

RESOLUTION 2008R-248
By Ostrow, Remington, Schiff

Adopting police policies regarding public assemblies.

Resolved by The City Council of The City of Minneapolis:

1. That where participants in a public assembly fail to comply with reasonable time, place and manner restrictions, the Minneapolis Police Department (MPD) shall, to the extent reasonably possible, first seek to enforce the restrictions through voluntary compliance and then seek, as appropriate, to enforce existing laws. Nothing in this resolution is intended to restrict the authority of the MPD to arrest persons who engage in unlawful disorderly conduct, or violence directed at persons or property.

2. That where participants in a public assembly, or other persons at the location of the assembly, engage in unlawful disorderly conduct, violence toward persons or property, or unlawfully threaten violence, the MPD shall, to the extent reasonably possible, respond by dispersing, controlling, or arresting the persons engaging in such conduct, and not by issuing a general order to disperse, thus allowing the public assembly to continue.

3. That the MPD shall not issue a general order to disperse to participants in a public assembly except where:

(a) A significant number or percentage of the assembly participants fail to adhere to the imposed time, place, and manner restrictions, and the voluntary compliance measures set forth earlier in this resolution have failed to result in substantial compliance or there is no reasonable likelihood that those measures will result in substantial compliance; or

(b) A significant number or percentage of the assembly participants are engaging in, or are about to engage in, unlawful disorderly conduct or violence towards persons or property; or

(c) A public safety emergency has been declared that is not based solely on the fact that the public assembly is occurring, or the Chief of Police determines that the public safety concerns that prompted the declaration require that the public assembly be dispersed.

4. That if and when the MPD determines that a public assembly, or part thereof, should be dispersed, the MPD shall issue at least one clearly audible and understandable order to disperse using an amplification system or device, and shall provide the participants a reasonable and adequate time to disperse and a clear and safe route for dispersal.

5. That except where there is imminent danger of personal injury or significant damage to property, the MPD shall issue multiple dispersal orders and, if appropriate, shall issue the orders from multiple locations. The orders shall inform persons of the route or routes by which they may disperse and shall state that refusal to disperse will subject them to arrest.

6. That whenever possible, MPD shall make an audio or video recording of orders to disperse.

7. That where a public assembly is held on a City street, sidewalk or other public way and an assembly plan has not been approved, the MPD shall, consistent with the interests of public safety, seek to respond to and handle the assembly in substantially the same manner as it responds to and handles assemblies with approved plans.

8. That an order to disperse or arrest assembly participants shall not be based solely on the fact that a plan has not been approved for the assembly.

9. That when responding to and handling a public assembly for which a plan has not been approved, the MPD may take into account any actual diminution, caused by the lack of advance notice, in its ability, or the ability of other governmental agencies, appropriately to organize and allocate their personnel and resources so as to protect the rights of both persons exercising free speech and other persons wishing to use the streets, sidewalks, or other public ways.

10. That no emergency area or zone will be established by using a police line to encircle, or substantially encircle, an assembly (or subpart thereof) conducted for the purpose of persons expressing their political, social, or religious views except where there is probably cause to believe that a significant number or percentage of the persons located in the area or zone have committed unlawful acts (other than failure to have an approved assembly plan) and the police have the ability to identify those individuals and have decided to arrest them; provided, that this section does not prohibit the use of a police line to encircle an assembly for the safety of the demonstrators.

11. That the MPD shall implement a method for enhancing the visibility to the public of the name or badge number of officers policing a planned public assembly by modifying the manner in which those officers' names or badge numbers are affixed to the officers' uniforms or helmets. The MPD shall ensure that all uniformed officers assigned to police planned public assemblies are equipped with the enhanced identification and may be identified even if wearing riot gear. This section shall not apply in the event that assistance beyond the detailed officers from MPD is required.

12. That MPD shall cause every arrest in connection with a public assembly to be documented, in writing or electronically, by the officer at the scene who makes the arrest.

13. That the arrest documentation shall be completed at a time reasonably contemporaneous with the arrest, and shall include all elements required by Minnesota laws and Minneapolis ordinances.

14. That the Chief of Police may implement a procedure for documenting arrests in connection with a public assembly different from that set forth above when the Chief determines that an emergency exists with regard to a specific public assembly, and that implementation of the alternative procedure is necessary to assist police in protecting persons, property, or preventing unlawful conduct; provided, that any such procedure shall adequately document the basis that existed for each individual arrest. That determination shall be made in writing and shall include an explanation of the circumstances justifying the determination.

15. That the MPD shall use handcuffs, plastic cuffs, or other physical restraints only to the extent reasonably necessary, and in a manner reasonably necessary, for the safety of officers and arrestees. Nothing in this resolution is intended to restrict the otherwise lawful authority of the MPD to use handcuffs, plastic cuffs, or other physical restraints on persons arrested in connection with a public assembly at the time of or immediately following arrest, while arrestees are being transported to a processing center, or while arrestees are being transported to or from court.

16. That those individuals who are not placed under custodial arrest must be promptly processed.

17. That individuals who are placed under custodial arrest must be promptly taken to Hennepin County for processing by Hennepin County.

18. That the MPD shall fully and accurately advise persons arrested in connection with a public assembly of all potential release options when processing them for release from custody or for presentation to court.

19. That the MPD shall provide a written notice identifying all release options to each person arrested in connection with a public assembly who is charged solely with one or more misdemeanor offenses. The notice shall also identify the misdemeanor charges lodged against the arrestee.

20. That MPD officers shall not infiltrate public assemblies or gatherings held to plan such assemblies, except in compliance with constitutional standards.

21. That MPD officers taking enforcement actions against participants in a public assembly will use the reasonable level of force required to effect such enforcement actions.

22. Upon request of the arrestee, the MPD shall provide written notice identifying information on the Civilian Police Review Authority and Internal Affairs Unit to each person arrested in connection with a public assembly.

23. That the MPD shall not take enforcement actions against participants in a public assembly, or order participants in a public assembly to disperse, unless the MPD determines that the threat to public safety posed by not taking enforcement action is significantly greater than the risk associated with taking enforcement action, and that before such action is taken, an MPD incident commander shall be designated and the MPD incident commander will document the reasons for this determination.

24. That this Resolution shall supersede the action of the City Council on November 22, 2000, adopting a Policy Regarding Police Conduct at Political Demonstrations.

Adopted 6/20/2008. Yeas, 9; Nays, 2 as follows:

Yeas – Samuels, Hofstede, Schiff, Lilligren, Remington, Benson, Goodman, Hodges, Johnson.

Nays – Gordon, Colvin Roy.

Absent – Ostrow, Glidden.