

CROWD MANAGEMENT

AND

CIVIL DISOBEDIENCE GUIDELINES

March 2003

Crowd Management and Civil Disobedience Guidelines
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PREFACE

Penal Code Section 13514.5 requires the Commission on Peace Officer Standards and Training to establish guidelines and training for law enforcement's response to crowd management and civil disobedience.

These guidelines contain information for law enforcement agencies to consider when addressing the broad range of issues related to crowd management and civil disobedience. *The guidelines do not constitute a policy*, nor are they intended to establish a standard for any agency. The Commission is sensitive to the needs for agencies to have individualized policies that reflect concern for local issues. The Commission intends these guidelines to be a resource for law enforcement executives that will provide maximum discretion and flexibility in the development of individual agency policies.

Questions or comments concerning these guidelines may be directed to **Jody Buna**, Law Enforcement Consultant, Commission on POST, at (916) 227-4896.

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INTRODUCTION

In the United States all people have the right of free speech and assembly guaranteed by the First Amendment of the Federal Constitution and California State Constitution. Law enforcement recognizes the right of free speech and actively protects people exercising that right.

The rights all people have to march, demonstrate, protest, rally, or perform other First Amendment activities comes with the responsibility to **not** abuse or violate the civil and property rights of others. The responsibility of law enforcement is to protect the lives and property of all people. Law enforcement should not be biased by the opinions being expressed nor by the race, gender, sexual orientation, physical disabilities, appearances, or affiliation of anyone exercising his/her lawful First Amendment rights. Law enforcement personnel must have the integrity to keep personal, political or religious views from affecting their actions.

When it becomes necessary to control the actions of a crowd that constitutes an unlawful assembly, the commitment and responsibility of law enforcement is to control lawfully, efficiently, and with minimal impact upon the community. A variety of techniques and tactics may be necessary to resolve a civil disobedience incident. Only that force which is objectively reasonable may be used to arrest violators and restore order.

All agencies should familiarize themselves with the terms, definitions, and guidelines set forth in this document. These are the generally accepted principles by which agencies respond to lawful and unlawful assemblies. The material in this document is designed to assist law enforcement executives in addressing the broad range of issues surrounding civil disobedience.

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Guideline #1: Law Enforcement Objectives

Law enforcement agencies should establish policies and procedures that recognize and address law enforcement objectives and provide for the legal protection of the Constitutional rights of all persons.

Discussion:

When establishing policies and procedures, every agency should consider that all persons have the right to march, demonstrate, protest, rally, or perform other activities protected by the First Amendment of the United States Constitution. Law enforcement has the responsibility to protect the lives and property of all people. Peace officers must **not** be affected by the content of the opinions being expressed nor by the race, gender, sexual orientation, physical disabilities, appearances, or affiliation of anyone exercising their lawful First Amendment rights. They must have the integrity not to let personal, political, or religious views affect how they perform their duties.

*** Issues to Consider:**

- ✓ Protection of Constitutional rights
- ✓ Fair and impartial enforcement of laws
- ✓ Protection of life and property
- ✓ Protection of vital facilities
- ✓ Prosecution of violators
- ✓ Public and peace officer safety
- ✓ Potential for disruption to commerce and community affairs

** This sampling is not in order of priority.*

Guideline #2: Incident Command System (ICS) and Standardized Emergency Management Systems (SEMS)

Law enforcement agencies should use the Incident Command System as mandated by the Standardized Emergency Management System when managing crowds and acts of civil disobedience.

Discussion:

The ICS is considered the model for managing the response to unusual critical incidents including crowd management and civil disobedience situations. SEMS, established by Government Code Section 8607(a), incorporates ICS and must be utilized by law enforcement agencies to apply for reimbursement from the State of California. Law enforcement's use of ICS is outlined in the *Law Enforcement Guide for Emergency Operations* (or "Red Book").

SEMS consists of five organizational levels that are activated as necessary: Field Response, Local Government, Operational Area, Region and State (*Law Enforcement Guide for Emergency Operations*, 1998 Edition, Annex, A, Page 11). The Field Response Level also consists of five primary Incident Command System functions.

Field Response Level uses the following five primary ICS functions:

- ✓ Command
- ✓ Operations
- ✓ Planning/Intelligence
- ✓ Logistics
- ✓ Finance/Administration

The *Law Enforcement Guide for Emergency Operations* can be ordered by contacting the Law Enforcement Branch of the California Office of Emergency Services at 916.262.1744.

Guideline #3: Principles of Crowd Management

Agencies should establish policies and procedures designed to manage crowds.

Discussion:

A public assembly, whether for lawful or unlawful activities, may require the response of law enforcement. The response can range from observation to crowd management strategies.

Not all crowd situations involve civil disobedience. Law enforcement's responsibility is to objectively discern at what juncture a demonstration leaves the realm of legal protest and becomes an abridgement of the rights of others.

*** A Sampling of Crowd Management Strategies:**

- ✓ Coordinate incident planning and preparation
- ✓ Arrange pre-meeting with group organizers
- ✓ Develop unified and streamlined chain-of-command
- ✓ Coordinate pre-incident training
- ✓ Insure pre-incident community education
- ✓ Establish stakeholders interest and involvement
- ✓ Deploy sufficient numbers of law enforcement and public safety personnel to control and/or respond to anticipated events
- ✓ Establish overt police presence
- ✓ Insure law enforcement response is timely
- ✓ Designate public assembly areas when reasonable
- ✓ Separate opposing factions
- ✓ Establish and attempt to maintain contact with the crowd
- ✓ Insure personnel has proper and sufficient equipment including specialized tactical resources
- ✓ Establish inner and outer cordoning
- ✓ Insure on-scene incident command
- ✓ Provide effective means of communication
- ✓ Establish rules of conduct, including force options
- ✓ Establish mobile field booking and arrest teams
- ✓ Establish dismounted and mobile tactical formations
- ✓ Define unlawful activity
- ✓ Develop unlawful assembly declaration
- ✓ Prepare to use specialty vehicles as necessary
- ✓ Development media management plan
- ✓ Establish photo/video journal of chronology of events
- ✓ Establish photo/video journal of arrest and booking
- ✓ Continually gather and assess tactically significant intelligence
- ✓ Identify and employ means to detect metal, explosives, terrorists, and suicide bombers

** This sampling is not in order of priority.*

Guideline #4: Stakeholder Involvement

Agencies should establish procedures to identify, develop, and utilize stakeholders.

Discussion:

Stakeholder involvement is critical to the overall success of managing crowds and civil disobedience. Law enforcement should facilitate the involvement of stakeholders when planning for and responding to crowds and civil disobedience situations.

*** A Sampling of Community and Public Agency Stakeholders:**

- ✓ Adjacent Law Enforcement Agencies (i.e., Mutual Aid)
- ✓ Agency Counsel and District Attorney
- ✓ Animal Control
- ✓ Business Community
- ✓ California Department of Transportation (Cal Trans)
- ✓ City Manager/County Administrator
- ✓ Clergy
- ✓ Community Support Groups
- ✓ Correctional Facilities
- ✓ Elected Officials (Mayor, City Council, County Supv., etc.)
- ✓ EMS Providers, Ambulance Services
- ✓ Fire Services
- ✓ Hospitals
- ✓ Judicial
- ✓ National Guard
- ✓ Office of Emergency Services
- ✓ Outside Agencies
- ✓ Parks and Recreation
- ✓ Public Transportation
- ✓ Public Works
- ✓ Red Cross
- ✓ Refuse Service
- ✓ Salvation Army
- ✓ Schools
- ✓ Social Services
- ✓ Utility Companies
- ✓ Volunteers
- ✓ Liaison with California Anti-terrorism Information Center (CATIC)

** This sampling is not in order of priority*

Guideline #5: Management and Supervisory Responsibilities

Managers and supervisors should be guided by their agency's policies and procedures and be familiar with the *Law Enforcement Guide for Emergency Operations* (published by the California Office of Emergency Services).

Discussion:

Managers and supervisors have unique roles at critical incidents. A supervisor may be the manager of an incident until relieved by a ranking officer and should be familiar with both roles. Managers and supervisors should be trained in the Standardized Emergency Management System (SEMS), and, in particular, the Incident Command System (ICS). A pre-established checklist may be helpful for reference during an incident. Existing models are available from many law enforcement agencies and in the *Law Enforcement Guide for Emergency Operations*.

*** A Sampling of Supervisory Responsibilities:**

- ✓ Ensure agency policies are followed
- ✓ Respond quickly and safely to the scene or staging area
- ✓ Determine safe avenue of approach to scene or staging area
- ✓ Establish a command post if appropriate and not already done
- ✓ Delegate responsibility of incident command post and subordinate elements
- ✓ Establish a secure tactical communication
- ✓ Assess the situation via briefing and/or observations
- ✓ Assume command when appropriate
- ✓ Indicate assumption of command to subordinate
- ✓ Make appropriate notifications
- ✓ Utilize SEMS
- ✓ Refer to the Civil Unrest/Disorder Check List, *Law Enforcement Guide for Emergency Operations*
- ✓ Establish priorities of action (containment, isolation, control, arrest, etc.)
- ✓ Establish a staging area and designate a coordinator
- ✓ Establish a journal and report writer
- ✓ Allow time for readjustment, reassessment, and decision making
- ✓ Avoid unrealistic pressure; slowing down is a wise option
- ✓ Deploy disciplined control forces rapidly yet efficiently (economy of force)
- ✓ Emphasize teamwork and avoidance of individual action
- ✓ Establish contact with participants/leadership (be candid in discussions)
- ✓ Consider a rapid response force pre-staged for assistance
- ✓ Maintain support for emergency services (e.g., fire, rescue, etc.)
- ✓ Ensure all personnel have appropriate equipment
- ✓ Attain a signed crime/offense report from victim when possible
- ✓ Ensure personnel understand agency use-of-force policies
- ✓ When possible, don't cite and release demonstrators at the scene
- ✓ Consider the use of barriers and screens around demonstrators
- ✓ Conduct a post-event critique
- ✓ Be available for decision making

Guideline #5: Management and Supervisory Responsibilities (Cont.)

- ✓ Provide ongoing training of managers and supervisors
- ✓ Train and equip response force prior to incident
- ✓ Be familiar with mutual aid policies and principles
- ✓ Slow down the incident as necessary
- ✓ Define mission and establish objectives for the incident
- ✓ Establish and review intelligence information
- ✓ Practice unity of command
- ✓ Accept responsibility
- ✓ Assume command from supervisor
- ✓ Establish an ICS organization
- ✓ Obtain briefing from supervisor
- ✓ Acquire logistical support
- ✓ Set enforcement profiles (e.g., carry, pain compliance, nonlethal chemical agents, etc.)
- ✓ Notify appropriate persons (e.g., police chief, sheriff, mayor, city manager, etc.)
- ✓ Consider protracted events and personnel staffing
- ✓ Conduct a post-event critique with all personnel and participating agencies

* *This sampling is not in order of priority.*

Guideline # 6: Crowd Behavior

Agencies should be prepared to respond to various types of crowds and recognize behavior patterns or characteristics.

Discussion:

Law enforcement agencies should be aware of the various types of behaviors associated with crowds that may require law enforcement response. Generally crowds can be categorized into two groups: Lawful or unlawful. This behavior can range from lawful assembly to civil disobedience to rioting. The ability of law enforcement personnel to maintain or restore order is highly dependent upon a thorough understanding of the factors involved.

*** A Sampling of Crowds and Crowd Behaviors:**

Crowds-

- ✓ Sporting events
- ✓ Labor disputes
- ✓ Parties/social gatherings
- ✓ Entertainment events
- ✓ First Amendment demonstrations
- ✓ Anarchists
- ✓ Social agenda driven events (e.g., abortion, animal rights, jury decisions, environmental issues, anarchists, etc.)
- ✓ Parades
- ✓ Traffic collisions
- ✓ Crime scenes
- ✓ Disasters
- ✓ Media events
- ✓ Community celebrations
- ✓ Political events
- ✓ Mobile Crowds

Crowd Behaviors-

- ✓ Lawful
- ✓ Orderly
- ✓ Compliant
- ✓ Non-compliant
- ✓ Active resistance
- ✓ Violent resistance
- ✓ Rioting

** This sampling is not in order of priority.*

Guideline #7: Tactical Fundamentals

Each agency should develop tactical precepts to address the management of crowds and civil disobedience.

Discussion:

The tactical precepts agencies develop will depend upon available resources and the situation itself. Crowds and acts of civil disobedience are dynamic and require a flexible response. Tactical fundamentals include containment, control, communication, tactical information, response, and coordination. Agencies should strive to plan and prepare for incidents above and beyond the basic fundamentals. The Mobile Field Force, as outlined in the *Law Enforcement Guide for Emergency Operations* (otherwise known as the “Red Book”), is the standard mutual aid resource and has local application as well.

*** A Sampling of Fundamental Tactical Considerations:**

- ✓ Designated areas for dispersal
- ✓ Operation plan development
- ✓ Use of barriers for isolation and containment
- ✓ Unlawful assembly declaration/announcement
- ✓ Arrest and control teams
- ✓ Mobile booking teams
- ✓ Arrest and processing procedures for non-compliant and disabled subjects
- ✓ Mobile tactical formations
- ✓ Use of specialty impact ammunitions
- ✓ Use of nonlethal chemical agents
- ✓ Transportation issues
- ✓ Dismounted tactical formations
- ✓ Mounted tactical formations
- ✓ Communications issues
- ✓ Use of canine
- ✓ Separation of opposing factions
- ✓ Mobile Field Force concept
- ✓ Media considerations
- ✓ Photo/video record of events
- ✓ Documentation and reporting process
- ✓ Traffic management
- ✓ Personnel support and relief issues
- ✓ Specialty equipment
- ✓ Medical considerations
- ✓ Contingency planning

** This sampling is not in order of priority.*

Guideline #8: Dispersal Orders

Law enforcement agencies should establish procedures for declaring unlawful assemblies and issuing dispersal orders.

Discussion:

Law enforcement agencies should understand the law as it pertains to an unlawful assembly. Law enforcement's decision to declare a crowd unlawful must be based upon reasonable and articulable facts. The definition of an unlawful assembly has been set forth in Penal Code Section 407 and interpreted in court decisions. The terms "boisterous" and "tumultuous" as written in Penal Code Section 407 have been interpreted *as conduct that poses a clear and present danger of imminent violence* [In re Brown (1973) 9 Cal. 3d 612, 623.].

The intent of a dispersal order is to permanently disperse a crowd, not to merely relocate the problem. It should be made clear that the crowd is expected to immediately leave the area, and include a warning that force may be used which could result in serious injury [*Deorle v. Rutherford* 272 F.3d 1272, 1284.(9th Cir. 2001)]. The dispersal order must be given in a manner reasonably believed to be heard and understood by the intended audience. Based upon the circumstances, law enforcement may need to consider multiple announcements from various locations. Dispersal orders may be delivered in English and in other languages that are appropriate for the audience. Regardless of how delivered, law enforcement should record the name of the individual making the statement and the date and time each order was administered. **Dispersal orders should not be given until control forces are in position to support crowd movement.**

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 California, command all those assembled at (*specific location*) to immediately disperse, which means to break up this assembly. If you do not do so, you may be arrested or subject to other police action. Other police action could include the use of force which may result in serious injury. Section 409 of the Penal Code prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of Section 409. The following routes of dispersal are available (*routes*). You have (*reasonable amount of time*) minutes to disperse."

*** A Sampling of Methods Used to Deliver and Document Dispersal Orders:**

- ✓ Loud speech
- ✓ Amplified sound
- ✓ Display signage indicating unlawful assembly and dispersal
- ✓ Gain attention of the crowd and document affirmative responses prior to declaration of unlawful assembly
- ✓ Position law enforcement personnel to the rear of a crowd to confirm and document the sound of the dispersal order transmission
- ✓ Acquire multiple language capability
- ✓ Video/audio recording equipment for documentation

* *This sampling is not in order of priority*

Guideline #9: Use of Force: Force Options

Agencies should develop use of force policies, procedures, and training for managing crowds and civil disobedience.

Discussion:

When dealing with crowds and civil disobedience situations, law enforcement must be a disciplined and well-organized control force. The decisions to use force and the force options that may be applied in response to these incidents range from law enforcement presence to deadly force. Peace officers need not use the least intrusive force option, but only that force which is objectively reasonable under the totality of the circumstances (*Scott v. Henrich*, 39 F. 3d 912, 9th Cir. 1994, and *Forrester v. City of San Diego*, 25 F. 3d 804 9th Cir. 1994). *Graham v. Connor*, 490 U.S. 386, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989). The reasonableness of the force used to affect a particular seizure is analyzed under the Fourth Amendment and determined by balancing the nature and quality of the intrusion on the individual's Fourth Amendment interests against the governmental interests at stake.

Prior to an event, agencies should continually review their use of force alternatives in response to potential actions by protesters. Training should reflect reasonable use of force alternatives in order that officers are prepared to consider the tactics/force options available. *Chew v. Gates*, 27 F. 3d 1432, 1443 (9th Cir. 1994).

*** A Sampling of Use of Force Considerations:**

- ✓ Determine compliance or non-compliance of crowd
- ✓ Physically moving non-compliant offenders
- ✓ Anticipate possible actions of demonstrators
- ✓ Identify criminal violations involved
- ✓ Develop arrest protocol
- ✓ Develop use of pain compliance protocol
- ✓ Plan for disabled, elderly, and children demonstrators
- ✓ Determine availability of personnel
- ✓ Evaluate availability of other public safety resources
- ✓ Include protection devices for involved personnel
- ✓ Plan for the safety of bystanders
- ✓ Evaluate mobility of suspects/protestors
- ✓ Determine avenues of controlled departure
- ✓ Anticipate potential for medical resources
- ✓ Establish protocols for less lethal munitions

*** A Sampling of Force Options:**

- ✓ Law enforcement presence
- ✓ Verbalization
- ✓ Firm grip
- ✓ Compliance techniques
- ✓ Control devices
- ✓ Nonlethal chemical agents
- ✓ Electrical control devices
- ✓ Impact weapons/batons
- ✓ Less lethal (i.e., sting balls, grenades, bean bags)
- ✓ Deadly force

** These samplings are not in order of priority*

Guideline #10: Use of Nonlethal Chemical Agents

Agencies should develop policies and procedures for the deployment of nonlethal chemical agents during incidents of civil disobedience. The application of nonlethal chemical agents must be reasonable under the totality of the circumstances.

Discussion:

Nonlethal chemical agents, properly deployed by trained law enforcement personnel, are designed to cause temporary discomfort. The application of nonlethal chemical agents, including oleoresin capsicum (OC), has proven effective in a wide variety of civil disobedience situations. Use of nonlethal chemical agents during civil disobedience may be reasonable depending on the totality of the circumstances. Each agency should consider when, where, and how nonlethal chemical agents may be deployed.

It is important that every agency have properly trained personnel for the deployment of nonlethal chemical agents. Nonlethal chemical agents, protective masks, maintenance, storage, and security are the responsibility of the agency.

*** A Sampling of Nonlethal Chemical Agent Deployment Issues:**

- ✓ Law Violations
- ✓ Non-compliance, civil disobedience situations
- ✓ Peace officer safety
- ✓ Personnel available
- ✓ Methods of delivery available
- ✓ Weather conditions
- ✓ Wind direction
- ✓ Physical location/terrain considerations
- ✓ Cross contamination problems
- ✓ Mobility of protestors (suspects)
- ✓ Effect on law enforcement horses
- ✓ Types of agents available
- ✓ Protective devices for involved personnel
- ✓ Decontamination
- ✓ The potential exposure to children, elderly, and disabled members of the crowd

*** A Sampling of Nonlethal Chemical Agent Policy Considerations:**

- ✓ Training
- ✓ Reporting
- ✓ Types of agents
- ✓ Delivery methods to be utilized (application, spray, expulsion, pyrotechnics, etc.)
- ✓ Amount of agents to be purchased
- ✓ Identify person(s) who can authorize the use of nonlethal chemical agents, and under what circumstances
- ✓ Decontamination/observation
- ✓ Storage of nonlethal chemical agents
- ✓ Replacement and/or rotation of expired agents
- ✓ Use on animals
- ✓ Mutual aid for procurement (chemical collaborative)
- ✓ Non-compliance, civil disobedience situations
- ✓ Purchase, storage, and distribution of protective masks

** These samplings are not in order of priority.*

Guideline #11: Mass Arrest and Booking

Agencies should develop procedures for managing mass arrests and bookings.

Discussion:

The most successful law enforcement strategy for dealing with mass arrests and bookings is proper planning, training, and comprehensive briefing of involved peace officers prior to the event. Mass arrests are dynamic situations, and any process must be flexible enough to handle challenges confronting the field force.

The impact of a large number of arrests on public agencies should be evaluated.

It is imperative that agencies maintain continuity and accountability of arrestees from the arrest site (crime scene) through the booking process. Many cases are lost due to the inability to match up the arresting peace officer to the arrestee. The arrest report should articulate each arrestee's specific criminal act(s). This process will aid in criminal prosecution and the reduction of civil liability.

A coordinated effort between all involved criminal justice entities is essential to ensure successful arrest, booking, and prosecution.

It is imperative that agencies maintain continuity and accountability of evidence. Consideration should be given to maintaining evidence beyond the criminal prosecution, pending potential civil litigation.

*** Sampling of Mass Arrest and Booking Considerations:**

- ✓ Booking/processing area: On site or
 - Temporary holding facility
 - Security
 - Weather issues
 - Media issues
- ✓ Identified arrest teams
 - Armed
 - Unarmed
 - Protective clothing
 - Handcuff release devices
- ✓ Documentation (photo/video/written) of arrests
 - Date
 - Time
 - Location
 - Offence(s)
 - Arresting peace officer(s)
 - Identification of arrestees

Guideline #11: Mass Arrest and Booking (Cont.)

- ✓ Computer access for identification
- ✓ Telephone capabilities
- ✓ Identified booking teams
- ✓ Prisoner transportation
 - Special needs (e.g., wheel chairs)
- ✓ Segregation issues
 - Gender
 - Gangs
 - Juveniles
- ✓ Personal needs issues
 - Restrooms
 - Water
 - Food
- ✓ Coordination with
 - Medical
 - Jail
 - Court
 - District/City Attorney
 - Probation/Parole
 - Public Defender's Office
- ✓ Sufficient handcuffs/restraint equipment
- ✓ Sufficient forms/paperwork
 - Booking forms
 - Field release from custody
 - Field interview cards
 - Evidence collection/storage of materials
- ✓ Master report writer
- ✓ Public Affairs/Media Relations Rep.
 - Public Service Announcements

** This sampling is not in order of priority.*

Guideline #12: Criminal Investigation

Law enforcement agencies should establish procedures to investigate and prosecute criminal activity associated with civil disobedience.

Discussion:

Crowd behavior and civil disobedience that result in criminal misconduct should be investigated. Arrest/charging sections are not always the same. It may be appropriate to establish a victim other than law enforcement. Private persons arrests and/or signed crime/offense reports should be considered. Sections to be considered should be based upon applicable laws and advice from prosecutors. Conspiracy charges are often appropriate but frequently overlooked.

Crowd behavior and civil disobedience that result in criminal activity should be investigated as any other crime. Charging sections to be considered may include, but not be limited to, trespass, unlawful assembly, failure to disperse, rioting, wearing a mask during the commission of a crime, vandalism and conspiracy, if warranted.

When gathering information regarding different groups and their actions, agencies should also confer with the agency's legal advisor regarding legal guidelines and court decisions affecting intelligence activities by law enforcement agencies.

*** A Sampling of Investigative Considerations:**

- ✓ Identify potential violations
- ✓ Consult with city/district attorney prior to and after the event
- ✓ Identify a master report writer
- ✓ Identify an evidence coordinator
- ✓ Gather documents which may aid in your investigation (including press releases, internet material, signs, banners, etc.)
- ✓ Review similar activity the group has been involved with in other jurisdictions
- ✓ Obtain all available video evidence
- ✓ Review each individual arrest
- ✓ Record specific chants and who is leading them
- ✓ Photograph the event
- ✓ Maintain evidence beyond the criminal prosecution, pending potential civil litigation

*** A Sampling of Evidence Considerations for Conspiracy Investigation:**

- ✓ Computers and all discs
- ✓ E-mail accounts
- ✓ Telephone records
- ✓ Fax machines (machine memory can have programmed phone numbers)
- ✓ Video recordings
- ✓ Clothing and other items showing affiliation with similar groups
- ✓ Documents (correspondence, address books, journals, etc.)
- ✓ Manifestos
- ✓ Photographs (including criminal activity and site before and after)

** These samplings are not in order of priority.*

Guideline #13: Incident Documentation

Agencies should establish policies and procedures for documenting crowd management and civil disobedience incidents.

Discussion:

Thorough documentation is a key element which supports not only criminal investigation and prosecution but also gives an account of law enforcement's response to an event. Documentation should begin as soon as possible. Additionally, proper documentation can aid law enforcement in anticipation of potential civil litigation.

The extent of documentation is based on the resources available to an agency. Several types of documentation can be used. Agencies should evaluate existing documentation methods and the need for additional resources.

*** A Sampling of Methods of Documentation:**

- ✓ Still photography
- ✓ Audio recording
- ✓ Video recording
- ✓ Written log/journal
- ✓ Reports (including after-action reports)
- ✓ Media reports/footage
- ✓ Communication and dispatch tapes/printouts

*** A Sampling of Subjects to be Documented:**

- ✓ Public disruption
- ✓ Property damage
- ✓ Injuries (private citizens, participants, **and** law enforcement)
- ✓ Collective and individual behavior
- ✓ Individual arrests
- ✓ Individual actions
- ✓ Use of force
- ✓ Physical evidence

** These samplings are not in order of priority.*

Guideline #14: Training for Managing Crowds and Civil Disobedience

Agencies should establish procedures for training law enforcement command and line members in managing crowds and civil disobedience situations.

Discussion:

It is important for agencies to prepare for incidents through training and simulation exercises. Command personnel needs to understand resources, operational strategies, capabilities, force options, and limitations of field forces as well as the law and policies. Operational personnel also need to understand the law, policy, tactics, and mission objectives.

Officer discipline is an essential component in successfully managing crowds and civil disobedience. Discipline is achieved through regular training in the areas of tactical fundamentals and First Amendment rights issues. Training should not be a single incident occurrence, rather, a continual process. Training should be presented in a dynamic, relevant, and realistic format.

*** A Sampling of Training:**

- ✓ Agency policies and procedures
- ✓ Case and statutory law
- ✓ Basic Course
- ✓ Continuing Professional Training (CPT)
- ✓ Arrest and control techniques
- ✓ Team arrest techniques
- ✓ Mass arrest techniques
- ✓ Baton/impact weapon techniques
- ✓ Nonlethal chemical agents
- ✓ Less lethal munitions (e.g., specialty impact munitions)
- ✓ Law enforcement SEMS/ICS
- ✓ Incident Command Post and field exercises
- ✓ Media relations
- ✓ Mutual aid
- ✓ Command decision-making
- ✓ Supervisory leadership
- ✓ Tactical decision-making
- ✓ Crowd dynamics

** This sampling is not in order of priority*

Information Guide

Protestor Tactics – Trends – Techniques

The following information has been compiled from various sources involving several large public demonstrations. Information described should be considered foundational to detecting protestor behavior that may involve unlawful activity.

- ✓ Aggressive, antagonistic, provocative, animated (European influence)
- ✓ Predominantly white and young
- ✓ Advocate “non-violence,” “direct action”
- ✓ Black clad – “Black Bloc” cell groups-confrontational towards police
- ✓ White coveralls (G8 Summit)
- ✓ Facial coverings: protective masks and bandannas (soaked in vinegar, carried in zip-lock bags)
- ✓ Swim goggles
- ✓ Backpacks
- ✓ Two-way, recreational radios, cellular telephones, NEXTEL
- ✓ Bicycles – communications and reconnaissance
- ✓ Things to tie, bind and clog such as duct tape, super glue, wire, and staple guns
- ✓ Helmets: motorcycle, military, football (face guard removed), construction, etc.
- ✓ Paint, “day-glow orange,” yellow, red, black
- ✓ Body padding, shin guards, knee/elbow pads, carpet, rubber
- ✓ Protective (thick) clothing: chemical suits or rain gear (yellow/orange)
- ✓ Large trucks/vans, out of state plates
- ✓ Police monitors– colored hats
- ✓ Highly mobile and dynamic groups
- ✓ Body armor such as foam, cushions, and garbage can lids,
- ✓ First Aid: bandages, gauze, etc.
- ✓ Squirt bottles filled with urine, water, etc.
- ✓ PVC pipes and banners
- ✓ Footwear- boots with steel toes
- ✓ Use of Internet- planning, coordination, and control (Independent Media)
- ✓ Fire (intimidation, confusion)
- ✓ Roadway obstacles (traffic blockades)
- ✓ Large trash receptacles (incendiary)
- ✓ Banner hanging (buildings and bridges)- high-angle rappelling devices, clothing, and equipment
- ✓ Welder’s gloves (handle expended with chemical agents)
- ✓ Convergence Centers (planning/assembly areas)– pre-rented, abandoned buildings
- ✓ Paramedics in crowd (travel in groups)
- ✓ Pirate radio stations (direct actions)
- ✓ Legal assistance (attorneys identified by colored caps)
- ✓ Bomb threats/hoax devices (intended to divert law enforcement)
- ✓ Public transportation (trains, subways, buses)
- ✓ Do not like to be photographed, followed, or monitored by uniformed police
- ✓ Engage in intimidation
- ✓ Jail solidarity (when arrested are “non-cooperative” in attempt to clog system)
- ✓ Practice “non-violence” training: Ruckus, DAN, etc.
- ✓ Lock down devices (bicycle locks, chains, “sleeping dragons,” etc.)
- ✓ Use hand signals to orchestrate crowd activity
- ✓ Weather Balloons
- ✓ Pre-target surveillance

Potential Targets

- ✓ Financial Institutions
- ✓ Federal, State, and Municipal Buildings
- ✓ Police facilities
- ✓ Prisoner detention facilities and arrestee processing locations
- ✓ Restaurants
- ✓ Corporations/stores
- ✓ University and corporate research facilities
- ✓ Roads, freeways, and overpasses- especially main arteries- blockades
- ✓ Political figures (including Cabinet level individuals)

Weapons

- ✓ Rocks and bottles
- ✓ Unsecured trash receptacles, fencing, light standards, newspaper racks, etc.
- ✓ Molotov cocktails (rag inside liter bottles)
- ✓ Rubbing alcohol, peroxide, and spices (homemade pepper spray)
- ✓ Urine filled squirt guns and plastic bottles
- ✓ Sling-shots, ball bearings, bolts, metal nuts
- ✓ Sticks, crowbars, golf balls, rakes, razors (equestrian injuries)
- ✓ Street theatre paraphernalia
- ✓ Commercially manufactured OC
- ✓ Vegetable oil and marbles
- ✓ Large nail clippers (tackle plastic cuffs when arrested)
- ✓ Pre-positioned rocks
- ✓ Catapults

TERMS AND DEFINITIONS

Active Resistance - To intentionally and unlawfully oppose the lawful order of a peace officer in a physical manner.

Arrest Protocol - The formal process of placing subjects under arrest, taking into custody, and associating the arresting peace officer(s) with the specific individual arrested.

Arrest Teams - Personnel assigned to arrest duties during civil disobedience/civil disorder operations.

Booking Teams - Personnel assigned to custodial and processing duties during civil disobedience/civil disorder operations.

Chemical Agents - See *Nonlethal Chemical Agents*.

Civil Disobedience - An **unlawful** event involving a planned or spontaneous demonstration by a group of people.

Civil Disorder - An unlawful event involving **significant** disruption of the public order.

Collective Behavior - The unlawful behavior of a group of persons involved in situations where normal cultural structure and controls are not observed, such as unruly crowds, civil disobedience, and riots.

Command - The authority a person lawfully exercises over subordinates by virtue of his/her rank and assignment or position.

Compliance Techniques - Reasonable, lawful use-of-force methods intended to encourage suspect cooperation.

Compliant Behavior - Behavior consistent with submitting to lawful orders of a peace officer without resistance.

Control Devices - Devices intended to assist peace officers in gaining control of subjects who refuse to submit to lawful authority (e.g., batons, electrical stunning units, restraint, chemical agents, etc.).

Cordoning - Surrounding or enclosing a particular problem area; also referred to as perimeter control.

Critical Facilities - Any location essential to the well-being and safety of the community requiring law enforcement protection during a critical incident (e.g., law enforcement, fire and other government facilities; public utilities; housing developments; shopping centers; hospitals; banks; gun stores; surplus, and supply centers; etc.).

Crowd Control - Law enforcement response to a pre-planned or spontaneous event, activity or occurrence where there is a potential for unlawful activity or the threat of violence.

Crowd Dynamics - Factors which influence crowd behavior.

Crowd Management - Strategies and tactics employed by law enforcement agencies to deal with lawful assemblies in an effort to prevent escalation of events into an unlawful assembly or riot.

Crowd - A number of persons collected into a close body.

Decontamination - Procedures taken to reduce the effects of any nonlethal chemical agent.

Discipline - Pattern of behavior consistent with demonstrating self-control, teamwork, moderation, and restraint.

Dispersal Order - Lawful orders communicated by law enforcement personnel commanding individuals assembled unlawfully to disperse.

Dismounted Tactics - Non-mobile tactical formations generally involving team, squad, and platoon-sized units.

Electrical Devices - Electrical stunning devices utilized by law enforcement to control resisting subjects.

Essential Elements of Information (EEI) - Critical tactical information, obtained from any source, received prior to and/or during an event which is considered so essential that without it, meaningful planning cannot proceed.

Flashpoint - Specific location(s) which can be anticipated to attract criminal elements and become the origin or focal point of civil disorder.

Force Options - Reasonable force applications utilized by law enforcement to effect arrest, overcome resistance, and prevent escape.

Formations - Coordinated unit tactics utilized by law enforcement to control crowds, stop unlawful activity, and disperse and/or arrest violators.

Incident Command System (ICS) - The statewide model for field-level management of emergencies mandated by the Standardized Emergency Management System (SEMS). 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 (*Law Enforcement Guide for Emergency Operations*, 1998 Edition, Annex A, page 6).

Leadership - The art and exercise of influence to direct personnel to obtain willing obedience, confidence, respect, and loyal cooperation.

Less Lethal Ammunition - Speciality impact ammunitions, hand-delivered or propelled from launching devices, designed to immobilize, incapacitate, or stun a human being. Refer to PC Section 12601(c).

Management - The process of planning, organizing, coordinating, directing, budgeting, and controlling resources.

Mobile Arrest and Booking Teams - Mobile teams designated to assist field personnel with mass arrest and booking.

Mobile Field Force - An organized, mobile law enforcement tactical force equipped and trained to respond to unusual occurrences. The mobile field force is currently the statewide standard configuration known as “Mutual Aid Response Mobile Field Force” (*Law Enforcement Guide for Emergency Operations*, 1998 Edition, Section IV, “Mutual Aid Response Mobile Field Force,” Page 53).

Mobile Tactics - The ability to rapidly deploy law enforcement personnel using vehicles. The vehicles may also be used for crowd control and containment.

Mob - A disorderly group of people engaged in unlawful activity.

Mounted Tactics - Crowd control while mounted on horses.

Non-Compliant Behavior - Behavior which does not yield to a lawful order.

Nonlethal Chemical Agents - Devices utilized by law enforcement agencies which may include CS, CN, OC, and HC (smoke).

Operations Security - Methods to prevent sensitive information which may compromise the integrity and safety of a law enforcement operation from being improperly disseminated.

Pain Compliance - Stimulation of nerves or the manipulation of joints to elicit a sense of unease or distress in a subject, causing that subject to comply. Examples include use of control holds, impact weapons, nonlethal chemical agents, electronic stunning devices, etc.

Passive Resistance - A commonly used term referring to non-violent opposition to the lawful directions of law enforcement during arrest situations.

Perimeter Control - See *Cordoning*.

Photographic Teams - Law enforcement photographers assigned to memorialize designated activity involving civil disobedience.

Platoon - A tactical component consisting of two or more supervised squads.

Policy - Statements of principles and values which guide the performance of a specific department activity. *Policy* establishes limits of action and reflects a statement of guiding principles that should be followed in order to achieve an agency’s objective.

Procedure - A method of performing an operation or a manner of proceeding on a course of action within the limits of policy.

Public Disruption - The interruption or disturbance of public order.

Rapid Response Force - See *Mobile Field Force*.

Stakeholder - Entities having a legal, professional, economic, or community interest/responsibility in the event.

Sectoring - Defining an overall area of operation and dividing it into sub-sections based upon geographical and/or artificial boundaries.

Standardized Emergency Management System (SEMS) - A system required by California Government Code for managing response to multi-agency and multijurisdiction emergencies in California. SEMS consists of five organizational levels that are activated as necessary: Field Response, Local Government, Operational Area, Region and State (*Law Enforcement Guide for Emergency Operations*, Annex, A, Page 11).

Squad - A tactical component consisting of a minimal number of supervised personnel.

Tear Gas - The term used in the California Penal Code for what law enforcement more accurately refers to as “nonlethal chemical agents.”

APPLICABLE STATUTES

California Penal Code - General

69	Resisting or deterring officer
71	Threat of injury made to peace officer in performance of his duties
102	Retaking property from officer
148	Resisting or obstructing public officer
148.1	False reporting planting of bomb
148.2	Interfering with fireman or EMT
148.4	Tampering with fire alarm
148.9	Giving false identification
151	Advocating injury or death of peace officer
169	Picketing in or near courthouse with intent to interfere or obstruct administration of justice or influence judge, juror, witness, or officer of the court
171f	Entering state capitol without authorization-disorderly conduct
182	Conspiracy
197	Killing in defense of self or property and arresting fugitives or quelling riot
218	Derailing or wrecking train
219	Wrecking train or firing bridge; penalty
219.1	Throwing missile at vehicle of common carrier
219.2	Throwing missile or shooting at trains, street cars, or vessels
240	Assault - defined
241	Assault; Assault against peace officer, or other specified persons engaged in performance of duties <u>Note:</u> see 241 PC subsections
242	Battery - defined
243	Battery; punishment <u>Note:</u> see 243 PC subsections
244	Throwing acid w/intent to disfigure or burn
245	Assault with deadly weapon, firearm, assault weapon, or machine-gun (ADW) <u>Note:</u> see 245 PC subsections
246	Discharge firearm at inhabited dwelling, vehicle or aircraft
247	Discharge firearm at unoccupied aircraft or motor vehicle or uninhabited building or dwelling house
247.5	Discharging laser at aircraft
248	Interfere with helicopter operation - light or bright device
302	Disorderly conduct at church service
372	Maintaining public nuisance
374	Littering and waste matter defined <u>Note:</u> see 374 PC subsections

California Penal Code - General (Cont.)

375	Use of offensive substance in place of public assembly; manufacture of offensive substance
396	Price gouging during state of emergency
403	Disturbing an assembly
404	Riot - defined
404.6	Incitement to riot
405	Punishment of participants in riot
405a	Lynching - defined
405b	Lynching - punishment
406	Rout - defined
407	Unlawful assembly
408	Participating in a rout or unlawful assembly
409	Refusal to disperse when ordered
409.5	Closing areas in emergency
410	Duty to suppress riot or rout
415	Fighting, causing loud noise, or using offensive words in public place
415.5	Unlawful acts committed in buildings or grounds of Colleges or University
416	Duty of crowd to disperse when ordered; Restitution for property damage
420	Obstructing entry on government land
422	Threats to commit crime resulting in death or great bodily injury
422.6	Civil Rights; Interfere with property damage or speech
451	Arson
452	Unlawfully causing a fire
453	Possession or manufacture of combustible or explosive material or fire bomb
455	Attempts to burn
463	Burglary during state of emergency
555	Entry without permission <u>Note:</u> see 555 PC subsections
587	Injuring or obstructing railroad tracks, rights-of-way or structures
588	Injuring public road or bridge <u>Note:</u> see 588 PC sections
591	Injuring or tapping telegraph, telephone, or cable telephone line
594	Vandalism
602	Trespassing
602.5	Unauthorized entry of dwelling
602.8	Trespass - Entering cultivated, fenced, or posted land
602.10	Physical obstruction of student or teacher from attending or instructing at a University of California, California State University, or Community College
602.11	Obstruct entry/exit of health care facility, place of worship, or school
616	Tampering with posted legal notice
626	Definitions - miscellaneous crimes - schools <u>Note:</u> See 626 PC subsections
640	Infractions committed on or in facilities or vehicles of a public transit system <u>Note:</u> see 640 PC subsections
647	Disorderly conduct - defined
647c	Accosting person in public place, disorderly conduct, impose, or begging
726	Unlawful assembly - officer's duty to disperse

California Penal Code - General (Cont.)

727	Arrest for refusal to disperse
835a	Use of reasonable force to effect arrest
836	Arrest by Peace Officer
4600	Destroying or injuring prison or jail (including jail property)
12600	Peace Officer may purchase, possess, or transport less-lethal weapons
12601	Less-lethal weapon - definitions

California Penal Code - Weapons Laws

171b	Bringing firearm or other specified weapons into courthouse or public meeting
171c	Bringing loaded firearm into state office, state capitol grounds, or public school grounds
171d	Bringing loaded firearms into residence of Governor or other constitutional officer
171f	Entering state capitol without authorization - disorderly conduct within
374c	Discharging firearms on a public highway
417	Drawing or exhibiting weapon in a rude or threatening manner <u>Note:</u> see 417 PC subsections
626.9	Bringing or possessing firearm on grounds of public school, college, or university
626.10	Knives, razors, tasers, stunguns, etc., on school grounds, exceptions
12020	Manufacture, importation, sale or possession of disguised firearms or other deadly weapons prohibited; carrying concealed weapons prohibited; exceptions
12024	Possession of deadly weapon with intent to commit assault
12025	Unlawful to carry concealed firearms without license
12031	Loaded firearm; carrying in public place or in vehicle
12303	Possession of destructive device prohibited
12590	Carrying a firearm or deadly weapon - wearing uniform of peace officer
12651	Purchase, possession, or use of stun gun

California Vehicle Code

23110	Throwing substance at vehicles
23112	Throwing, depositing, or dumping matter on highway

California Election Code

18340	Prevention of electors from assembly; misdemeanor
18380	Vandalism at polling places, violations; misdemeanor
18502	Interference with officers or voters; imprisonment
18540	Use of force, violence, tactic of coercion or intimidation; penalties

APPLICABLE CASE LAW

Use of Force

Graham v. Connor, 490 U. S. 386 (1989)
Scott v. Henrich, 39 F. 3d 912 (9th Cir. 1994)
Hammer v. Gross, 932 F. 2d 846 (9th Cir. 1991)
Fikes v. Cleghorn, 47 F. 3d 1011 (9th Cir. 1995)
Eberle v. City of Anaheim, 901 F. 2d (9th Cir. 1990)
Forrester v. City of San Diego, 25 F. 3d 804 (9th Cir. 1994)
Mayard v. Hopwood, 105 F. 3d 1226 (8th Cir. 1997)
Frazell v. Flanigan, 102 F. 3d 877 (7th Cir. 1996)

Unlawful Assembly

In re Brown, (1973) 9 Cal. 3d 612
Collins v. Jordan, 110 F. 3d 1363 (9th Cir. 1996)
Chambers v. Municipal Court, (1997) 65 Cal. App. 3d 904
In re Wagner, (1981) 119 Cal. App. 3d 90
In re Kay, (1970) 1 Cal. 3 d 930, 943

Riots

People v. Bundte, (1948) 87 Cal. App. 2d 735, 744, cert denied 337 U. S. 915
People v. Cipriani, (1991) 18 Cal. App. 3d 299, 304
People v. Jones, (1971) 19 Cal. App. 3d 437
People v. Davis, (1968) 68 Cal. 2d 481

Lynching

People v. Patino, (1979) 95 Cal. App. 3d 11
People v. Jones, (1971) 19 Cal. App. 3d 437

Authority to Close Disaster Area

Los Angeles Free Press v. City of Los Angeles, 9 Cal. App. 3d 448, 457 (1970) cert. denied 401 U. S. 982

Fighting/Noise/Offensive Words - First Amendment

Cohen v. California, (1971) 403 U. S. 15, 91 S.Ct. 1780
In re Brown, (1973) 9 Cal. 3d 612
Jefferson v. Superior Court, (1975) 51 Cal. App. 3d 721
Chambers v. Municipal Court, (1977) 65 Cal. App. 3d 904

Obstruction of Street/Sidewalk or Other Place Open To Public

In re Cox, (1970) 3 Cal. 3d 205, 220
People v. Man, (1974) 39 C. A. 3d Supp. 1, 4-5

Obstructing/Resisting/Delaying Peace Officer

In re M.L.B., (1980) 110 Cal. App. 3d 501
People v. Patino, (1979) 95 Cal. App. 3d 11
People v. Curtis, (1969) 70 Cal. 2d 347, 354-5

Throwing Substances At Vehicles

People v. Whitney, (1978) 76 Cal. App. 3d 863