

**TITLE: Response to First Amendment Assemblies and Demonstrations, and Unplanned Incidents**

**CODIFIED: 68.3**

**EFFECTIVE: 8/8/2017**

**RESCINDS/AMENDS: New Policy**

**PAGES: 6**

**PURPOSE**

The purpose of this directive is to define responsibilities and establishes the procedures for patrol officers and supervisors to follow when present at, or responding to an assembly or demonstration in which individuals are lawfully and peacefully exercising their rights under the First Amendment of the United States Constitution.

**DISCUSSION**

This policy is also applicable to situations in which large numbers of individuals gather and where the intent, purpose or potential for positive or negative impact on property and on individual participant safety, officer safety, or the safety of non-participants cannot be initially assessed.

For specific policy related to situations where a First Amendment assembly or demonstration escalates into a civil disturbance, or for other situations which by their nature are not considered assemblies under the First Amendment, refer to the Emergency Response Team (ERT) Directive 61.2.

**POLICY**

Individuals have constitutionally protected rights to peaceful assembly, speech and redress of grievances. However, should the exercise of those rights result in the clear and present danger of imminent violence to participants, individuals with opposing views, other non-participating persons, law enforcement officers or to property, there is a need to balance and manage

the free exercise of individual rights and take into account the need for public safety.

To effectively manage such a situation, even while supporting the constitutionally protected rights of members of the community, Patrol Supervisors are tasked with the responsibility of monitoring and overseeing any public assembly so as to permit the free exercise of protected rights, but also to ensure that, if in the exercise of those rights, members of the public assembly pose a clear and present danger of imminent violence to other persons, including police officers, or harm to property, the public assembly can be effectively and safely controlled or curtailed.

It is the Department's policy to support and promote the exercise of individual's rights, and to fulfill its responsibility to uphold the law and to provide for the safety of public assembly participants, members of the public, including police officers, and to protect municipal and private property.

**PROCEDURE**

**Definitions**

**68.3.01** Definitions pertaining to this policy:

A. Assembly/Gathering

An assembly or gathering consists of a number of persons for a particular purpose, whether planned or unplanned, organized, coordinated or not. An assembly or gathering may, because of its location, purpose, or participants may make it necessary for the need for a police presence and response.

B. Civil Disturbance

This is a gathering that constitutes a breach of the peace or any assembly of persons where there is a clear and present danger of imminent violence to participants, individuals with opposing views, other non-participating persons, law enforcement officers or to property. Such a gathering may also be deemed as a riot or unlawful assembly occurring beyond the permissive scope of City Ordinance (Santa Fe

City Ordinance 16-3.13, *Unlawful Assembly Involving Force or Violence*) or other state or federal law.

#### C. Crowd Control

These are techniques used to address and manage civil disturbances, to include non-aggressive voice commands, traffic control, blocking lanes of travel, a show of force, crowd containment, dispersal equipment and tactics, and preparations for multiple arrests.

#### D. Crowd Management

These are techniques used to manage demonstrations, assemblies, and gatherings before, during, and after the event for the purpose of ensuring participants' rights of peaceful assembly, free speech and petitioning for redress of grievances are protected; and for maintaining their lawful status through event planning, pre-event contact with group leaders, issuance of permits when applicable, information gathering, presence of personnel, training, and other means.

#### E. Demonstration

This is a lawful assembly of persons organized primarily to engage in protected First Amendment activity. A demonstration may or may not be a scheduled event that allows for law enforcement planning. It includes, but is not limited to, marches, gatherings, protests, and other assemblies intended to attract attention. A lawful demonstration can sometimes devolve into a civil disturbance that necessitates a law enforcement response. For specific policy related to situations where a First Amendment gathering, assembly or demonstration escalates into a civil disturbance, or for other situations which by their nature are not considered assemblies under the First Amendment, refer to the Emergency Response Team (ERT) SOP Policy Directive 61.2.

#### F. First Amendment

This is part of the Bill of Rights, an amendment to the Constitution of the United States, that guarantees the right of free expression; this right includes the freedom of speech, the freedom of peaceful assembly, freedom of religion, the freedom of press, and the right to petition for the governmental redress of grievances.

### Patrol Response to Planned Demonstrations

**68.3.02** Upon notification of a large assembly or gathering, whether planned or unplanned, or situation involving the large gathering of individuals, the on-duty patrol supervisor will respond to the scene.

**68.3.03** The responding on duty patrol supervisor has the job to assess and evaluate the assembly, and determine if it has the potential of changing from lawful, protected activity into a civil disturbance. If it is a civil disturbance, the on duty patrol supervisor shall contact the Special Operations Commander, or designee, and the Department shall follow Policy Direction 61.2.

If it is not a civil disturbance, the on duty patrol supervisor will follow the steps explained in SOP Policy Directive 68.3 and then then the responding on duty patrol supervisor, acting as the Incident Commander (IC) will then determine if, based upon their training and experience, the situation requires allocation of additional resources.

- A. The IC will take no specific action to the assembly which discourages the peaceful and lawful gathering of individuals.
- B. Efforts will be made in advance to contact the leaders of an assembly, gathering or demonstration, so as to gather information about the event to ensure accurate assignment of personnel and resources.
- C. The Department and City of Santa Fe may impose reasonably objective restrictions on the

time, place, and manner in which persons may engage in protected First Amendment activity.

D. The Department will use the least restrictive means necessary to maintain public safety and order recognizing the balance between protected public assembly, free speech and petitioning for redress activities, and the right to protect participants, non-participants, police officers and the public and harm to private or municipal property.

E. If not already provided (such as through pre-event planning and intelligence gathering), the IC will gather information from sources available including group organizers and other forums including social media:

1. What assembly or gathering event is planned?
2. When will the assembly or gathering occur?
3. Where will the assembly or gathering occur?
4. Will the assembly or gathering coincide with any other, large event?
5. Is opposition to the assembly or gathering expected?
6. How many participants are expected?
7. What are the assembly areas and movement routes?
8. What actions, activities, or tactics are anticipated from the participants?
9. What critical infrastructures are located near the event (e.g., schools, hospitals, government facilities)?
10. Based on the IC's assessment of the situation, he/she will ensure that other agencies, such as fire, EMS, and other law enforcement agencies are notified.

11. Is there a need to request mutual aid?

12. Based on the IC's determination, of the necessity of doing so, has ERT and SWAT been notified in accordance with the ERT SOP?

13. What is the history of conduct at prior events and are group leaders cooperative or willing to offer assistance in support of law enforcement operations relative to their assembly?

14. Based on the IC's assessment, are any additional resources needed (e.g. Intelligence Unit, Bike Team, Motors, Public Safety Aides)?

F. The IC will contact the Intelligence Unit to provide information on the assembly or gathering.

G. This information will be conveyed through the supervisor's chain of command to the ERT Commander and the Special Operations Commander.

H. In the event that ERT or SWAT responds to the demonstration, the ERT Commander, SWAT commander, or Special Operations Commander will take command of the incident. Supervisors will then follow the ERT SOP.

I. If ERT or SWAT does not respond, the on-duty patrol supervisor will continue to monitor the assembly or gathering for the duration of the event. In addition, the following activities will be undertaken relative to the demonstration:

1. Officers will be deployed to monitor crowd activity.
2. Officers will be positioned so as to minimize contact with the participants.
3. Officers will act with restraint so long as participants engage in peaceful, protected activity. Officers will maintain a courteous, professional and neutral demeanor.

4. Persons who reside, are employed, or have emergency business within the area marked off by a police line will not be prevented from entering the area of the public assembly of gathering unless circumstances suggest that their safety or the safety of participants, non-participants, the public or police officers would be jeopardized by their presence, or their entry would interfere with law enforcement operations.
5. On-scene supervisors will establish and maintain communication with public assembly or gathering leaders and relay information obtained as well as relay information gained from the supervisor's observations on crowd conduct, mood and discernable intent, to the supervisor (Incident Commander) in charge.
6. Supervisors will maintain close contact with their assigned officers to ensure that First Amendment rights are protected, and that the safety of participants, non-participants, public, and police officers is preserved. They will monitor behavior and disposition of assembly participants and report to the Incident Commander any relevant changes in the assembly's conduct, mood or discernable intent.

**Patrol Initial Response to Demonstrations  
(Planned or Unplanned); Other incidents and  
Situations**

**68.3.04** Patrol supervisors will adhere to the steps outlined in 68.3.01 and 68.3.02, *Patrol Response to Planned Demonstrations*, as applicable to the current situation. Supervisors should attempt to obtain the information listed above and develop a plan of action. The supervisor will ensure that every effort was made to respect and protect the participants' right to peaceful assembly, speech and the petitioning for redress of grievances.

- A. The first officers to arrive on the scene, besides the on duty patrol supervisor, of a planned or unplanned assembly, or other gathering will:
  1. Observe the situation from a safe distance to determine if the public, assembly or gathering is peaceful or likely to escalate into civil disobedience and potential violence.
  2. Notify the RECC of the nature of the assembly, or gathering the availability of improvised or deadly weapons, the location and estimated number of participants, current activities (e.g. blocking traffic), direction of movement, and ingress and egress routes for emergency vehicles.
  3. Request the assistance of a supervisor and necessary backup.
  4. Attempt to identify specific individuals engaged in encouraging a disturbance or criminal acts.
  5. The first officers to arrive on the scene of a spontaneous public assembly or gathering will not take any independent actions to impede or restrict the lawful rights of peaceful assembly, free speech or petitioning for the redress of grievances, unless ordered by the on duty patrol supervisor.

B. Patrol Supervisors will:

1. Upon notification, immediately respond to the scene of the civil disturbance. If the on duty patrol supervisor evaluates that the assembly, demonstration or gathering has become a civil disturbance, the on duty patrol supervisor shall contact the Special Operations Commander, or designee, and the Department shall follow Policy Directive 61.2.

2. Ensure that the Patrol Captain, the Chief's Office and the Special Operations Commander are notified.
  3. Approach public assembly or other gatherings with the recognition that participants have constitutionally protected rights of peaceful assembly, for speech and petitioning for redress of grievances, and those rights should not be restricted unless there is a civil disturbance.
  4. Assess the potential number of officers necessary to ensure public and officer safety based upon not only observed participant behavior, but also upon intelligence obtained, then as necessary given conditions, deploy officers at vantage points to report on participants and non-participants' actions; doing so in a manner that protects the participants' First Amendment rights and monitors behavior and conduct so as to ensure that the assembly or gathering does not evolve into a civil disturbance. If additional officer resources appear necessary, the chain of command (i.e. Patrol Captain, the Chief's Office and the Special Operations Commander) should be informed of this assessment and/or a request for additional deployment of personnel should be made.
  5. Establish an inner perimeter and contain the assembly with as few visible officers as practical, but with sufficient officers in reserve and out of sight so as to not provoke an incident but be able to respond to an incident quickly.
  6. Keep "pro" and "con" demonstrators apart to the extent that these individuals can be identified.
  7. Evacuate non-participating civilians from the immediate area of the disturbance. Allow non-participants to utilize hallways, doorways, and roadways without hindrance, so long as this does not jeopardize their safety, impede traffic or obstruct law enforcement operations
  8. Establish a command post and staging area for additional resources, and ensure that all assigned personnel know the location of the Command Post or the response route to the command post.
  9. Coordinate communications with a Commander to provide information to the Public Information Officer (PIO) for public dissemination.
  10. Provide ongoing assessment to the RECC of conditions at the scene.
- C. Patrol Supervisors will ensure that pedestrian and vehicular traffic are rerouted around and away from the assembly or gathering and:
1. Ensure that unauthorized ingress and egress by participants is controlled.
  2. Plan for, and prevent attempts to assist or reinforce the incident participants from outside the area.
  3. Provide adequate security to fire and EMS personnel in the performance of emergency tasks. Fire and EMS personnel will respond to a designated staging area.
  4. Provide support and relief to personnel so that they receive meal and rest breaks as appropriate given the situation and local conditions;
  5. Prepare an event log to document activities and actions taken during the course of the incident;
  6. Use body worn camera devices, issued digital recorder, and in car camera system to record any public assembly, or gathering which evolves into a civil disturbance;

- 7. Photograph any injuries sustained by participants, non-participants, other members of the public or law enforcement officers to document the condition of those individuals, and
- 8. If crowd management is required, the techniques ordered or used must safeguard and protect the fundamental rights of those who gather or speak-out legally, their rights to assembly. Law enforcement actions of response must be objectively reasonable.

DRAFTED (bpv) 4/17

APPROVED:   
 PATRICK GALLAGHER  
 Chief of Police

DATE: 8-8-17

**Officers will not deploy police service dogs as a means of crowd control.**

- D. Once ERT or SWAT arrives on scene, the ERT Commander or SWAT Commander will take command of the incident. Supervisors will then follow the ERT SOP in Policy Directive 61.2.
- E. Crowd control, mass arrests, and dispersal techniques, if required, are the responsibility of the Emergency Response Team. Refer to the ERT SOP in Policy Directive 61.2.

**Reporting Requirements**

**68.3.05** Not all assemblies, gatherings and demonstrations require a report unless there is criminal harm to persons or property as a result of the assembly, gathering or demonstration. In such event, a report will be prepared in accordance with existing policy.

- A. Use of force reporting will comply with Directive 72.1, *Use of Force*.
- B. All recording devices will be utilized, submitted and utilized in compliance with Directive 98.1, *Vehicle Mounted Camera System*, 98.2 *Use of Recording devices*, and Directive 98.3, *Body Worn Cameras*.