—which expose demonstrators and officers alike to virus transmission—underscore the need for a comprehensive and detailed crowd control policy to guide officers toward alternative responses.

Decisions about crowd redirection and containment, and use of force should be made at the highest levels of command.

The Settlement Agreement clearly states: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in

First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.” Decisions made at a higher level will deter from adverse actions against people who are engaged in First Amendment protected activity.

- a. If such decisions are made by higher-ranking off-site APD officials, the Incident Commander must first be consulted about the state of affairs in the field and the potential consequences of the decision.
 - b. All such decisions shall be documented in writing, including the time, the identity of the person making the decision, and the precise decision and directions given. Such documentation shall be made at the time of the decision or as soon thereafter as possible and included in an After-Action Review.
3. This policy does not preclude individual commanders, supervisors, and officers from defending themselves or others from imminent danger within the confines of the law when requesting permission to take action would increase the risk of injury.
 4. Officers who have been briefed and deployed to the field can take enforcement action when there is reasonable suspicion to make a detention or probable cause to make an arrest. Officers can engage in proactive policing that is consistent with the commander’s intent and overall mission objectives.
 5. Officer identification

ALL OFFICERS AND COORDINATING MUTUAL AID MEMBERS SHALL VISIBLY WEAR A NAME TAG ON THEIR UNIFORM AT ALL TIMES WHEN INTERACTING WITH THE PUBLIC AT PUBLIC ORDER EVENTS. Officers shall not intentionally obscure their identifying information and will ensure it is clearly visible. ~~If practical, safe, and tactically feasible, members~~ **OFFICERS** shall provide their name and identification number or, if applicable, their assigned unique identifier to members of the public upon request.

Reason for edit:

Identification of officers and mutual aid groups acting on behalf of the department should be mandatory to prevent confusion and promote transparency. The language “If practical, safe, and tactically feasible” creates a loophole.

6. Officers may be deployed to monitor crowd activity. Depending on the situation, sufficient resources should be available to handle multiple unruly crowd members.

7. Officers ~~should refrain from reacting~~ **SHALL NOT REACT** in response to comments from demonstrators and maintain a professional and neutral demeanor.

Reason for edit:

Soft language such as “should” and “refrain” gives officers an opt-out of a rule that is meant to protect peoples’ rights. It is a loophole.

The Settlement Agreement states: “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

8. Persons who reside;; are employed;; **ARE COMMUTING TO, FROM, OR THROUGH;** or have emergency business within the area marked off by a police line should not be prevented from entering **AND EXITING** unless circumstances suggest that their safety would be in jeopardy or their entry would interfere with law enforcement operations. **PERSONS WHO RESIDE; ARE EMPLOYED; ARE COMMUTING TO, FROM, OR THROUGH; OR HAVE EMERGENCY BUSINESS WITHIN THE AREA SHALL BE GIVEN CLEAR DIRECTIONS OF HOW TO DEPART OR RETURN SAFELY, AND SHALL NOT BE DETAINED WITHOUT REASONABLE SUSPICION OF CRIMINAL ACTIVITY OR ARRESTED WITHOUT PROBABLE CAUSE OF CRIMINAL ACTIVITY.**

Reason for edit:

In recent years, a number of arrests and detainments have occurred involving bystanders and commuters not involved in public order events. This policy should specifically instruct officers to not adversely affect those who are bystanders or commuting.

The Settlement Agreement states: “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

9. Individuals designated by the IC should establish and maintain communication with event organizers and relay information to the IC.

10. Supervisors should maintain close contact with their assigned officers to ensure compliance with **LAWFUL** orders, monitor behavior and disposition, and ensure that they are aware of any changes in crowd behavior or intent.

11. Audio and video recordings of agency crowd response should be considered for evidentiary purposes.

12. Mass arrests **AND MASS DETENTIONS** shall be ~~avoided unless other~~

~~reasonable options to restore order have been unsuccessful, or the threat to public safety is immediate and other reasonable options are unlikely to restore order~~ **PROHIBITED AT PUBLIC ORDER EVENTS.**

Reason for edit:

This policy should restrict mass arrests and detentions, as these tactics cause unnecessary harm and strain, are logistically complex, costly, and draining for the city, and have unjustly led to the arrests of dozens of innocent, law abiding people and bystanders.

In addition, soft language like “and other reasonable options are unlikely to restore order” provides a loophole for officers to disregard taking other measures before mass arrests and mass detentions.

The Settlement Agreement states: “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

13. When attempting to disperse a crowd, officers shall ensure that all individuals have a means of egress.

E. Response to Spontaneous ~~Civil Disturbances~~ PUBLIC ORDER EVENT

1. Unplanned events are events that the Department has no prior knowledge of. Such events may consist of spontaneous gatherings and large-scale demonstrations. Unplanned events are often peaceful and pose little problem for law enforcement; however, peaceful gatherings can turn violent, requiring that contingency plans are in place for members to respond as necessary to safeguard life ~~and property~~.
2. The first officer to arrive on the scene of a spontaneous ~~civil disturbance~~ **PUBLIC ORDER EVENT** should:
 - a. Observe the situation from a safe distance to determine if the gathering is currently or potentially violent. **TACTICS USED SHOULD ALLOW FOR THE CONTINUANCE OF THE ASSEMBLY AND EXERCISE OF FIRST AMENDMENT RIGHTS WHEN POSSIBLE.**
 - b. Notify communications of the nature and seriousness of the ~~Disturbance EVENT~~, particularly the availability of improvised or deadly weapons, the location and estimated number of participants, current activities (e.g., blocking traffic), presence of protestor devices, direction of movement, and ingress and egress routes for emergency vehicles.
 - c. Request a supervisor and necessary assistance.
 - d. Attempt to identify ~~crowd leaders and~~ if there are agitators engaged in criminal acts; ~~and~~

~~e. At the first available opportunity, request the crowd to disperse voluntarily.~~

3. The first officer or supervisor in charge at the scene should:

- a. Deploy officers at vantage points to report on crowd actions.
- b. Establish a perimeter sufficient **TO OBSERVE** ~~contain the disturbance and prohibit entrance into~~ the affected area.
- c. Ensure that, to the degree possible, uninvolved individuals are **ALERTED TO THE** ~~evacuated from the immediate area of the disturbance~~ **EVENT**.
- d. Establish a temporary command post.
 - e. Provide ongoing assessment to communications.
- f. Move and reroute pedestrian and vehicular traffic around the ~~disturbance~~ **EVENT**.
- g. Control unauthorized ingress and egress by participants; and

4. Once an IC is assigned, the IC should also ensure that:

- a. Adequate security is provided to fire and EMS personnel in performing emergency tasks.
- b. Support and relief for 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 by the Police Information Officer (PIO) as appropriate.
- e. The IC event log ICS (214) and dispatch call log is maintained to document activities and actions taken during the course of the ~~disturbance~~ **EVENT**.
- f. Photographic or video evidence is preserved of crowd actions and officer response.
- g. Photographs or videos are taken of any injuries sustained by law enforcement officers or the public; and
- h. The need for full mobilization of sworn officers and the recall of off duty officers are determined.

Reasons for edit:

Naming a spontaneous event a civil disturbance, which here is defined as unlawful, but not having a section that defines actions for a spontaneous lawful event is a problem. This section should not outright claim a spontaneous event as unlawful and the policy should not only have an unlawful spontaneous event response section. Therefore, this section should be edited to be neutral and mirror the incident command structure above. This section should have a protocol for high-level personnel to define when it has reached a state of a civil disturbance.

To respond to spontaneous incidents with a goal to disperse crowd, contain area, prohibit entrance,

and evacuate the area would likely have chilling effects on Free Speech, if not be directly unconstitutional.

F. Use of Force

1. Officers shall follow the Resisting Arrest and Use of Force Procedure P-13.

2. ~~Whenever it is safe and feasible~~ **AS A PRIORITY**, officers shall implement de-escalation strategies and tactics in all ~~crowd management scenarios~~ **INTERACTIONS WITH CROWDS AND PARTICIPANTS** to minimize or eliminate the need for use of force.

Reason for edit:

De-escalation should be a mandate not an option in all interactions with crowds and participants.

The Settlement Agreement clearly states: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

3. Officers shall not use expired less-lethal munitions.

4. During public order events, the following restrictions and limitations on the use of force should be observed:

[THIS SECTION SHOULD BE RE-ORDERED, WITH THIS CLAUSE STARTING AS (A)] Lethal and non-lethal weapons should be carried and deployed only by trained and authorized officers.

- a. **CANINE TEAMS SHALL NOT RESPOND TO PUBLIC ORDER EVENTS AND CANINES SHALL NOT BE DEPLOYED FOR CROWD MANAGEMENT, CONTAINMENT, DISPERSAL, OR PUBLIC ORDER EVENT RESPONSE.** ~~Canine teams may respond as backup when appropriate~~ **ONLY NECESSARY** but should **SHALL** not be deployed for crowd control (i.e., containment, dispersal, or as a force option). Canines should **SHALL** remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the crowd's view. ~~Canines may be deployed in appropriate circumstances related to bomb detection, pursuit of suspects in buildings, and related situations.~~

Reason for edit:

Canine units have been banned in many other jurisdictions for a variety of reasons, including escalation and violence on crowds and participants.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

- b. Water shall not be used as a force option.
- c. Motor vehicles may be used to contain, control, and direct persons as appropriate but shall not be intentionally brought into contact with them unless the use of deadly force is authorized.
- d. Bicycles may be used to control and move people as appropriate.
- e. Impact projectiles shall not be fired ~~indiscriminately~~ into crowds,
SHALL NOT BE USED AT LAWFUL ASSEMBLIES, SHALL NOT BE FIRED INTO CROWDS OR AT PEOPLE ATTEMPTING TO DISPERSE, AGAINST GROUPS OF PEOPLE WHERE BYSTANDERS WOULD BE UNREASONABLY AFFECTED, OR AGAINST PASSIVELY RESISTANT INDIVIDUALS ENGAGED IN CIVIL DISOBEDIENCE. A CLEAR AND AUDIBLE VERBAL WARNING SHALL BE ISSUED BEFORE USING IMPACT PROJECTILES.

Reason for edit:

Impact projectiles create a serious risk of injury and should be restricted.

“Indiscriminate” is vague language.

People trying to disperse or leave an area should not face use of force.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

- f. Direct Fired less lethal impact munitions (LLIM) ~~may~~ **SHALL ONLY** be used against a specific individual **AT A PUBLIC ORDER EVENT ENGAGING IN UNLAWFUL CONDUCT. LLIMs SHALL NOT BE USED AT LAWFUL ASSEMBLIES AND SHALL NOT BE FIRED INTO CROWDS OR AT PEOPLE ATTEMPTING TO DISPERSE, AGAINST GROUPS OF PEOPLE WHERE BYSTANDERS WOULD BE UNREASONABLY AFFECTED, OR AGAINST PASSIVELY RESISTANT INDIVIDUALS ENGAGED IN CIVIL DISOBEDIENCE. A CLEAR AND AUDIBLE VERBAL WARNING SHALL BE ISSUED BEFORE USING LLIMs.**

Reason for edit:

Reason for edit:

LLIMs pose a risk to serious injury and should not be used at lawful assemblies or used against any crowds. Many jurisdictions around the country have banned such activities.

People trying to disperse or leave an area should not face use of force.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

- (1) When an individual poses an immediate threat of harm to any person; or
 - (2) When public safety interests dictate that an individual needs to be taken into custody, and the level of resistance presented by the subject is likely to cause injury to the officer; or
 - (3) if hands-on control tactics or other force options would be likely to cause greater injury to the subject than the use of the 40mm Less Lethal Impact Munition (LLIM).
 - (4) When an individual is engaging in substantial destruction of property, which creates an immediate risk to the lives or safety of other persons.
- g. Officers ~~shall avoid~~ **ARE PROHIBITED FROM** targeting the head, neck, chest, groin, or spine with LLIM unless deadly force is authorized.

Reason for edit:

The language “shall avoid” allows a loophole for officers. Officers should be outright prohibited from such activity unless deadly force is authorized. LLIMs can cause serious injury and officer’s use of such weapons should be restricted.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

- h. APD will inventory all munitions deployed or used at an event
- i. A **CLEAR AND AUDIBLE** verbal warning ~~should~~ **SHALL** be given before using impact projectiles ~~—when reasonably possible.~~

Reason for edit:

The language “should” and “when reasonably possible” create gaping loopholes for officers not to give a verbal warning before firing projectiles that could cause serious injury and harm.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action,

including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

j. Officers are responsible for every LLIM they launch and should be aware of the foreground and background of the targeted individual.

k. **USE OF** Conducted Energy Weapons (CEWs), **ALSO KNOWN AS TASERS**, should be used ~~during civil disturbances~~ in accordance with Conducted Energy Weapon Procedure P-57. **CEWs SHALL NOT BE USED AT LAWFUL ASSEMBLIES; SHALL NOT BE FIRED INTO CROWDS OR AT PEOPLE ATTEMPTING TO DISPERSE, AGAINST GROUPS OF PEOPLE WHERE BYSTANDERS WOULD BE UNREASONABLY AFFECTED, OR AGAINST PASSIVELY RESISTANT INDIVIDUALS ENGAGED IN CIVIL DISOBEDIENCE. A VERBAL WARNING SHALL BE ISSUED BEFORE USING CEWs.**

Reason for edit:

CEWs can cause injury and harm and should be restricted.

People trying to disperse or leave an area should not face use of force.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

l. Aerosol restraint spray **OR CHEMICAL DEFENSE SPRAY**, known as oleoresin capsicum (OC) or pepper spray, **AT PUBLIC ORDER EVENTS OR FOR CROWD CONTROL, DISPERSAL, AND MANAGEMENT IS PROHIBITED.** ~~may be used against specific individuals engaged in unlawful conduct or actively resisting arrest or as necessary in a defensive capacity when appropriate.~~ However, OC spray shall not be used indiscriminately against groups of people where bystanders would be unreasonably affected or against passively resistant individuals engaged in civil disobedience. ~~Whenever reasonably possible, a verbal warning should be issued before using OC.~~

Reason for edit:

OC spray can cause injury, and in some cases, prolonged harm to health. If deployed into a crowd, this can impede peoples’ ability to disperse and can escalate tension.

Language such as “when appropriate” and “whenever reasonably possible” and “should” provide loopholes for officers to use unjust force.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

*If an outright ban is not possible, this language may be adopted: Aerosol restraint spray **OR CHEMICAL DEFENSE SPRAY**, known as oleoresin capsicum (OC) or pepper spray, may be used against A specific ~~individuals~~ **INDIVIDUAL** engaged in unlawful conduct ~~or actively resisting arrest or as necessary in a defensive capacity when appropriate~~. However, OC spray shall not be used ~~indiscriminately~~ against groups of people where bystanders would be unreasonably affected or against passively resistant individuals engaged in civil disobedience. ~~Whenever reasonably possible, a~~ **A CLEAR AND AUDIBLE** verbal warning ~~should~~ **SHALL** be issued before using OC. **OFFICERS SHALL FOLLOW THE DEPARTMENT CHEMICAL DEFENSE SPRAY PROCEDURE.***

m. **USE OF CS (2-chlorobenzalmalononitrile) AT PUBLIC ORDER EVENTS OR FOR CROWD CONTROL, DISPERSAL, AND MANAGEMENT IS PROHIBITED.** ~~shall be used with the utmost caution. CS may be deployed when there is an imminent threat of physical harm to a person or significant destruction of property (VERIFIED multiple broken windows, looting, arson) when lesser force options are either not available or would likely be ineffective. Such munitions shall be deployed at the direction of the IC and only when avenues of egress are available to the crowd. The goal of using CS gas is to prevent serious harm and restore and/or maintain public order. If the IC determines that a crowd no longer poses a risk of serious harm, the IC will re-evaluate tactics and strategies and will adjust the response as time and circumstances permit. When reasonably possible, officers~~ **PERSONNEL** ~~shall warn crowd members in advance using an acoustic hailing device.~~

Reason for edit:

Limiting the exposure to individuals or small groups is virtually impossible, and the risk of affecting bystanders and individuals other than the intended targets is unreasonably high. This has been witness to be the case at assemblies on Copley Road and Downtown Akron during organizing after the killing of Jayland Walker, to name a recent instance.

The 1969 Akron Civil Disorders Report mentions a historical violent use of chemical agents for crowd management, and calls for a change of policy. “While the police are convinced that the use of chemicals minimized the need for physical force, many blacks are certain that there was an excessive and indiscriminate use of tear gas.” (Page 10)

Tear gas has been banned by the 1997 Chemical Weapons Convention (CWC) for military use or as “a method of warfare.” Discussions at the time reflected concerns about the indiscriminate nature of the weapons, the possibility of escalation, the uncertainty around the use of CCWs versus lethal chemical agents, and the unnecessary suffering they cause. The Centers for Disease Control and Prevention recognize that exposure to riot control agents can impose both immediate and long term health effects, including blindness, glaucoma,

cataracts, asthma, burns, and respiratory failure possibly resulting in death. The National Institute of Health also warns of severe or adverse consequences to exposure to tear gas for pregnant people.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

n. **USE OF A ~~A~~ baton or similar device ~~can be used to stop, control, or neutralize resistance, to show force, or to contain or disperse a crowd.~~ AT PUBLIC ORDER EVENTS OR FOR CROWD CONTROL, DISPERSAL, AND MANAGEMENT IS PROHIBITED.**

Reason for edit:

Batons or similar weapons can cause serious injury, and thus should have a higher threshold for usage.

Baton injuries can range from characteristic abrasions, bleeding and bruising to more severe injuries including bone fractures, nerve/muscle damage and internal injuries that may result in permanent disability or death. Injury patterns and severity are dependent on the location of the strike, the amount of force used, and the type of baton.

The Settlement Agreement clearly states a minimum requirement for this policy: “The POLICY will limit police use of force, including less lethal weapons, and other adverse action, against people who are engaged in First Amendment protected activity.” In addition, “The POLICY will prohibit police from taking any adverse action, including but not limited to use of force or temporary detention, on the sole basis that a person was exercising their First Amendment rights.”

If an outright ban is not possible, this language may be adopted: BATONS OR SIMILAR DEVICES MAY ONLY BE USED AFTER THE DECLARATION OF AN UNLAWFUL ASSEMBLY AND AGAINST INDIVIDUALS ACTIVELY RESISTING ARREST. A BATON SHALL NOT BE USED TO STRIKE A PERSON IN THE HEAD, NECK, CHEST, GROIN, OR SPINE UNLESS DEADLY FORCE IS AUTHORIZED; TO CHOKE A PERSON; OR TO STRIKE A PERSON WHO HAS BEEN RESTRAINED, IN THE PROCESS OF DISPERSING, OR IS LYING ON THE GROUND.

o. All uses of force shall be reported and investigated in accordance with the Resisting Arrest and Use of Force Procedure P-13 ~~or at the direction of the IC.~~

Reason for edit:

The inclusion of the word “or” allows for a loophole for officers and other personnel to avoid reporting uses of force at the behest of the IC. This opens a serious gap in accountability and transparency.

G.Crowd Dispersal

1. Before ordering forced dispersal of a ~~civil disturbance~~ **CROWD**, the IC ~~should determine whether~~ **MUST EXHAUST** lesser alternatives ~~may be effective~~. These alternatives include the use of targeted **LAWFUL** arrests and dialogue, as follows:

Reason for edit:

Forced dispersal of a crowd should be the last option, for it is consuming of time and resources and may escalate tension. The IC and officers should exhaust all lesser alternatives before dispersing the crowd.

- a. Contact event organizers ~~or crowd leaders~~ to assess their intentions and motivations and attempt to develop a mutually acceptable plan for de-escalation and dispersal.
- b. Communicate to the participants that their assembly violates the law and that the agency wishes to resolve the incident peacefully but that acts of violence will be dealt with swiftly and decisively.
- c. Target specific violent ~~or disruptive~~ individuals for arrest.

Reason for edit:

The language “disruptive” is vague and could open the door for unlawful targeting of individuals.

“Crowd leaders” is a vague term that is inexact and potentially misrepresentative of the group.

2. Prior to issuing dispersal orders, the IC should ensure that all potentially necessary law enforcement, fire, and EMS equipment and personnel are on hand to carry out tactical operations successfully, ~~and logistical needs for making mass arrests are in place.~~
3. When ~~the IC~~ **IT** has **BEEN** determined that crowd dispersal is required, unit commanders, ~~where time and circumstances permit,~~ **ARE REQUIRED** to issue warnings before taking action to disperse the crowd. **THE IC MUST DETERMINE, DEFINE, AND COMMUNICATE A SPECIFIC DISPERSAL ZONE, WITH CLEAR PHYSICAL BOUNDARIES. THIS ORDER SHALL BE DETERMINED AT THE LEVEL OF THE INCIDENT COMMANDER OR HIGHER.**
 - a. The warning shall include an announcement declaring an unlawful assembly, an order to disperse, a force warning detailing what kind of force may be used if crowd members fail to disperse, and designated dispersal routes. **THIS ANNOUNCEMENT SHALL INCLUDE THE EXACT PARAMETERS OF THE DISPERSAL ZONE AND AREAS WHERE CONTINUED GATHERING CAN OCCUR.**

Reason for edit:

The language “where time and circumstances permit” creates a loophole for officers not to engage and clearly share a dispersal order.

In addition, a dispersal order should include a specific zone, identify where people can lawfully go to to continue First Amendment activity, and this order should be determined at the highest level possible.

Center for Policing Equity in its “Guiding Principles for Crowd Management” White Paper outlines parameters appropriate for crowd dispersal:

“Arm that crowd dispersal should not be used as a preventive measure or as a response to individual violence or unlawful behavior by individuals in a crowd. Do not arrest demonstrators unless reasonable and probable grounds exist to charge them with serious criminal offenses. Mass arrests should not be used for crowd management. Specify the conditions in which a crowd may and may not be ordered to disperse. A crowd management event should be dispersed only if the crowd presents an immediate risk to public safety, or widespread violence or property destruction appears imminent. Require that, when ordering a crowd to disperse, the order to disperse must be made audible to the entire crowd and, if possible, repeated; it must specify the offenses that justify dispersal of the crowd; it must specify avenues by which the crowd is to disperse; and the crowd must be given an opportunity to comply before force is used.”

- b. A second and third warning should be issued at reasonable time intervals before other actions are taken to disperse the crowd.
 - c. Where possible, the warnings should be audio or video recorded, and the time and the names of the issuing officers should be recorded in the event log.
4. After crowd members have been given reasonable time to disperse, specific crowd dispersal tactics should be ordered as necessary. 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 law enforcement vehicles, mounted units, bicycle units, and mobile field force.
 - b. Use of crowd-control chemical agents or less lethal munitions.
 - c. Law enforcement formations for forcing crowd movement and arrests.

5. Unlawful Assembly Dispersal Order

Dispersal Order Example: “I am (peace officer’s name and rank), a peace officer for the (name of jurisdiction). I hereby declare this to be an unlawful assembly and in the name of the People of the State of Ohio, order all those assembled at (specific location) to disperse, which means to break up this assembly immediately. If you do not do so, you may be arrested.

BELOW INSERT REQUIRED WHEN LLIM AND/OR CHEMICAL AGENTS TO BE DEPLOYED TO DISPERSE A RIOTOUS CROWD AND RESTORE ORDER.

You may also be subject to other police action, including the use of less-lethal impact munitions and chemical agents, which include: _____

(Insert here the type to be used, e.g., plastic bullets, beanbag rounds, foam

tipped plastic rounds, tear gas, CS, pepper balls, pepper spray, or OC).

The use of these devices could result in serious injury. Ohio Revised Statutes Section 2917.04 prohibits remaining present at an unlawful assembly; you must leave the area immediately. The following routes of dispersal are available (routes). “You have (state the current time and the reasonable amount of time to disperse, e.g., it is now 9:30 pm, and you have 15 minutes to leave the area) to disperse.”

6. Mass Arrest- During a ~~civil disturbance~~ **PUBLIC ORDER EVENT SHALL BE PROHIBITED**; ~~it may be necessary to arrest numerous individuals in a relatively short period of time. The Mass Arrest Procedure P-08 must be followed to ensure that this process is handled efficiently, safely, and legally.~~ **IF ANY ARRESTS TAKE PLACE, THEY SHOULD FOLLOW THE FOLLOWING GUIDELINES:**

- a. **ARRESTEES REQUESTING MEDICAL HELP SHALL BE PROVIDED WITH ASSISTANCE PROMPTLY.**

Reason for edit:

There have been situations in the recent past where arrestees have requested medical help — during and after arrest and during detention— and have been ignored or refused emergency aid, medicine, and other medical help.

- b. **ARRESTEES SHALL BE PERMITTED TO USE THE RESTROOM AND HAVE WATER IN A TIMELY MANNER.**

Reason for edit:

There have been situations in the recent past where arrestees have requested use of restrooms and water; and have been ignored or refused.

- c. **ARRESTEES SHALL BE READ THEIR MIRANDA RIGHTS.**

Reason for edit:

Stating this in the policy can help to alleviate miscommunication issues with arrestees.

7. Legal observers and media members have a constitutional right to observe, document, and report on public order events; however, they may not interfere with police action or impede a lawful objective.

8. Officers shall consider anyone identifying themselves as a media member, journalist, broadcaster, or legal observer, or displaying any indicia of the aforementioned, to be an authorized legal observer or member of the media.

9. Officers shall not detain or arrest legal observers or members of the media solely for their role in observing, capturing, and/or reporting on events.

10. Officers shall not arrest members of the media or legal observers for failure to disperse unless they are physically obstructing lawful efforts to disperse the

crowd or arrest a person engaged in criminal activity. Officers can arrest media or legal observers when there is probable cause of other criminal violations.

H. Deactivation

When the disturbance has been brought under control, all personnel involved in the incident shall be accounted for, and injuries shall be assessed and documented.

1. Witnesses, suspects, and others should be interviewed or questioned.
2. All necessary personnel should be debriefed as required.
3. Any equipment utilized by officers should be replaced.
4. All body worn camera equipment should be charged and data uploaded.
5. All written reports shall be completed as soon as possible after the incident.
6. The IC shall conduct an after-action review. A report detailing the incident, response, training needs, equipment needs, personnel needs, and policy recommendations shall be completed and forwarded up the chain of command to the Chief of Police. **THE AAR SHALL ALSO INCLUDE DESCRIPTIONS OF ALL USES OF FORCE, MUNITIONS DEPLOYED, RELATED DEPARTMENTAL EXPENSES, AND A LIST OF PERSONNEL INVOLVED. ALL AARs SHALL BE PUBLIC RECORD AND MUST BE POSTED PUBLICLY ON THE APD WEBSITE WITHIN A TIMELY MANNER OF COMPLETION. THE AAR SHALL BE SENT TO THE CITIZENS POLICE OVERSIGHT BOARD AND INDEPENDENT POLICE AUDITOR.**

Reason for edit:

Reasons stated above in the Definitions section.

- I. Training- Officers should receive initial and ongoing training on appropriate responses to crowd control and management.

J. ~~Body-Worn~~ Camera Policy

1. The APD's policy is to ensure that members activate their assigned body worn cameras when responding to First Amendment assemblies per P-2023-031 (Mobile Recording Device Procedure). Officers shall not solely record First Amendment assemblies to identify and record the presence of individual participants who are not engaged in unlawful conduct.

2. POLICE WILL ENSURE THAT BODY WORN CAMERAS, VEHICLE CAMERAS, AND ANY OTHER POLICE RECORDING

DEVICES ARE CHARGED, WORKING, AND TURNED ON DURING ANY POLICE INTERACTION WITH PERSONS WHO ARE, OR WHO IMMEDIATELY PRIOR TO THE INTERACTION WERE, EXERCISING THEIR FIRST AMENDMENT RIGHTS, TO THE EXTENT PERMITTED BY THE RELEVANT TECHNOLOGY.

Reason for edit:

This is language directly pulled from what is mandated explicitly in the Settlement Agreement (Page 4, Section (3)(c).

Additionally, this section should be about all cameras, as mentioned in the Settlement, and not just body-worn cameras.

K. DEPARTMENT USE PROHIBITIONS

~~2. 1. DEPARTMENT EMPLOYEES~~ Officers shall not collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership unless such information directly relates to an ACTIVE investigation of criminal activities, ~~and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.~~

Reason for edit:

This section was incorrectly placed into the "Body-worn Camera Policy" section, but should stand alone.

We propose a Prohibitions section at the end of this policy for clarity.

2. THE USE OF KETTLING AS A MEANS OF CROWD CONTROL, CROWD MANAGEMENT, OR CROWD RESTRAINT SHALL BE PROHIBITED.

Reason for edit:

Kettling is a police crowd management tactic that is known to escalate tension, and is banned in many jurisdictions, including Ohio jurisdictions. There should be an out-right ban on such activities, and a definition added to the Definitions section of this policy.

3. THE USE OF DRONES OR SMALL UNMANNED AERIAL SYSTEM, LICENSE PLATE READERS, MILITARY-STYLE LONG-RANGE ACOUSTIC DEVICES OR SONIC WEAPONS, STRING RAYS OR CELLULAR-DATA-COLLECTING DEVICES AS A MEANS OF CROWD CONTROL, CROWD MANAGEMENT, CROWD RESTRAINT, SURVEILLANCE, OR TO TARGET SPECIFIC INDIVIDUALS SHALL BE PROHIBITED AT PUBLIC ORDER EVENTS.

Reason for edit:

Jurisdictions, like Cleveland, have banned the use of drones at protests due to officer misuse and unnecessary surveillance.

LRAD and other acoustic weapons are known to cause injury, sometimes serious injury.

String rays and other cellular-collecting-devices have no meaningful use at a protest.

4. DEPARTMENT PERSONNEL SHALL NOT RAISE GUNS AT THE CROWD OR INDIVIDUALS AT A PUBLIC ORDER EVENT UNLESS AUTHORIZED TO USE DEADLY FORCE.

Reason for edit:

This has happened numerous times in the past and should be prohibited. Protestors in the past have noted formations of officers approaching protestors with guns drawn and pointed and snipers on roofs.

5. VEHICLES AND PERSONAL PROPERTY BELONGING TO CROWD MEMBERS AND BYSTANDERS SHALL NOT BE TOWED OR COMMANDEERED OR DISCARDED WITHOUT LAWFUL CAUSE.

Reason for edit:

In the recent past, officers have targeted protestors during and outside of protests, towed their vehicles for minor infractions and even commandeered some vehicles. This activity has been seen by victims as a retaliation against their First Amendment activity and, therefore, should be restricted unless there is a lawful cause.

By Order Of, _____

Brian Harding, Chief of Police

Date _____