



# Fitchburg State University Police Department

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| <b>Subject: CROWD CONTROL AND DEMONSTRATIONS</b>         |                     |
| Reference: IACLEA: N/A<br>MPAC: N/A                      |                     |
| Rescinds: Section: 42 & 43                               |                     |
| <b>Effective Date:</b><br>November 16, 2020              | <b>Review Date:</b> |
| <b>By Order of:</b> Michael J. Cloutier, Chief of Police |                     |

## General Order

# 17.1.2

### **PURPOSE:**

Law enforcement agencies have always struggled with the challenges of policing mass demonstrations and other forms of crowd control. Failure to incorporate best practices in preparing for and in responding to mass demonstrations or other crowd control can result in unnecessary injuries or even deaths of officers, protesters, or others; property damage, violations of basic rights; undermine police-community relations; and lead to significant civil awards and settlements paid to plaintiffs alleging unconstitutional policing policies and tactics.

During periods of severe economic recession, high unemployment, social unrest or labor disputes, the Fitchburg State University Police Department will need to maintain an increased awareness of situations which could quickly escalate into civil disorder or a civil disturbance.

The police role at the scene of potential conflict is to enforce the law and to protect life and property. The key to effective police action in these circumstances is for the officers to be fair and objective in the performance of their duties. The Fitchburg State University Police Department needs to be cognizant of an individual citizen's rights to free speech and lawful assembly.

It is **not the function of the police** to determine which side is right or wrong, or to take personal or official position either way. Fitchburg State University Police Officers should never permit themselves to be placed in any position that might create the appearance of favoring one side or the other.

**DEFINITIONS:**

- A. **Lawful Assembly:** Constitutional rights to gather in a peaceful manner.
- B. **Unlawful Assembly:** the gathering of 5 or more for the purpose of engaging in a riot or other unlawful conduct that threatens public safety, peace, or order
- C. **Protest / Demonstration:** A display of unwillingness usually to an idea or a course of action. A public display of group feelings toward a person or cause.
- D. **Civil Disobedience:** refusal to obey governmental demands or commands especially as a nonviolent and usually collective means of forcing concessions.
- E. **Civil Disturbance:** An activity arising from a mass act of civil disobedience in which the participants become hostile toward authority, and authorities incur difficulties in maintaining public safety and order

**GENERAL GUIDELINES:**

- A. When possible, establish communications early with event organizers
- B. Ensure that First Amendment Rights are protected
- C. Mass arrests are strongly discouraged
- D. Ensure the safety of the participants and the broader campus community

**POLICY:**

It is the policy of this department to:

- A. Fairly, and without bias, preserve the peace and protect life and property when working at demonstrations; and
- B. Have officers working at a demonstration conduct themselves according to applicable law, these guidelines, department policies and procedures, departmental orders, and the lawful orders of their supervisor; and
- C. To follow and enforce the University's Use of Space Policy fairly and objectively, without bias.

**PROCEDURES:**

**A. GENERAL CONSIDERATIONS**

1. Most campus demonstrations such as marches, meetings, picketing and rallies will be peaceful and non-disruptive to the University's learning environment. A demonstration should not be disrupted unless one or more of the following conditions exists:

- a. **SUBSTANTIAL INTERFERENCE** with the normal operations of the University, including the learning environment.
  - b. **PREVENTION** of access or egress to offices, buildings or other University facilities.
  - c. **THREAT** of physical harm to persons or damage to property.
2. If any of these conditions exists, FSUPD should be notified and will be responsible for contacting and informing the President and appropriate Vice President. Depending on the nature of the demonstration, certain procedures should be followed:
- a. **Peaceful Non-Disruptive Demonstration:** Generally, demonstrations of this kind should not be interrupted, obstructed or provoked and efforts should be made to conduct University business as normally as possible. If demonstrators are asked to leave but refuse to do so by regular facility closing time, the Fitchburg State University Police Department will take appropriate action. The University reserves the right to direct and identify locations on campus best suitable for peaceful demonstrations.
  - b. **Non-Violent Disruptive Demonstrations:** In the event that a demonstration blocks access or egress to University facilities or substantially interferes with the routine operation of the University, demonstrators may be asked to terminate the disruptive activity. If demonstrators refuse to leave or terminate activity, the Fitchburg State University Police Department will take appropriate action.
  - c. **Violent Disruptive Demonstrations:** In the event that a violent demonstration where injury to persons or damage to property occurs or appears eminent, the President, Fitchburg State University Police, and appropriate Vice President will be notified. To the extent time and the circumstances permit, this body will confer and determine appropriate action to be taken.
    - i. If a determination is made to seek the intervention of state and/or local authorities, to the extent possible, the demonstrators should be notified. Demonstrators may be notified verbally by university officials through the use of one of two prepared statements identified as Statement "A" or Statement "B" provided on Appendix A of this policy.
    - ii. **Note:** The Chief of Police, or designee, shall have the authority and discretion to call for state or local police assistance without counsel from others if it is determined in his/her professional judgment that the circumstances pose a serious risk to safety such that additional police assistance is required.
3. All calls from media are referred directly to the University's Director of Media Relations

## B. OPERATIONAL AND SUPERVISORY AUTHORITY

1. Planning a response and operational control of all officers assigned to a demonstration location is exercised by the Chief of Police. Supervisory responsibility for such details is delegated to shift supervisors.



2. Officers assigned to demonstration locations, whether as part of a paid private detail or as assigned by the department, serve in their capacity as police officers of this department.
3. No employee of any company or organization, whether paying for police services or not, is authorized to direct the activities of officers assigned to the detail or to issue any order to police officers.
4. Supervision of local police or external agencies assisting on campus will be done through a unified command structure.

**C. ASSIGNMENT OF OFFICERS TO DEMONSTRATIONS**

1. AUTHORIZED PERSONNEL INCLUDE:
  - a. Fitchburg State University Police Officers
2. MUTUAL AID: In the event that the department is unable to provide the number of officers required to fill a paid demonstration detail, officers from the City of Fitchburg Police Department may be utilized, if authorized by the Chief of Police.
3. If the size and scope of a demonstration exceed that of the department and the City of Fitchburg, or if through the planning phase, additional manpower is needed, the Chief of Police or designee may request assistance from the Massachusetts State Police.

**D. GENERAL PUBLIC SAFETY AND LAW ENFORCEMENT CONSIDERATIONS**

1. LAWFUL ASSEMBLIES
  - a. Lawful assemblies may require monitoring to ensure that they remain lawful.
  - b. Consideration should be given to other factors or organizations that may wish to infringe upon the rights of those who wish to assemble lawfully.
2. UNLAWFUL ASSEMBLIES

In the event of a civil disturbance and/or an unlawful assembly, officers of the Fitchburg State University Police Department will take action to include but not limited to:

  - a. Officers arriving at the scene should:
    - i. Observe the situation from a safe distance to determine the type of gathering and the appropriate response.
    - ii. Communicate this assessment with a shift supervisor or OIC

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- iii. Attempt to identify crowd leaders and seek their assistance and cooperation in defusing the situation.
  - iv. Approach the crowd and instruct them to disperse only if safe to do so and it involves no unnecessary risk.
  - v. Attempt to identify individual(s) engaging in criminal acts and intervene if safety requires.
  - vi. Remain neutral.
- b. The shift supervisor will:
- i. Assume responsibility to assess and coordinate the department's response.
  - ii. Establish a command post.
  - iii. Determine staffing needs.
  - iv. Establish a staging area, if necessary.
  - v. Attempt to resolve the matter as peacefully as possible.
- c. Command Options:
- i. When adequate personnel and resources are in place, lines of communication should be established with leaders of the disturbance and discussions should take place in regards to dispersing the crowd. Should the crowd fail to disperse in the prescribed manner, the following options should be considered:
    - a) Containment and dialogue. The objective of containment and dialogue is to disperse the crowd.
    - b) Physical arrest. When appropriate the order should be given to arrest crowd leaders, agitators or others engaged in unlawful conduct.
      - 1) Ensure the appropriate use of tactical formations and that officers are equipped with available protective equipment.
      - 2) Ensure that the City of Fitchburg Police Department has been notified as well as the Massachusetts State Police. Fitchburg Police may be used to augment the force.
      - 3) Ensure that a backup team of officers is readily available, should assistance be required.

3. UPON LEARNING OF A PLANNED DEMONSTRATION

a. Whenever the police department is notified of the existence of a planned demonstration, the following information will be obtained and documented for departmental purposes:

- i. Leadership of the group or groups involved;
- ii. The kind of groups involved;
- iii. The reason for the demonstration;
- iv. The date the demonstration is planned;
- v. The approximate numbers involved;
- vi. Any trouble that might be anticipated;
- vii. Identify known opposition groups; and
- viii. Any additional information that could be of assistance to the police department in carrying out its responsibilities.

b. As soon as possible, the Chief or a designee will contact the leader of the demonstration to elicit their cooperation in maintaining a peaceful demonstration and to avoid unlawful activity by any parties. University officials should also be notified in advance of any known event and the Police plan for maintaining order. All parties involved in a demonstration will be notified as follows:

- i. Violence will not be permitted;
- ii. Order will be maintained and the law will be enforced fairly and impartially;
- iii. Any unlawful or disorderly acts will be responded to;
- iv. The rights of the general public to use public areas will be maintained;
- v. The demonstrators will be permitted to inform the general public about the event and the reasons for their action and peacefully assemble and convey their message.

c. An event operation plan will be created to properly plan and document preparation, as well as an after action report to assist in future planning.

4. DEMONSTRATION AREA

a. When a demonstration develops, it shall be the obligation of the Officer-in-Charge at the scene to identify and make contact with the demonstration organizers/leaders. Good relations between the police and the demonstrators can ease tensions and make for more effective law enforcement.

b. If an issue of concern arises during an event, it should be immediately called to the attention of the demonstration organizers/leaders, who should be encouraged to handle the problem immediately, if at all possible. In many cases, this will eliminate the need for intervention by the police. Any concern that arises to the level of a "potentially dangerous situation" will be handled by the police.



5. IMPARTIALITY

- a. Police officers shall avoid any fraternization with:
  - i. Demonstrators;
  - ii. Either side of a protest.
- b. Police Officers shall avoid any unnecessary conversation with friends or acquaintances who may be taking part in the demonstration.

E. RIGHTS OF DEMONSTRATORS AND NON-DEMONSTRATORS

1. GENERALLY

- a. Persons engaged in lawful and peaceful demonstrating are exercising a right granted to them by both Massachusetts and federal law. Fitchburg State University Police Officers have an obligation to protect that right and to protect those persons who are exercising that right.
- b. Similarly, members of the public have a lawful right to enter or leave a public building or area. Fitchburg State University Police Officers have an obligation to protect those rights and to protect those persons who are exercising those rights.
- c. The police officer's role is one of balancing what may appear to be conflicting rights or interests and of providing a buffer to ensure that all parties can peacefully exercise their rights without being exposed to physical danger, property damage, or breaches of the public peace.

2. DEMONSTRATORS

- a. Demonstrators are allowed to march on public sidewalks and streets, as long as their activities do not prevent the use of those public ways by others.
- b. While demonstrating, persons are allowed to verbally or by sign convey their message, provided that such message is not accompanied by injury or threat of injury.
- c. Demonstrators who refuse to desist in blocking sidewalks, streets, or driveways, or access or egress to buildings so as to allow others to pass, are subject to arrest for disorderly conduct. However, prior to making such an arrest, officers should:
  - i. Determine if the demonstrators are, in fact, blocking a public way or access or egress to a building such that a person actually attempting to use it is prevented from doing so;
  - ii. Verbally or by clear physical direction indicate that the demonstrator should desist in their activity;

- iii. Notify the demonstrator that if he/she fails to comply with the directive he/she will be subject to arrest; and
- iv. Permit a reasonable time for compliance.

3. ENTERING & LEAVING SITE

- a. Persons entering or leaving the site of the demonstration should anticipate that their passage may be subject to a reasonable delay. Such delays are related to ensuring their safety, the safety of persons engaging in the demonstration, and the right of demonstrators to engage in peaceful assembly.
- b. If a person who is not engaging in the protest acts in a manner or fails to follow reasonable and lawful directions of police officers, thereby, creating a dangerous situation or a breach of the peace, their conduct could be considered disorderly and they may be subject to arrest.
- c. If all feasible those not participating in the demonstration should be offered a reasonable alternative around the demonstration area.

F. PROVIDING SAFE PASSAGE THROUGH DEMONSTRATIONS

- 1. PEDESTRIANS: Under normal circumstances, persons on foot should be escorted, by at least one officer, through the demonstration and to a reasonable distance from the demonstration.
- 2. VEHICLES
  - a. When all possible, vehicles should not be allowed in a demonstration area.
  - b. When cars are waiting in line to pass through a demonstration the demonstrators should be stopped and three vehicles permitted to pass. Thereafter, the demonstrators should be allowed, briefly, to resume movement before being stopped to permit the passage of three more vehicles.
    - i. Permitting three cars to pass is intended to avoid prolonged waiting delays and avoid rising tensions between motorists and demonstrators. Vehicles are not permitted to be operated at excessive speeds as they pass through the demonstration. The process permits the officers to remain in control of both the demonstrators and the motorists.
    - ii. If the volume of demonstrators, their conduct, or other factors such as weather or lighting conditions make passage of three cars unsafe, officers shall reduce the flow of vehicles through the demonstrators or, in extreme cases, stop the passage of vehicles until sufficient officers are present to ensure safe passage.



- c. Motorists should be directed not to play the vehicle's radio while passing through the demonstration, so that they may hear emergency directions from the officer.
  - d. Persons driving motor vehicles through a demonstration must exercise due care and caution and must obey the directions of police officers.
    - i. Officers observing minor vehicle violations that do not represent an immediate threat to safety **shall not** stop the vehicle, but should record the registration number for later follow-up.
    - ii. When it becomes necessary to stop a vehicle, the officer should direct the vehicle to stop at a safe distance from the demonstration.
    - iii. Any person who intentionally, negligently, or recklessly endangers demonstrators, the public, or the police by their manner of operation should be charged with the appropriate motor vehicle or criminal offense.
  - e. Operators of vehicles observed entering or leaving through uncontrolled driveways should be directed to use controlled points of passage.
3. IDENTIFICATION CHECKS: Unless specific orders to the contrary are issued by a supervisor, officers will not check the identification of persons taking part of in the demonstration.

### G. Reports

1. Officers working demonstration shall prepare a written report after issuing a warning, making an arrest or taking another criminal enforcement action while working a demonstration.
2. Officers working demonstrations, rallies, protests, picketing or other large events should have on their person "FSUPD Incident Cards" to keep track of incidents they respond to for later reports.

### H. Video Recording

1. When citizens choose to exercise their First Amendment rights (assembly, petition; or speech), there are occasions when police need to record unlawful conduct during demonstrations. There are also occasions when police need to record confrontations with citizens in order to refute potential allegations of police misconduct. Therefore, it is the policy of the Fitchburg State University Police Department that video records will be used only:
  - a. To record unlawful conduct.
  - b. To record persons who have committed unlawful acts for purposes of future identification.

- c. To record police conduct.
2. Video cameras and camera equipment in the possession of police at demonstrations shall be kept out of public view until such time the equipment is actually used. Such equipment will not be used to record lawful conduct on the basis that unlawful conduct may occur.
3. Video recordings and photographs stemming from demonstrations will be entered into evidence. The video records and photographs will be destroyed when there is no reasonable basis for retaining them for evidentiary purposes.
4. Use of drone recording will follow both the department's drone usage policy as well as to be used only for the following situations:
  - a. Monitor crowd size and behavior in case additional resources need to be deployed for safety.
  - b. Assist the Incident Command post in resource allocation.

**I. Making Trespass Arrest For Unauthorized Demonstrations**

1. If a demonstration occurs at Fitchburg State University, and individuals are engaged in an unauthorized, disruptive demonstration, an appropriate University official, (which may include the Chief of Police, or her/his designee) shall notify them as follows:
  - a. To disband and return to normal activities of the educational institution, and
  - b. That they may be subject to arrest
2. If a demonstrator is not a student, he/she will be directed to leave University property. In the presence of a police officer, such persons will be told they are trespassing by a University official and/or a Fitchburg State University Police Officer and will be notified to depart from the premises.

**Note:** If the trespassers do not depart, this constitutes a misdemeanor in the presence of a police officer and they are subject to arrest.

- a. If the trespassers depart the premises peacefully, no further action is to be taken.
- b. If the trespassers refuse to depart, the Fitchburg State University Police Officer may:
  - i. Inform the trespassers they are under arrest and charged with Criminal Trespass (Refusing to Depart).

### J. Mass Arrests

Although mass arrests are not recommended, there may be a time when it is prudent. Under such circumstances, the Fitchburg State University Police Department shall take an "All Hazard" plan approach for responding to critical incidents, which require a mass arrest (17.1.1) See Emergency Management Guide.

1. If arrests are anticipated:
  - a. When time permits, the President's Office will be notified of the anticipated arrests.
  - b. Off-Duty officers may be called to augment the department's efforts to assist in photographing and identifying the persons to be charged.
  - c. Request assistance from the City of Fitchburg Police Department in advance when expecting numerous physical arrests at planned events.
2. Officers will utilize the following guidelines during mass arrest incidents.
  - a. The guidelines to arrest will be determined by the Incident Commander and may be limited to the use of arrest teams.
  - b. Remove the prisoners from the area of the arrest as soon as possible.
  - c. Juvenile prisoners will be segregated from adult prisoners throughout the process. All juveniles will be booked at the City of Fitchburg Police Station or booked at a separated location identified by the Incident Commander.
  - d. The personal property of prisoners and evidence will be processed according to department policy on Evidence & Property Control, Collecting and Preserving Evidence, and Detainee Processing.
  - e. Fitchburg State University Police Officers will be assigned to remain with prisoners throughout the process until transported to a designated holding facility.
  - f. All inquiries from the media will be referred to the University's Public Relations Office per department policy on Police Media Relations.
  - g. Injured prisoners will be handled according to department policy on Detainee Processing, Transporting Prisoners, and Detaining Prisoners.

### K. Deactivation

1. When any civil disturbance or demonstration has been brought under control, officers and shift sergeants shall ensure the following:



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- a. All law enforcement officers are accounted for and an assessment has been made to identify any personal injuries.
- b. All involved police personnel are debriefed.
  - i. Notes for an after action report is collected
  - ii. A brief summary prepared for the Chief to update the President's office and Media Relations office.
- c. Witnesses, suspects and other are interviewed or interrogated.
- d. All reports are completed as required.
- e. Post scene monitoring is done to detect/deter lingering cells that might reinitiate the situation.

Approval:

  
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Chief of Police

11/16/2020  
Date

APPENDIX A

STATEMENT A

“(Identify Self) University Representative”

“This assembly and the conduct of each participant is seriously disrupting the operations of Fitchburg State University and is in clear violation of the rules of Fitchburg State University. You have previously been called upon to disperse and terminate this demonstration. Accordingly, you are directed to terminate this demonstration. If you have not done so within the next fifteen (15) minutes, whatever measures are necessary to restore order – including calling for police assistance- will be taken. Any participant who continues to demonstrate is subject to arrest and/or discipline under the University’s Student Code of Conduct, up to and including expulsion from the University.”

STATEMENT B

“(Identify Self) University Representative”

“You have previously been directed to terminate this demonstration and you have been put on notice as to the consequences of your failures to do so. Since you have chosen to remain in violation of the rules and regulations of Fitchburg State University, the Police will now be called to assist in dispersing this assembly. Those who fail to leave immediately will be subject to arrest and/or discipline under the University’s Student Code of Conduct, up to and including expulsion from the University.”