




# MBTA Transit Police

DEPARTMENT MANUAL	
<b>CHAPTER 169</b>	
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## General Order No. 2010-58

SUBJECT PATROL Civil Disturbance Unit	
REFERENCES 41.1.3 a-d	PAGE 1 OF 10

1.0 **POLICY.** The MBTA Transit Police Department recognizes the need to minimize both the potential hazard to employees and patrons and the service disruptions that may result from an unlawful assembly on MBTA property or vehicles, while protecting people's constitutional rights. Whenever possible, people will be prevented from participating in civil protest behaviors on MBTA property or vehicles. Action will be taken to control the situation so as to prevent injury to people or property and to minimize the impact to the transportation system. The Department will seek to achieve this goal by monitoring activity in an attempt to ensure that groups do not congregate and/or deploy protest related devices on MBTA property or vehicles. Should persons participate in civil protest behaviors or if other crowd control situations develop within the transit system, the Department will take appropriate action to safeguard patrons and employees and to minimize the impact to transportation operations.

Additionally, the Department will initiate the actions necessary to prevent groups that are participating in civil protest-related activities on public streets or property at or near MBTA stations, from extending the activity onto MBTA property. This may be accomplished by assigning Officers at the station entrances to monitor and control access (for orderly/peaceful protest groups) or, when appropriate, by physically securing all entrance/exit points from inside the station so that disorderly crowds cannot force entrance to the station.

## 2.0 TERMINOLOGY.

2.1 **CIVIL DISTURBANCE.** A planned or unplanned demonstration or protest which, based on the number of persons involved, the behavior of persons involved or a combination of those factors, disrupts normal vehicle and/or pedestrian traffic patterns in the area and/or creates a public safety hazard.

2.1.1 **DEMONSTRATION.** A public display of feeling toward a person or cause. Demonstrations may occur for a variety of reasons including political conventions or major sporting events.

2.1.2 **PROTEST.** An organized public demonstration objecting to a policy or course of action. Protests commonly occur when persons assemble to express opposition to local or world events or government actions.

2.1.3 **RIOT.** A group of tumultuous and violent people who are causing injury, endangering the physical safety of others and/or themselves, causing or threatening damage to property, and often violating additional laws both individually and as a group.

- 2.2 **CIVIL DISTURBANCE UNIT (CDU).** The CDU consists of Officers who are specially trained to handle riot/crowd control situations that exceed the capabilities of the Patrol Force. The CDU is comprised of a Lieutenant assigned as the Team Commander, two Sergeants assigned as Squad Leaders and Patrol Officers. In the event that the Team Commander is unavailable, a Squad Leader will assume the role of Team Commander and the most senior Officer of the CDU on scene will serve as Squad Leader.
- 2.3 **CDU ACTIVATION:** The CDU will be activated only at the direction of the Chief of Police, the Patrol Operations Division Commander/designee. When activated, CDU will respond to a designated staging area and report to the CDU Commander/designee.
- 2.3.1 **HARD PROFILE OPERATION.** A Hard Profile operation involves CDU Officers deployed in full CDU equipment including: Riot Helmets, Gas Masks and Centurion Protective Gear (CPX upper body & shoulder protection, elbow, forearm, shin guard, knee and foot protection) and riot shields, when appropriate.
- 2.3.2 **SOFT PROFILE OPERATION.** A Soft Profile operation involves CDU Officers deployed in their Department issued Battle Dress Uniform (BDU), including Winter Coat, Gloves and Turtlenecks, when appropriate.
- 2.4 **CDU ALERT AND “STAND-BY”.** The Chief of Police, Patrol Operations Division Commander/designee, may place the CDU on “stand-by” for possible activation when circumstances warrant. The CDU Commander/designee, will ensure that all team members are notified of the alert status and will develop preliminary plans for Unit activation. If no activation occurs, the CDU Commander/designee, will be notified when the alert is over.
- 2.5 **CDU COMMANDER.** The MBTA Transit Police Lieutenant assigned to serve as the Commander of the CDU. The CDU Commander will oversee CDU training, operations and logistics, and maintain the appropriate records for the Unit.
- 2.6 **CDU SUPERVISOR.** A Police Sergeant, designated by the Chief of Police, to manage and support the CDU with scheduling, vehicle maintenance, equipment maintenance and procurement, and training. The CDU Squad Leader/designee will be responsible for the direct supervision and deployment of CDU personnel.
- 2.7 **EXTRICATION TEAM.** Designated members of the CDU that are trained in the use of tools and equipment designed to neutralize “Sleeping Dragons”, chains, or other barriers typically employed by protesters to impede pedestrian and/or vehicle movement and law enforcement actions.
- 2.8 **INCIDENT COMMANDER (IC):** The MBTA Transit Police Officer present at an incident/event will take command of the incident/event and serve as the IC. The IC is in charge of all Units responding to the incident/event and will coordinate the activities of the CDU with the CDU Commander/designee.
- 2.9 **INCIDENT COMMAND POST.** A site, preferably removed from the immediate tactical area, where the IC can collect and analyze information on the incident as well as direct and coordinate the activities of all responding personnel.
- 2.10 **INNER PERIMETER.** The area immediately surrounding the incident location. The first responding Officer will designate an initial inner perimeter. The IC may or may not adjust this perimeter. Upon their arrival on scene, the CDU will maintain the inner perimeter in Civil Disturbance situations.
- 2.11 **OUTER PERIMETER:** An area designated by the IC area surrounding the inner perimeter where control must be maintained to avoid injury to police, public safety personnel or innocent bystanders.

### 3.0 SELECTION CRITERIA.

3.1 **NOTIFICATION.** Personnel will be notified via a Patrol Operations Division Memo whenever the Department intends to fill CDU positions. {16.2.2}

3.2 **APPLICATION PROCESS.** Officers who meet the following minimum criteria may submit a written request for consideration and a resume to the CDU Commander.

3.2.1 **CDU SELECTION CRITERIA.** The applicant must: {46.2.2}

- be willing to be available on a 24-hour basis;
- have the ability to assimilate and work as a team member;
- be an MBTA Transit Police Officer for at least one (1) year;
- have satisfactory Officer activity report;
- have no sustained citizen complaints relating to excessive force during the prior one (1) year;
- have a satisfactory performance and attendance record; and
- be in "good" physical condition as defined by the Cooper Anaerobic Power Testing program based on a physical test consisting of sit-ups, push-ups and a 300-meter run.

3.3 **SELECTION PROCESS.** The application/selection process for the CDU includes the following:

- **SUPERVISOR RECOMMENDATION.** A questionnaire containing specific questions concerning the Officer's suitability for the assignment will be forwarded to each applicant's immediate Supervisor and Unit Commander. The CDU Commander will review the questionnaires and rate the applicants based on the results.
- **ORAL BOARD EXAMINATION.** Applicants successfully completing all phases of the selection process will be scheduled for an Oral Board interview. The Oral Board will consist of a minimum of three participants including the Patrol Operations Division Commander, the CDU Commander and a member of the CDU.

3.4 **SELECTION.** At the completion of the selection process noted above, the CDU Commander will submit recommendations to the Chief of Police regarding the selection of candidates for the CDU. The Chief of Police will make the final determination concerning the assignment and/or reassignment of police personnel.

3.4.1 The Chief of Police may consult with members of the Command Staff, the CDU Commander, TPSA/Unit/Section/Shift Supervisor and Unit Commander, and/or individual members of the Unit in making these determinations.

### 4.0 REMOVAL FROM THE UNIT

4.1 Assignment to the CDU is at the discretion of the Chief of Police and may be rescinded at anytime.

4.2 Individual members have a responsibility to ensure the integrity of the Unit. CDU members will address concerns regarding other CDU personnel in the following manner:

- any Officer who has concerns regarding the suitability of another member of the Unit will personally notify the CDU Squad Leader of those concerns;
- the CDU Squad Leader will conduct a preliminary investigation and determine if the reported concerns are or may be valid and advise the CDU Commander of his findings and recommendations;
- the CDU Commander will notify the Patrol Operations Division Commander and a determination will be made regarding what, if any, action should be taken; and
- the Patrol Operations Division Commander may temporarily suspend a member of the CDU pending final determination by the Chief of Police.

4.3 If an Officer feels that he/she can no longer function effectively as a member of the CDU, he/she should immediately request reassignment from the team. The responsibility for assignment or reassignment lies with the Chief of Police.

5.0 **RULES.** The following rules apply to CDU and their specific function:

**Rule 1** During CDU operations, all CDU Officers shall wear only authorized uniforms and equipment.

**Rule 2** While involved in any ongoing incident, members of the CDU shall answer only to the CDU Commander.

**Rule 3** Trained CDU personnel shall be the only Officers authorized to utilize CDU tools and equipment for law enforcement purposes.

**Rule 4** Trained CDU personnel shall be the only Officers authorized to utilize specialized weapons issued to CDU personnel.

6.0 **TRAINING.** CDU Officers will receive training in accordance with acceptable practices as authorized by the Chief of Police. The following will occur:

6.1 Officers assigned to the CDU will receive forty (40) hours of Basic Crowd/Riot Control training as well as attending readiness training and exercises as a Unit, a minimum of one day every other month. The CDU Commander will evaluate CDU members unable to meet the training requirements for dismissal from the team; {33.6.1, 33.6.2}

6.2 members of the CDU are encouraged to pursue training relating to the various tactical disciplines and techniques at law enforcement centers, state or municipal police agencies, or other professional institutions;

6.3 members of the CDU certified as instructors will provide crowd control training to all members of the Department during scheduled In-Service training to keep the entire Department at a high state of readiness; and

6.4 whenever possible, a CDU member will be certified as an EMT. If no member is certified, an EMT trained in tactical/riot control operations will be assigned to the Unit.

7.0 **EQUIPMENT.** The CDU Commander will ensure that the following Department owned equipment is issued to each CDU Officer upon his/her assignment to the CDU:

Two (2) sets of BDUs and specialized body protection, including CPX upper body,

shoulder, elbow, forearm, knee/shin pad gear, gas mask, helmet and riot shield.

The CDU Commander shall conduct a documented quarterly inspection for operational readiness of all issued and specialized equipment on hand. {46.1.8}

8.0 **VEHICLES.** The CDU bus will be used to transport CDU personnel when they are activated and for other administrative functions authorized by the Chief of Police. It will not be used as an Incident Command Vehicle. Operators of the CDU bus must have a valid Massachusetts Commercial Driver's License. The CDU Commander, along with the Superintendent of the Southampton Bus Garage, is responsible for the condition and maintenance of the CDU bus. The bus will be equipped with a fire extinguisher, first aid kit and an automated external defibrillator. (41.1.3 a-d)

9.0 **DEPLOYMENT/ACTIVATION.** All CDU operations will be coordinated through the Command Post and directed by the CDU Commander/designee.

9.1 **INCIDENT COMMAND FOR CIVIL DISTURBANCE SITUATIONS.** The MBTA Transit Police Officer present who would be in charge of responding Units at a Civil Disturbance situation occurring on MBTA property or vehicles will serve as the IC for that incident. The IC will assume the following responsibilities:

- assume overall command of all law enforcement, public safety and transportation personnel on scene;
- establish a Command Post and any necessary communication protocols;
- assess the situation and determine what immediate actions must be taken to ensure the safety of MBTA patrons and employees and protect MBTA property or vehicles;
- notify the Patrol Operations Division Commander/designee of the current situation, actions taken, anticipated manpower and special unit needs (Extrication Teams, Crowd Dispersal, OC unit, etc.), if any, and the proposed course of action;
- establish a staging area for responding law enforcement and other public safety personnel;
- oversee and coordinate the activities of all responding personnel to ensure that all crowd control actions taken are in compliance with this policy;
- ensure that there are adequate resources present to safely and effectively address the existing situation before initiating any group arrests or crowd dispersal activities;
- coordinate the initiation of all group arrests or crowd dispersal activities with the HQ Supervisor;
- coordinate operations with the CDU Commander;
- provide frequent status updates to the HQ Supervisor as appropriate;
- notify the HQ Supervisor when the situation is cleared;
- ensure that responding personnel submit all required reports; and
- submit an AAR noting how the situation developed, what actions were taken and how the situation was resolved.

9.2 **CDU COMMANDER:** The CDU Commander will:

- assign personnel to functional Crowd Control squads with a Supervisor assigned to each squad;
- provide specific direction to all Squad Leaders as to the level of force authorized for implementation;
- ensure that no chemical agents other than OC are deployed in the transit system;
- provide frequent status updates to the IC;
- notify the IC when the situation is cleared;
- ensure that the Squad Leaders submit all required reports; and
- conduct a debriefing of CDU personnel and submit an AAR noting how the situation developed, what actions were taken and how the situation was resolved.

9.3 **CROWD CONTROL/CIVIL DISTURBANCE SITUATIONS.** Protest rallies or marches generally fall into one of the following three (3) categories:

- organized marches and demonstrations;
- peaceful civil disobedience; and
- non-peaceful civil disobedience.

In order to address these situations safely and effectively, Officers must be able to identify which category of behavior they are facing and the potential impact to the safety and security of MBTA patrons and employees as well as overall transit operations.

If a member of the Unit is injured during an operation, the injured member will be removed to a protected area and attended to by medical personnel as soon as it is reasonable and practical to do so. Contingency emergency medical plans will be coordinated and planned prior to actual engagement in the operations.

9.4 **CATEGORY ONE - ORGANIZED MARCHES AND DEMONSTRATIONS.** Category One events generally involve orderly crowds and do not pose a significant threat to law enforcement personnel. A march or demonstration in which the participants are not involved in causing property damage or personal injury and do not significantly interfere with the civil or property rights of others would be an example of a Category One event. It is not unusual for some of the participants in an event of this nature to assist the police in moving the march or demonstration along to its planned completion.

As long as the situation does not escalate, Officers observing orderly crowds engaged in this type of activity on the transit system should do the following:

- report the location, size, activity and direction of travel of the group; and
- maintain a professional presence and continue to monitor and report group activities.

CDU Officers, dressed soft profile, will control group movement through the use of appropriate police formations. If the situation requires, CDU Officers will safely and effectively escort the group off of MBTA property or vehicles.

Officers involved in monitoring or escorting an orderly crowd will adhere to normal patrol and use of force policies and procedures as outlined in the Department Manual.

- 9.5 **CATEGORY TWO - PEACEFUL CIVIL DISOBEDIENCE.** A march or demonstration in which some or all of the participants engage in some form of civil disobedience, such as a sit-in, deliberate blocking of walkways or access ways, marching against traffic, etc., would be considered a Category Two event. Participants of a peaceful civil disturbance may desire, and sometimes even ask, to be arrested and will generally cooperate during the arrest process.

Although peaceful civil disturbances do not usually result in property damage and do not significantly impact the property and/or civil rights of others, the potential for the situation to become more volatile, as a result of the increased level of interaction between participants and law enforcement personnel involved in the arrest process, increases the threat to Officers. It is important to note that an unnecessarily aggressive response by the police or the perceived use of excessive force while affecting an arrest may provide the impetus for more violent or destructive behavior.

Officers observing persons participating in peaceful civil disobedience on MBTA property or vehicles should do the following:

- report the location, size, activity and direction of travel of the group;
- isolate the group, as much as possible, to minimize the impact to transportation operations; and
- maintain a professional presence and continue to monitor and report group activities.

Officers involved in monitoring or isolating a group involved in peaceful civil disobedience activities will adhere to normal patrol and use of force policies and procedures as outlined in the Department Manual.

- 9.5.1 **ARRESTS.** In the event that it is necessary to make arrests in order to clear a Category Two event, the following procedures shall apply:

- Officers shall not initiate arrests for peaceful civil disobedience activities on the transit system, except at the direction of the IC;
- the IC shall ensure that sufficient personnel and transport vehicles are on scene to safely and effectively handle the situation prior to authorizing any arrests; and
- the IC will designate an appropriate Officer/Supervisor as the "arresting Officer" for purposes of preparing arrest related paperwork (arrest report, complaint application, etc.) and court appearances prior to initiating multiple arrests for failing to disperse, etc. Officers initiating an arrest for an observed criminal action will be responsible for preparing the appropriate documentation.

CDU Officers, dressed in soft profile (the CDU Commander may direct the Hard Profile uniform if the situation escalates or otherwise requires it), will serve as the arresting force at Category Two events whenever possible. CDU personnel will place the suspects in physical custody and transfer the arrestee(s) to the designated transporting Officers at a time and location where it is safe to do so.

- 9.6 **CATEGORY THREE – NON-PEACEFUL CIVIL DISTURBANCE.** A non-peaceful civil disturbance presents the highest risk for law enforcement personnel. A non-peaceful civil disturbance is defined as a march or demonstration in which some or all of the participants engage in unlawful behavior that causes damage to property and/or injury to themselves or others. A march or demonstration of this type on MBTA property or vehicles significantly infringes on the civil and property rights of others and is usually intended to cause an inconvenience to MBTA patrons and employees and a major disruption to public transportation.

The presence of Officers at the scene of civil disturbance may not deter participants from committing acts of violence or damaging public or private property. The IC, in consultation with the CDU Commander on scene of a non-peaceful march or demonstration, will monitor crowd activity, directing and coordinating the actions of law enforcement personnel to engage persons involved in violent or criminal activity as long as it is safe to do so, keeping in mind that an overly aggressive response by the police or the perceived use of excessive force while affecting an arrest may provide the impetus for more violent or destructive behavior. The IC shall ensure that there are adequate resources on scene to effectively accomplish the mission prior to initiating any actions except when immediate action is necessary to defend Officers or other victims from injury. The CDU Officers will be dressed in Hard Profile attire.

- 9.6.1 **ARRESTS.** In the event that it is necessary to make arrests during a non-peaceful civil disturbance, the following procedures shall apply:

- Officers shall not initiate arrests for non-peaceful civil disturbance activities on the transit system, except at the direction of the IC unless immediate action is necessary to protect themselves or others from injury;
- the IC shall ensure that sufficient personnel and transport vehicles are on scene to safely and effectively handle the situation prior to authorizing any group arrests; and
- when possible, the IC will designate an appropriate Officer/Supervisor as the “arresting Officer” for purposes of preparing arrest related paperwork (arrest report, complaint application, etc.) and court appearances prior to initiating multiple arrests for failing to disperse, etc. Officers initiating an arrest for an observed criminal action will be responsible for preparing the appropriate documentation.

CDU Officers will serve as the arresting force at Category Three events whenever possible. CDU Officers will place the suspects in physical custody and transfer the arrestee(s) to the designated transporting Officers at a time and location where it is safe to do so.

Notwithstanding the above, Officers must keep in mind that the manner in which law enforcement personnel respond to a civil disturbance can significantly impact the overall tenor of the event. An inadequate law enforcement response (too few personnel to effectively address the problem or an apparent lack of organization and professionalism on the part of the responding Units) may encourage an orderly crowd to take more aggressive action, particularly when there are groups or persons present with the intent of creating problems. Conversely, responding Units that are unnecessarily aggressive or appear to be utilizing greater force than is required to address an existing situation may provide the impetus to change a peaceful protest or civil disturbance into a riot.

- 10.0 **USE OF FORCE CONTINUUM FOR CROWD CONTROL/CIVIL DISTURBANCE SITUATIONS.** Crowd Control/Civil Disturbance situations involve a unique set of circumstances that require a planned response. An inadequate or otherwise inappropriate law enforcement response can cause a situation to escalate from a peaceful civil disturbance to a potentially violent demonstration. The



“Use of Force” continuum noted below provides Department personnel with guidelines regarding the appropriate level of force to be utilized for crowd control situations and the proper method of documentation. The Use of Force Continuum for Crowd Control, force definitions and reporting requirements contained within this policy are specific to this policy and do not alter or replace the Department’s current Use of Force policy as outlined in Chapter 171 of the Department Manual.

- 10.1 **LEVEL ONE – CONSTRUCTIVE FORCE.** Constructive Force is the mere presence of uniformed Officers, whether at assigned posts or in crowd control specific formations. Constructive Force alone is usually sufficient to maintain order and control of Category One, low threat situations (Organized Marches and Demonstrations). As a general rule, there would be no physical contact between Officers and demonstrators at this level. The IC and CDU Commander/designee will submit an AAR describing the incident and any police actions taken in which Level One Force was used.
- 10.2 **LEVEL TWO – PHYSICAL FORCE.** Physical Force is defined as the use of hands or other touching that may result while making an arrest or during the employment of crowd control formations to direct or control the movement of an organized march or demonstration, up to but not including the use of a service baton. Officers must use only that level of force, which is required to overcome resistance and enable them to safely perform their duties. The IC and CDU Commander/designee will submit an AAR describing the incident and any police actions taken in which Level Two Force was used.
- 10.3 **LEVEL THREE – MECHANICAL FORCE.** Mechanical Force includes the use of the service baton or other non-lethal impact devices. The force may be required to affect an arrest or to direct and control the movement of persons involved in non-peaceful civil disobedience. Mechanical Force may only be utilized for crowd control purposes at the direction of the IC or the CDU Commander/designee. Officers may only employ that level of force that is required to overcome resistance or to enable the Officers to perform their duties safely. The IC and CDU Commander/designee will submit an AAR describing the incident and any police actions that were taken in which Level Three Force was used. Patrol Supervisors and CDU Squad Leaders will submit a Use of Force report outlining the instructions provided to the Officers under their control and the manner and method in which Mechanical Force was deployed during directed Crowd Control/Civil Disturbance activities. Officers utilizing Mechanical Force to affect an arrest, except when directed to do so by the Squad Supervisor or IC, will submit Use of Force reports.
- 10.4 **LEVEL FOUR – CHEMICAL FORCE.** Chemical use includes OC (Pepper Spray) and CS (Tear Gas). The directed use of MK-46 & MK-9 Crowd Dispersal OC, OC Blast Powder Grenades, Pepperball Launcher and the discharge of OC by individual Officers is authorized at this level for both indoor and outdoor situations. The CS Continuous Discharge grenades will only be authorized in an outdoor environment. Officers shall not deploy Chemical Force for crowd control purposes unless directed to do so by the IC or CDU Commander/designee. The IC and CDU Commander will submit an AAR describing the incident and any police actions that were taken in which Level Four Force was used. Patrol Supervisors and CDU Squad Leaders will submit a Use of Force report outlining the instructions provided to the Officers under their control and the manner and method in which Chemical Force was deployed during directed Crowd Control/Civil Disturbance activities. Officers utilizing Chemical Force to affect an arrest, except when directed to do so by the Squad Supervisor or IC, will submit Use of Force reports.
- 10.5 **LEVEL FIVE – LETHAL FORCE.** Lethal Force may only be utilized in accordance the existing rules and procedures noted within Chapter 171 of the Department Manual. There is no crowd control exception for the use of lethal force or the submission of reports required by Chapter 171.

11.0 **REQUIRED REPORTS.** {11.4.1}

- 11.1 **AFTER ACTION REPORT.** The CDU Supervisor will prepare an After Action Report (AAR) after any special event in which the CDU was deployed. This report will be sent through the chain of command to the Patrol Operations Division Commander.
  - 11.2 **MONTHLY REPORT.** The CDU Supervisor will submit a monthly report to the CDU Commander. This report will detail training, equipment maintenance or other issues relating to the operations of the CDU.
  - 11.3 **USE OF FORCE REPORT.** By their very nature, most CDU operations will require a use of force report (Blue Team) if a suspect(s) is encountered. The CDU Supervisor will complete a Use of Force Report on behalf of the entire Unit for use of force, up to, but not including a Firearms Discharge Report. This includes employing less lethal force. Requirements for submitting a Use of Force Report are contained in Chapter 171. CDU Officers working under the TPSA structure prior to a deployment will submit Use of Force Reports in accordance with Chapter 171.
- 12.0 The CDU Commander shall be notified whenever a hostile prisoner is combative and/or refuses to vacate a holding cell.

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