

REDACTED



**OAKLAND POLICE DEPARTMENT
OPERATIONS PLAN
28-29 Jan 12
BFO1 -2012-0005**

DATE OF EVENT: 28 -29 Jan 12

UPDATED: 27 Jan 12

BY: M. Poirier

I. SITUATION

A. General Situation

Since 10 Oct 11, a group identifying itself as "Occupy Oakland" (OO) has maintained a presence in front of Oakland City Hall in Frank Ogawa Plaza (FOP). The group is organized, convenes scheduled weekly meetings (General Assemblies), hosts a website (<http://occupyoakland.org/>), has monetary support and is openly hostile towards law enforcement, including several physical assaults. The group has established security to advise of and prevent OPD response at FOP. The group monitors OPD communications via scanners. In addition to General Assembly meetings, the group facilitates committee meetings and hosts various entertainment and speakers day and night. The group communicates through Twitter, Facebook, live streaming video applications via the Internet and other social media and has hundreds of "on line" supporters. The group is diverse, made up of persons including self-proclaimed anarchists, labor unions, long-term homeless individuals, special cause supporters and others.

Since the arrival of OO, OPD has had a significant number of confrontations with members of the group. OPD has had multiple mass arrest situations which led to the arrests of dozens of OO members for various offenses including failure to disperse, assault with a deadly weapon on an officer, battery on an officer, resisting an officer, threatening an officer, vandalism, taking a prisoner from an officer, and other crimes.

The OO has announced the "Oakland Rise Up Festival" in which the group is planning to march to and take over a vacant building on 28 Jan 12. The apparent intent is to unlawfully enter a vacant building and remain there to establish a new commune similar to what occurred in the two encampments in Frank Ogawa Plaza. The location of the vacant building is unknown. At a recent OO General Assembly meeting participants stated that the group will use violence to overcome police strategies to prevent them from taking over a building and that once in the building, the group will use violence to defend the building from police action. It is anticipated that anarchist groups will join in the event.

The weekly march against the police event is also anticipated to occur on 28 Jan 12 at 1900 hours. The individuals that participate in this march are known to be confrontational and violent

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towards the police. Persons in this group often commit acts of vandalism and assault police officers.

Anticipated Events (as described on the OO website):

28 Jan 12 –

1200-1300	Rally at FOP
1300	March to vacant building
1400-1700	Take over vacant building, move in equipment
1700-1900	Orientation within building and dinner served for OO members
1800-2230	Family Justice Center Event – Rotunda Building
1900-2100	General Assembly
1900-2300	Weekly march against the police (Downtown Area)
2100-2400	Concert, poetry and films at building

29 Jan 12

0800-1200	Breakfast
1200-1400	Speakers and BBQ lunch
1400-1800	Presentations and discussions
1800-1900	Dinner
1900-2100	General Assembly
2100-2400	Concert, poetry and films

In response to the announcement of this event the City of Oakland has called for a partial activation of the EOC under the command of OPD personnel.

OPD will maintain presence at Frank Ogawa Plaza (FOP) and in the downtown area.

The California Highway Patrol (if activated) will be primarily responsible for protecting access points to the freeways.

There is no call for mutual aid at this time. ACSO has been advised and as the mutual aid coordinator will be monitoring this event.

B. Organization

We will utilize the Incident Command System (ICS) to manage our efforts. The Emergency Operations Center (EOC), 1605 Martin Luther King Way, will be activated. All staff will be assigned to 12-hour operational periods. Mobile Field Forces shall be assigned under the Operations Commander. All mutual aid requests will be coordinated by EOC staff.

II. MISSION

The Mission of the Oakland Police Department (OPD) is to provide public safety, facilitate the rally/march and the exercise of First Amendment rights.

The Oakland Police Department, with the assistance of other City departments and if needed, outside law enforcement agencies, will conduct crowd management to maintain public peace and order. This will be done with an effort to:

1. Maintain Officer Safety
2. Protect Life
3. Protect Property
4. Protect Vital Facilities
5. Maintain Public Peace and Order
6. Uphold Constitutional Rights of Free Speech and Lawful Assembly.

III. EXECUTION

A. Commander's Intent

OPD intends to execute this police operation in a cooperative manner and, to the extent possible, without requiring the use of force. To that end, OPD will try to identify group leaders and to initiate dialogue to seek their cooperation. OPD will facilitate rallies and marches in compliance with Training Bulletin III-G.

Strong supervision and command are essential to maintaining a unified, measured and effective police response. Impulsive or independent actions by officers are to be avoided. Police personnel must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members. Unprofessional police behavior can inflame a tense situation and make crowd control efforts more difficult and dangerous.

OPD will enforce applicable laws and arrest specific individuals who are committing crimes. In the event of a declaration of an unlawful assembly, OPD will disperse crowds in an orderly manner to predetermined egress routes and arrest individuals who fail to disperse.

Repeated announcements will be made advising them of our intent to arrest them if they do not leave. Announcements shall be made in different locations if the crowd is large and noisy. Sufficient time will be allotted for those who wish to leave before any further police action is taken. Those remaining and refusing to leave unless arrested will be arrested and due to the fact the offense is likely to continue will be transported to the County jail.

OPD will follow and will require all law enforcement agencies participating pursuant to a mutual aid request to follow OPD policies respecting crowd control management, unlawful assemblies, use of chemical agents and less-lethal impact munitions, use of force, arrests and transporting in-custody individuals to jail. Such policies shall be provided to all law enforcement personnel

responding to the City's request for mutual aid. Chemical agents may be used to disperse riotous crowds ONLY at the direction of a MFF Commander (preferable) or a field commander.

B. Concept of Operations

Command and Control will occur at the Emergency Operations Center (EOC) at 1605 Martin Luther King Way. The Incident Commander and all subordinate units will utilize the Incident Command System as described by the National Incident Management System for Command and Control for any incidents requiring the response of law enforcement. Mobile Field Forces will be deployed as needed and will be under the command of the Law Enforcement Operations Commander.

If Mutual Aid is requested, each agency that responds to the City's request for mutual aid will be briefed on OPD's Crowd Control and Use of Force policies and given an overview of the operation plan detailing the Commander's intent. Each agency will be assigned an OPD liaison (pathfinder) to maintain the Incident Commander's command and control, communication, and situational awareness while executing the mission.

Planned Operation Objectives:

<i>Time</i>	<i>Event</i>	<i>Responsibility</i>
	28-Jan-12	
0900	Activate EOC, Begin First Operational Period	DC Israel
1000	Personnel Briefing – PAB	Captain Tull
1200	Personnel Briefing – PAB	Captain Allison
2100	Second Operational Period	DC Breshears
2200	Demobilize 1000 Personnel	DC Breshears
2200	Personnel Briefing – PAB	Captain Whent
2400	Demobilize 1200 Personnel	DC Breshears
	29-Jan-12	
0900	Third Operational Period	DC Israel
0900	Personnel Briefing – PAB	Captain Allison
1200	Personnel Briefing – PAB	Captain Allison
2100	Fourth Operational Period	DC Breshears
2100	Demobilize 0900 Personnel	DC Breshears
2200	Personnel Briefing – PAB	Captain Whent
	30-Jan-12	
0900	End of Operation	DC Breshears

C. Field Elements

Mobile Field Force

A Mobile Field Force (MFF) Platoon Under the direction of a field commander and consists of up to four sergeants and 32 officers. A MFF Platoon will conduct crowd control activities which include: police presence, direction of traffic, public notifications, detentions, arrests and use of force.

Tactical (Tango Team)

At least one Tactical (Tango) Team will be under the direction of each MFF commander. A Tango Team, is supervised by a sergeant, and shall be tasked with assembling sufficient chemical agents and less-lethal impact munitions to address riotous, violent behavior. Tango Team members shall be the only personnel authorized to deploy chemical agents or less-lethal impact munitions. Prior to deployment, a complete inventory of all munitions and chemical agents possessed by Tango Team members shall be completed and documented to ensure identification and approval by a commander. The approving commander shall brief the Operations Commander for final approval of munitions and chemical agents possessed by members of the Tango Teams. The inventory shall be attached to the After Action Report.

Quick Reaction Force (ORF)

A QRF may be utilized to make surgical arrests of identified individuals in crowds or provide a MFF commander a small reserve force. QRF shall be used to provide security/rescue of undercover police personnel that are within the crowd

Tactical Negotiations Team

In this operation, members of the Department's Tactical Negotiations Team (TNT) shall be deployed with the Operations Commander. The TNT will attempt to identify personnel responsible for organizing activities as well as any individuals who incite illegal activity and/or riot. The TNT will negotiate with any group leaders and public speakers within the crowd. Additionally, the TNT will provide public announcements to the crowds using loud speakers. The TNT shall advise the crowd that gathers at FOP (1200-1300) that any attempt to enter a building without the permission of the owner is a violation of the law and will result in arrests. TNT shall make efforts to communicate with members of the crowd to establish a better understanding of their intent and to advise the crowd that OPD will facilitate a peaceful and lawful march/protest.

Video (Victor Team)

The video teams will consist of uniformed officers with the MFF and undercover officers walking within the crowd. Under direction of a field commander, the video teams shall be tasked with the following:

- ◆ Recording temperament and actions of participants prior to crowd formation.
- ◆ Monitoring radio traffic and responding to areas of potential and actual crowd situations.
- ◆ Recording crowd temperament and criminal activity, including an unlawful assembly and failures to disperse after announcements are made.
- ◆ Providing specific narration of activity being filmed.

Surveillance (Sierra Teams)

Surveillance teams will consist of undercover officers supervised by a sergeant. They will operate from elevated positions or walk within the crowd and report threat information to the MFF Commander via the surveillance team leader.

D. Arrest Procedures in Major Crowd Situations

Where a criminal act occurs within a large crowd, efforts shall be made to identify the suspect(s) for arrest(s). Field commanders shall consider the safety of officers and bystanders in their decision to move into a crowd to make an arrest. Where necessary, arrest teams may be deployed to make surgical arrests. Arrest teams will be equipped with sufficient protective gear to complete the arrest or rescue. The field commander shall assess the situation and request the necessary resources to address the problem. On-scene personnel shall advise the best route to respond. Officers shall not abandon their posts, unless it becomes unsafe, to respond to other problems unless directed to do so by a supervisor or commander.

Individual arrests shall comply with Departmental policies and procedures. Personnel shall be briefed on any procedures that are different from the normal arrest or report processing procedures. The field commanders maintain the responsibility to ensure the procedures briefing takes place during line-up or as needed. Juveniles shall be separated from adult offenders and processed in accordance with Departmental policy. Arrest teams shall be responsible for completing and submitting a separate supplemental report documenting each arrest at the conclusion of the operation.

In the event of riotous behavior, a field commander will evaluate and determine if the crowd should be dispersed. Dispersal orders may be made in the following conditions:

- ◆ When crowd violence targets law enforcement personnel at a level likely to cause injury of personnel and other means of apprehension are not likely to succeed.
- ◆ When crowd violence turns to arson and other means of apprehension are not possible.
- ◆ When crowd violence targets buildings/property with felony malicious mischief.
- ◆ When individuals in the crowd begin to attack other people in the crowd with force likely to produce injuries requiring medical assistance.
- ◆ When a crowd gathers for the purpose of committing a crime.

The field commander will give or direct another to provide the dispersal order contained in TB III-G "Crowd Control" ensuring that it is heard and documented. If officers are directed to use "flex" cuffs, they must mark each side of the "lock" to show the position of the cuffs at the time of arrest.

Anticipated Scenarios:

1. Protesters take over a vacant building and refuse to leave
2. Protesters forcibly enter/vandalize City Hall/PAB/transportation
3. Protesters riot downtown /vandalism/assault police
4. Protesters obstruct free flow of vehicle traffic causing significant disruption to commute traffic and/or commerce at any location

Each of these scenarios requires an assessment of the threat to life and property so that commanders can decide the appropriate response.

will be allowed unless life is threatened, serious bodily injury is threatened, significant property damage occurs, or it causes significant disruption to normal business activities for a prolonged period of time (to be determined by the Incident Commander).

In the event a decision is made by the Incident Commander to confront any number of protestors for any reason, the safety of officers and uninvolved protestors shall be considered. Additionally, the likelihood of increased police presence agitating protestors and the capacity for police resources to manage a hostile crowd shall also be considered. Our mission is not to arrest every law violator but instead to manage the entire event. Police shall strive to not create a situation, unless necessary to prevent the loss of life, serious bodily injury and property damage, whereby the crowd becomes hostile and violent towards the police forcing police to defend themselves with various levels of force and chemical munitions. However, nothing in this plan prevents police from arresting persons who have sought concealment within a crowd, even if doing so may anger the crowd.

The Incident Commander must consider the impact of minimizing police responses during a crowd control or riot situation. Such a strategy can actually escalate violence and vandalism by members of the crowd who observe no response from the police thereby empowering individuals and groups in the crowd to act even more recklessly and without consequences.

E. Use of Force in Major Crowd Situations

The IC, field commanders and field supervisors shall make every effort to ensure that the police mission is accomplished as efficiently and unobtrusively as possible with the highest regard for the human dignity and liberty of all persons and with minimal reliance on the use of physical force.

Departmental General Order K-3 applies. The deployment of chemical agents shall be at the direction of a MFF Commander (preferable) or a field commander. If an Unlawful Assembly (407 PC) is declared in a dispersal order and persons refuse to leave, a second warning(s), if feasible, shall be made prior to the use of chemical agents, allowing persons another opportunity to leave voluntarily. Use of specialty impact munitions shall not be indiscriminant nor used to disperse a non-violent crowd. Absent exigent circumstances, such deployment shall occur at the direction of a MFF commander or supervisor. Officers shall make an effort to arrest suspects when force is used to gain compliance. Chemical agents and specialty impact munitions shall only be deployed as authorized by OPD policy and in limited situations provided pursuant to Training Bulletin III-G.

F. Reporting/Evidence Collection

In the event a major crowd disturbance occurs, each member involved in the major crowd disturbance operation shall complete a supplemental report documenting his or her activities and observations during the course of the operation. Such an incident shall be properly identified by the Incident Commander. Individual members are required to document each use of force. Members (Tango Team) using specialty impact munitions shall account for and report, to their supervisor, each individual use of force and document it in a supplemental report. Supervisors shall be responsible for collecting the reports and submitting them as a complete package to their

respective commanders. In the event a Tango Team is used by another company, then the Tango Team shall complete the reports and submit them through the command structure they assisted. This also applies to any personnel called upon to assist other companies. In the event of a major crowd disturbance and/or use of force, a sergeant and two officers will be designated to collect all reports from the field commanders, complete the crime report and investigate the use of force. All use of force supplemental forms will be turned into the use of force report writer.

Commanders shall ensure, in the event of a criminal act, an arrest, or any deployment of gas or specialty impact munitions, all involved personnel and their immediate supervisor(s) complete the appropriate report (crime report, supplemental report, etc). Officers shall document specific acts of the individuals, list witnesses and take witness statements when appropriate.

The recovery of physical evidence (i.e. projectiles) shall be the responsibility of every member. Supervisors shall ensure that their assigned personnel collect, document, package, and catalog relevant physical evidence.

The supervisor of the officers involved shall ensure the proper reports are completed in accordance with Departmental policies, or in compliance with the procedures in this operation (i.e. mass arrest). When more than one team is involved, the field commander at the scene shall designate a single supervisor to coordinate the completion of the necessary reports.

Officers who have been assigned a Personal Digital Recording Device (PDRD) shall activate the camera when directly engaged with the crowd and shall document activation of the PDRD in the appropriate report.

G. Reporting Injuries

Injuries to an officer or private person shall be reported to an immediate supervisor. Supervisors shall notify their commander of any significant injuries or need for medical treatment. Commanders will coordinate the treatment and transport of assigned personnel. Area Commanders will notify the Safety Officer (located in the EOC) of any injuries and identify the nature of injury and transport destination (if required). The Safety Officer will notify the Incident Commander and coordinate further as directed by the Incident Commander.

H. Contingency Plans

[REDACTED]





I. Pursuits

Departmental General Order J-4 applies. Supervisors are responsible for authorizing, monitoring and reporting pursuits involving personnel assigned to them. Units in a pursuit shall remain on their channel. The assigned dispatcher shall patch the involved channel with the appropriate Patrol channel when necessary.

J. Supervisory Span of Control

Every effort shall be made to maintain a span of control of one supervisor to eight officers, but higher ratios may be authorized by the Incident Commander.

J. Mutual Aid

As the Law Enforcement Region Mutual Aid Coordinator, the Alameda County Sheriff will coordinate the mutual aid response by police departments throughout the region. All requests for mutual aid will be made through the Incident Commander. All mutual aid responders shall check in at the main staging area. Relevant OPD policies shall be provided to all participating outside agencies responding to a request for mutual aid including TB III-G "Crowd Control". All mutual aid agencies shall be briefed on the current Operations Plan by a commander. Each participating outside agency responding to a request for mutual aid shall be assigned an OPD liaison (pathfinder). ACSO resources funded by the Port are not considered mutual aid related to this operation. Prior to deployment, a complete inventory of all munitions and chemical agents possessed by mutual aid responders shall be completed and documented to ensure identification and approval by an OPD commander. The approving OPD commander shall brief the

Operations Commander for final approval of munitions and chemical agents possessed by mutual aid responders. Munitions and chemical agents not approved by the Operations Commander shall not be deployed by any agency. If a mutual aid responder refuses to comply with this directive that agency shall not be deployed to any assignment where munitions are likely to be deployed. The inventory shall be attached to the After Action Report.

IV. ADMINISTRATION AND SUPPORT

Administration

A. Pay

Mass overtime forms will be utilized during this operation. Supervisors will review and approve forms, forward them to their commander who will review and approve. The forms are then turned into the fiscal representative at the EOC.

B. Statistics

All statistical data including arrests, citations, uses of force, weapons recovered and property damage shall be documented on a statistical form and forwarded through the chain of command to the MFF commander. The MFF commander will review the forms and turn them into the Planning representative at the EOC. Stop data reporting will be suspended during MFF operations.

C. After Action Reporting

The After Action Report will be completed by the Incident Commander or his designee and forwarded to the Chief of Police.

D. Uniform of the Day

Major Response Personnel: All members shall wear the long sleeve Departmentally approved utility uniform, gun belt with all safety equipment, gas mask in carrier, long baton, riot helmet carried separately.

Support

E. Patrol Wagons

Patrol wagons assigned to the MFF, each staffed by two officers, shall transport arrestees not cited to ACSO mobile booking or the County Jail and maintain an arrest log.

G. Air Support

The OPD helicopter (ARGUS) will be available for this event. The Incident Commander may request air assets from other agencies.

H. Supplies

Officers should deploy to the field with all required equipment. The Logistics Branch will push forward supplies on a request basis. Basic supplies will include radio batteries, water, ammunition/munitions, gas mask filters and parts and riot helmet parts.

I. Food

If needed, the Logistics Branch will provide food/water for MFF personnel.

J. Medical

The following is a list of hospitals in Oakland:

- ◆ Highland Hospital – 1411 E31st St.
- ◆ Summit Hospital – 350 Hawthorne St.
- ◆ Kaiser Hospital – 280 W. MacArthur Blvd.
- ◆ Children's Hospital – 747 52nd St.

Individuals that are arrested and require medical treatment shall be transported to Highland Hospital.

K. Staging Areas

Personnel will utilize the PAB parking area (400 block of 6th Street). Other staging areas may be established as needed. In the event of a call for mutual aid, a staging area capable of accommodating the size of forces requested will be established.

V. COMMAND AND COMMUNICATION

A. Command Structure

Commander/Supervisor	Name
Incident Commander 1&3 Operational Period	DC Israel
Public Information Officer	Sgt. Bolton
Liaison Officer	Lt. Lau
Intelligence Officer/UC/Video	[REDACTED]
Operations Commander	Captain Allison
MFF Commanders	Captains Tull, Tracy, Rachal
-Planning Chief	Lt. Shannon
-Logistics Chief	Captain Poulson
-Finance Chief	AA-II Hines

Incident Commander 2&4 Operational Period	DC Breshears
Public Information Officer	Officer Watson
Liaison Officer	Sgt. Arotzarena
Intelligence Officer/UC/Video	[REDACTED]
Operations Commander	Captain Whent
MFF Commanders	N/A
-Planning Chief	Lt. Parris
-Logistics Chief	Lt. Elzey
-Finance Chief	Not Assigned

B. Communications

Primary communications shall utilize the OPD radio system. Portable radios shall be signed out from and returned to the OPD Property Section. Cellular telephones may be used for secondary communications in the event of a system failure or problematic communication conditions.

CHANNEL	SYSTEM	TALK GROUP
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Units shall remain on their primary channels during emergencies or critical incidents. Communications shall patch channels together if necessary for coordination with Patrol units. A commander shall direct units not involved in the emergency to other channels if necessary. In the event of radio failure, all units shall switch to [REDACTED] and respond to the staging areas:

C. Media

Media Relations

Public trust and confidence in law enforcement are dependent upon open and honest communication with the public, most often through media access and reports. Department policy requires officers to make every reasonable effort to help reporters cover police actions and activity. Media representatives shall be treated in a fair and impartial manner. All media inquiries shall be referred to a Public Information Officer.

Formal press releases and/or press conferences with City officials is the preferred method of distributing information; circumstances immediately or imminently affecting traffic flow or public safety may be communicated by an OPD Public Information Officer (PIO), Incident Commander, or his/her designee through a field command post or field press briefings. Under all other circumstances, refer media inquiries to the PIO.

OPD PIO referrals may be made by email (opdmedia@oaklandnet.com), phone (238-7230), or by radio on the operation designated main channel. An Emergency Operations Center OPD or City PIO may be available given staffing and EOC partial or full activation (1605 Martin Luther King).

Media Identification and Access

The media have a right to cover demonstrations. **Media will be advised that PIO accompaniment is the preferred method of access and coverage to ensure the safety of media, arrestees, and officers.**

Local media representatives carry OPD press cards, but press credentials issued by other law enforcement agencies or by a newspaper, magazine, television, or radio station should also be recognized. If time or circumstances permit, **a field PIO may be dispatched in circumstances requiring press access/activity mediation, grievance resolution, or dispute.**

From TB III-G, Part X (Italics added):

- OPD members shall accommodate the media in accordance with Department policy.
- The media shall be permitted to observe and shall be permitted close enough access to the arrestees to record their names. **Even after a dispersal order has been given, *clearly identified media* shall be permitted to carry out their professional duties in any area where arrests are being made unless their presence would unduly interfere with the enforcement action.**
- Self-identified legal observers and crowd monitors (*i.e., streamers, non-professional or self-proclaimed media*) do not have the same legal status as the professional media (*as defined by OMC 5.70.010*).
- On request, the Incident Commander or a supervisor may inform the media, legal observers, crowd monitors, police liaison, and/or organizers about the nature of any criminal charges (*arrests*), the location where arrestees are being taken, and the Department's intent for arrestees to be cited out or booked at a custodial facility.
- The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.

Staging Areas:

Media staging areas may be declared by the Incident Commander, announced on main channel, and declared to the EOC if operational. For planned and unplanned mobile and stationary events and coverage, they should not be designated unless the staging area is reasonably clear of public safety hazard, and police presence is maintained at a proximate scene. The location selection should be in an area not likely to become impacted, within a reasonable viewing distance of the event, and take into consideration public and officer safety, police tactics, and input by the news media where practical.

For Frank H. Ogawa Plaza (FOP) Planned or Unplanned Events:

In all cases, media is advised to park legally for Frank Ogawa Plaza access. Past Operations and experience have designated 14th Street either east of Broadway or west of Clay Street as the preferable staging area.

For Planned and Unplanned Marches or Scenes outside of FOP:

For planned and unplanned mobile and stationary events/coverage outside of FOP, a media staging area may be declared by the Incident Commander. Staging Areas should be in a reasonably secure area, not interfering with law enforcement operations, and within a reasonable viewing distance of the event. Media Staging Areas are staffed, if time or circumstances permit, by a PIO.

D. Fire or Medical Assistance

All request for fire department services or medical aid shall be made through the dispatcher at the EOC. Fire and medical will be located in close proximity to the MFF operation. All personnel must provide as much information about the emergency as possible, because special arrangements have been made for escorted fire and medical response.

Jeffrey Israel
Deputy Chief of Police
Incident Commander

ANNEX A: CIVIL UNREST CHECKLIST

TACTICAL OBJECTIVES:

- **CONTAIN:** Confine the disorder to the smallest area possible.
- **ISOLATE:** Prevent the growth of the disorder. Cordon off the area. Deny access to those not involved.
- **DISPERSE:** Make arrests if appropriate.
- **SAFE ZONE:** Establish an Incident Command Post and Staging Area.

SITUATION ASSESSMENT:


- **LOCATION** of Emergency.
- **NUMBER** of participants.
- **ACTIVITIES** of participants.
- **DIRECTION** of movement if any.

- ADDITIONAL personnel required
- ACCESS to Incident Command Post or location needed.

INITIAL RESPOSE:

- ASSEMBLE responding personnel into squads and Mobile field force teams.
- MEDIA: Assign a Public Information Officer to work with on scene media.
- BRIEF Squad/MFF leaders ASAP.
- ESTABLISH MISSIONS (e.g. crowd control, traffic control, site security, arrest teams etc.)
- REQUEST SUPPORT: ARGUS, Tango teams etc to assist in missions.
- LIASON: Establish a liaison with OES.

OTHER CONSIDERATIONS:

- KNOW what equipment your teams possess (Less lethal, chemical).
 - UTILIZE multiple radio frequencies.
 - VIDEO: Record not only what the protesters are doing, but if they have rocks/tools etc.
 - DOCUMENT in written reports and on radio: crowd member activities such throwing objects, charging officers, graffiti, setting fires, mask wearing, threats etc.
 - COLLECT evidence: rocks, bottles, spray paint cans, masks, weapons etc.
 - ARREST teams and transporters should be organized to keep MFF members on the line.
 - MAINTAIN squad integrity, individual actions should be avoided.
- 

AFTER DISPERSAL:

- ESTABLISH a highly visible presence.
- RESPONSE: Use squad sized mobile units to respond to problems.
- ARRANGE for relief and feeding of personnel.

"OODA" LOOP:

- OBSERVE
- ORIENTATE
- DECIDE
- ACT
- REPEAT

ANNEX B: DISPERSAL ORDER

I AM (RANK/NAME), A PEACE OFFICER FOR THE CITY OF OAKLAND. 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 _____ TO IMMEDIATELY LEAVE.

IF YOU DO NOT DO SO, YOU MAY BE ARRESTED OR SUBJECT TO REMOVAL BY FORCE IF NECESSARY 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 PENAL CODE SECTION 409. THE FOLLOWING ROUTES OF DISPERSAL ARE AVAILABLE_____. YOU HAVE _____ MINUTES TO LEAVE.

IF YOU REFUSE TO MOVE YOU WILL BE ARRESTED. *IF YOU REFUSE TO MOVE, CHEMICAL AGENTS WILL BE USED. (PROVIDE THE CHEMICAL WARNING ONLY IF USE IS ANTICIPATED).

PROCEDURAL NOTE: Units located on the opposite side of the crowd should confirm the announcement was heard and report such to the Communications Division via radio.

ANNEX C: ARREST AND REPORT WRITING PROCEDURES

1. Arrests

a. Arrests under normal conditions. The procedures below are to be used for any arrests that do not involve Mass Arrest¹ circumstances:

¹ Mass Arrests are defined as arrests that occur when MFFs have a large number of arrestees in custody. Such arrests may occur when MFFs have a large group of arrestees completely surrounded, or when MFFs are moving a large group of arrestees to a designated mobile booking station location.

- i. Tactical circumstances permitting, the officer who arrests a suspect will maintain physical control of that suspect and walk them to a Patrol Wagon.
 - ii. If the arresting officer must pass an arrestee off to an escort officer, that escort officer will note the name of the arresting officer. If the escort officer is unable to identify the arresting officer, the supervisor will provide the escort officer with the arresting officer's name. The escort officer will then maintain physical control of the suspect and walk them to a Patrol Wagon.
 - iii. The MFF Platoon Leader will identify a prisoner pick-up point, contact the EOC, and request that a Patrol Wagon respond to that pick-up point.
 - iv. The arresting officer (or escort officer) will take the prisoner to the Patrol Wagon for processing. The following actions will be accomplished at the Patrol Wagon:
 - Complete the CAR and Declaration (arresting officer). The name of the arresting officer and the escort officer (if applicable) shall be noted on the CAR.
 - Complete the prisoner white board with prisoner name and DOB (wagon officer).
 - Take a digital photo of the prisoner with their white board information (wagon officer).
 - Transfer the prisoner from the arresting officer to the wagon officer.
 - v. After 1.a.iv. above has been accomplished, and after the Patrol Wagon contains a sufficient number of prisoners, the wagon officer will transport the prisoners to the jail.
 - vi. At the end of the operation, the wagon officer will provide all CARs, Declarations, and photos to the Prisoner Control Team.
- b. Arrests under Mass Arrest conditions.
- i. If MFFs have a large group of arrestees completely surrounded, the MFF Platoon Leader will identify a mobile booking station location, contact the EOC, and request that a the Prisoner Processing Team respond to the mobile booking station location.
 - ii. The MMF Lieutenant may elect to move a large group of arrestees to a designated mobile booking station location, using the same procedures described in 1.b.i. above.
 - iii. For Mass Arrests, the EOC is responsible for designating the primary charge that will be placed on the CARs.
- c. Mobile Booking Station operations.

- i. Supervisors will assign individual arresting officers to walk each prisoner back to the mobile booking station location.
- ii. Upon arrival at the mobile booking station location, the arresting escort officer, in coordination Prisoner Control Unit, will accomplish the tasks detailed in 1.a.iv. above.
- iii. The Prisoner Control Unit will be responsible for coordinating the transportation of all prisoners to the jail.

2. Report Writing.

- a. The EOC will provide one RD and Incident # that will be used through each Operational Period.
- b. The Incident Commander will designate the Report Writing Team, consisting of one sergeant and two officers. This team will be responsible for the following:
 - Completing the Overall Crime Report
 - Completing the Mass Use of Force Report
 - Collecting all supplemental reports from MFF Company Commanders
- c. All personnel involved in the operation shall complete a supplemental report, along with a Suspect page in cases where officers arrest suspects.
- d. In completing their supplemental reports, members shall ensure they include the following items in their narratives:
 - Disposition of the crowd
 - Specific actions taken
 - Specific locations where actions occurred
 - Evidence recovered
 - Specifics as to uses of force employed by the member
 - Specifics as to uses of force witnessed by the member
 - Any witnesses to uses of force
- e. Tango Team members using specialty impact munitions shall account for and report, to their supervisor, each individual use of force and document it in their supplemental reports. Supervisors shall be responsible for collecting the reports and submitting them as a complete package to their respective commanders. In the event a Tango Team is used by another company, then the Tango Team shall complete the reports and submit them through the command structure they assisted.
- f. All reports will be completed using paper reports (i.e. FBR will not be used).
- g. No Stop Data Forms will be required during this operation.

- h. At the end of the operational period supervisors will review all subordinates' reports prior to releasing them from duty. Additionally, supervisors will ask ascertain the following information from subordinates (these items will be annotated on squad stat sheets):
- Were they injured?
 - Did they arrest anyone? If so, the number and locations of arrest.
 - Did they assist anyone in making arrest? If so, the number and locations of arrest.
 - Did they have any uses of force? If so, the number and type of each UOF.
 - Did they have any lost or damaged equipment?
 - Did any citizens wish to make a complaint?
- i. After collecting all reviewed supplemental reports, supervisors will turn them over (as a group) to the MFF Platoon Leaders, who will in turn provide them to the MFF Company Commanders, who will in turn provide them to the Report Writing Team supervisor.

ANNEX D – Penal Code Sections

AUTHORITY OF PEACE OFFICER TO MAKE A LAWFUL ARREST California Penal Code

834. An arrest is taking a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.

834a. If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest.

**RELEVANT PENAL CODE SECTIONS
Protests / Resistance to Arrest / Riots
California Penal Code (*in pertinent part*)**

69PC

§ 69 California Penal Code - Obstructing or Resisting Executive Officers in Performance of Their Duties

Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, OR who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

Penal Code 69 PC defines two different offenses:

1. *attempting* by ANY threat or violence to *deter or prevent* an executive officer from performing a lawful duty, and
2. *using force or violence to resist* an executive officer in the performance of his/her lawful duties.

Threats

Threats may be oral or written and may be implied by a pattern of conduct or a combination of statements and conduct. There is no requirement that the suspect actually intends to carry out the threatened act, only that he/she intends for it to be interpreted as a threat by the intended victim.

Similarly, there is no requirement that the threat be immediate or imminent.

148. (a) (1) Every person who **willfully resists, delays, or obstructs any public officer, peace officer,** or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in **the discharge or attempt to discharge any duty** of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by

both that fine and imprisonment.

(2) Except as provided by subdivision (d) of Section 653t, every person who **knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a public safety radio** frequency shall be punished by a fine not exceeding one thousand dollars (\$1,000), imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) Every person who, during the commission of any offense described in subdivision (a), **removes or takes any weapon, other than a firearm, from the person of, or immediate presence of, a public officer or peace officer** shall be punished by imprisonment in a county jail not to exceed one year or pursuant to subdivision (h) of Section 1170.

(c) Every person who, during the commission of any offense described in subdivision (a), **removes or takes a firearm from the person of, or immediate presence of, a public officer or peace officer** shall be punished by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Except as provided in subdivision (c) and notwithstanding subdivision (a) of Section 489, every person who **removes or takes without intent to permanently deprive, or who attempts to remove or take a firearm from the person of, or immediate presence of, a public officer or peace officer,** while the officer is engaged in the performance of his or her lawful duties, shall be punished by imprisonment in a county jail not to exceed one year or pursuant to subdivision (h) of Section 1170.

In order to prove a violation of this subdivision, the prosecution shall establish that the defendant had the specific intent to remove or take the firearm by demonstrating that any of the following direct, but ineffectual, acts occurred:

(1) The officer's holster strap was unfastened by the defendant.

(2) The firearm was partially removed from the officer's holster by the defendant.

(3) The firearm safety was released by the defendant.

(4) An independent witness corroborates that the defendant stated that he or she intended to remove the firearm and the

defendant actually touched the firearm.

(5) An independent witness corroborates that the defendant actually had his or her hand on the firearm and tried to take the firearm away from the officer who was holding it.

(6) The defendant's fingerprint was found on the firearm or holster.

(7) Physical evidence authenticated by a scientifically verifiable procedure established that the defendant touched the firearm.

(8) In the course of any struggle, the officer's firearm fell and the defendant attempted to pick it up.

185 □ It shall be unlawful for any person to **wear any mask**, false whiskers, or any personal disguise (whether complete or partial) for the purpose of:

One--Evading or escaping discovery, recognition, or identification in the commission of any public offense;

Two--Concealment, flight, or escape, when charged with, arrested for, or convicted of, any public offense. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

241(c) When an **assault is committed against the person of a peace officer, firefighter**, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, **code** enforcement officer, or animal control officer **engaged in the performance of his or her duties**, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, **code** enforcement officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

243. (a) A battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(b) When a **battery is committed against the person of a peace officer**, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, **code enforcement officer**, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, code enforcement officer, or animal control officer engaged in the performance of his or her duties, nonsworn employee of a probation department, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

244. Any person who **willfully and maliciously places or throws, or causes to be placed or thrown, upon the person of another, any vitriol, corrosive acid, flammable substance, or caustic chemical** of any nature, with the intent to injure the flesh or disfigure the body of that person, is punishable by imprisonment in the state prison for two, three or four years.

As used in this section, **"flammable substance" means gasoline, petroleum products, or flammable liquids** with a flashpoint of 150 degrees Fahrenheit or less.

245 (c) Any person who commits an **assault with a deadly**

weapon or instrument, other than a firearm, or by any **means likely to produce great bodily injury upon the person of a peace officer or firefighter**, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) (1) Any person who commits an **assault with a firearm upon the person of a peace officer or firefighter**, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Any person who **commits an assault upon the person of a peace officer or firefighter** with a **semiautomatic firearm** and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who **commits an assault with a machinegun**, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, or a .50 BMG rifle, as defined in Section 12278, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Section 12028.

404. (a) Any **use of force or violence, disturbing the public peace, or any threat to use force or violence**, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, **is a riot**.

(b) As used in this section, disturbing the public peace may occur in any place of confinement. Place of confinement means any state prison, county jail, industrial farm, or road camp, or any city jail, industrial farm, or road camp, or any juvenile hall, juvenile camp, juvenile ranch, or juvenile forestry camp.

404.6. (a) Every person who with the **intent to cause a riot** does an act or engages in conduct that urges a riot, or **urges others** to commit acts of force or violence, or the **burning or destroying of property**, and at a time and place and under circumstances that produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property, is guilty of incitement to riot.

(b) Incitement to riot is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(c) Every person who incites any riot in the state prison or a county jail that results in serious bodily injury, shall be punished by either imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170.

405. Every person who **participates in any riot** is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

405a. The **taking by means of a riot of any person from the**

lawful custody of any peace officer is a lynching.

406. Whenever two or more persons, assembled and acting together, **make any attempt or advance toward the commission of an act which would be a riot** if actually committed, such assembly is a riot.

407. Whenever **two or more persons assemble together to do an unlawful act, or do a lawful act** in a violent, boisterous, or tumultuous manner, such assembly is an **unlawful assembly**.

408. Every person who participates in any **riot or unlawful assembly** is guilty of a misdemeanor.

409. Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor.

450. In this chapter, the following terms have the following meanings:

(a) "Structure" means any building, or commercial or public

tent, bridge, tunnel, or powerplant.

(b) "Forest land" means any brush covered land, cut-over land, forest, grasslands, or woods.

(c) "Property" means real property or personal property, other than a structure or forest land.

(d) "Inhabited" means currently being used for dwelling purposes whether occupied or not. "Inhabited structure" and "inhabited property" do not include the real property on which an inhabited structure or an inhabited property is located.

(e) "Maliciously" imports a wish to vex, defraud, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

(f) "Recklessly" means a person is aware of and consciously disregards a substantial and unjustifiable risk that his or her act will set fire to, burn, or cause to burn a structure, forest land, or property. The risk shall be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

451. A person is guilty of **arson** when he or she willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels, or procures the burning of, any structure, forest land, or property.

(a) Arson that causes great bodily injury is a felony punishable by imprisonment in the state prison for five, seven, or nine years.

(b) Arson that causes an inhabited structure or inhabited property to burn is a felony punishable by imprisonment in the state prison for three, five, or eight years.

(c) Arson of a structure or forest land is a felony punishable by imprisonment in the state prison for two, four, or six years.

(d) Arson of property is a felony punishable by imprisonment in the state prison for 16 months, two, or three years. For purposes of this paragraph, arson of property does not include one burning or causing to be burned his or her own personal property unless there is

an intent to defraud or there is injury to another person or another person's structure, forest land, or property.

451.1. (a) Notwithstanding any other law, any person who is convicted of a felony violation of Section 451 shall be punished by a three-, four-, or five-year enhancement if one or more of the following circumstances is found to be true:

(1) The defendant has been previously convicted of a felony violation of Section 451 or 452.

(2) **A firefighter, peace officer, or other emergency personnel suffered great bodily injury as a result of the offense.** The additional term provided by this subdivision shall be imposed whenever applicable, including any instance in which there is a violation of subdivision (a) of Section 451.

(3) The defendant proximately caused great bodily injury to more than one victim in any single violation of Section 451. The additional term provided by this subdivision shall be imposed whenever applicable, including any instance in which there is a violation of subdivision (a) of Section 451.

(4) **The defendant proximately caused multiple structures to burn in any single violation** of Section 451.

(5) The defendant committed arson as described in subdivision (a), (b), or (c) of Section 451 and the arson was caused by use of a device designed to accelerate the fire or delay ignition.

(b) The additional term specified in subdivision (a) shall not be imposed unless the existence of any fact required under this section shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact.

451.5. (a) Any person who **willfully, maliciously, deliberately, with premeditation, and with intent to cause injury to one or more persons or to cause damage to property under circumstances likely to produce injury to one or more persons or to cause damage to one or more structures** or inhabited dwellings, sets fire to, burns, or causes to be burned, or aids, counsels, or procures the burning of any residence, structure, forest land, or property is guilty of aggravated arson if one or more of the following aggravating factors exists:

(1) The defendant has been previously convicted of arson on

one or more occasions within the past 10 years.

(2) (A) The fire caused property damage and other losses in excess of six million five hundred thousand dollars (\$6,500,000).

(B) In calculating the total amount of property damage and other losses under subparagraph (A), the court shall consider the cost of fire suppression. It is the intent of the Legislature that this paragraph be reviewed within five years to consider the effects of inflation on the dollar amount stated herein. For that reason, this paragraph shall remain in effect until January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.

(3) The fire caused damage to, or the destruction of, five or more inhabited structures.

(b) Any person who is convicted under subdivision (a) shall be punished by imprisonment in the state prison for 10 years to life.

(c) Any person who is sentenced under subdivision (b) shall not be eligible for release on parole until 10 calendar years have elapsed.

452. A person is guilty of unlawfully **causing a fire when he recklessly sets fire to or burns or causes to be burned, any structure,** forest land or property.

(a) Unlawfully causing a fire that causes great bodily injury is a felony punishable by imprisonment in the state prison for two, four or six years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both such imprisonment and fine.

(b) Unlawfully causing a fire that causes an inhabited structure or inhabited property to burn is a felony punishable by imprisonment in the state prison for two, three or four years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both such imprisonment and fine.

(c) Unlawfully causing a fire of a structure or forest land is a felony punishable by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than six months, or by a fine, or by both such imprisonment and fine.

(d) Unlawfully causing a fire of property is a misdemeanor. For purposes of this paragraph, unlawfully causing a fire of property

does not include one burning or causing to be burned his own personal property unless there is injury to another person or to another person's structure, forest land or property.

(e) In the case of any person convicted of violating this section while confined in a state prison, prison road camp, prison forestry camp, or other prison camp or prison farm, or while confined in a county jail while serving a term of imprisonment for a felony or misdemeanor conviction, any sentence imposed shall be consecutive to the sentence for which the person was then confined.

453. (a) Every person who **possesses, manufactures, or disposes of any flammable, or combustible material or substance, or any incendiary device in an arrangement or preparation**, with intent to willfully and maliciously **use this material, substance, or device to set fire to or burn any structure**, forest land, or property, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail, not exceeding one year.

(b) For the purposes of this section:

(1) "Disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

(2) "Incendiary device" means a device that is constructed or designed to start an incendiary fire by remote, delayed, or instant means, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be an incendiary device for the purposes of this section.

(3) "Incendiary fire" means a fire that is deliberately ignited under circumstances in which a person knows that the fire should not be ignited.

(c) Subdivision (a) does **not prohibit the authorized use or possession of any material, substance or device** described therein by a member of the armed forces of the United States or by firemen, **police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities**; nor does that subdivision prohibit the use or possession of any material, substance or device described therein when used solely for scientific research or educational

purposes, or for disposal of brush under permit as provided for in Section 4494 of the Public Resources Code, or for any other lawful burning. Subdivision (a) does not prohibit the manufacture or disposal of an incendiary device for the parties or purposes described in this subdivision.

454. (a) Every person who violates Section 451 or 452 during and within an area of any of the following, when proclaimed by the Governor, shall be punished by imprisonment in the state prison, as specified in subdivision (b):

(1) ...

(2) A state of emergency pursuant to Section 8625 of the Government **Code**.

(b) Any person who is described in subdivision (a) and who violates subdivision (a), (b), or (c) of Section 451 shall be punished by imprisonment in the state prison for five, seven, or nine years. All other persons who are described in subdivision (a) shall be punished by imprisonment in the state prison for three, five, or seven years.

(c) Probation shall not be granted to any person who is convicted of violating this section, except in unusual cases where the interest of justice would best be served.

455. (a) Any person who **willfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any structure**, forest land or property, or who commits any act preliminary thereto, or in furtherance thereof, is punishable by imprisonment in the state prison for 16 months, two or three years.

(b) The placing or distributing of any flammable, explosive or combustible material or substance, or any device in or about any structure, forest land or property in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of the same shall, for the purposes of this act constitute an attempt to burn such structure, forest land or property.

594. (a) Every person who **maliciously commits** any of the following acts with respect to any **real or personal property** not his or her own, in cases other than those specified by state law, is guilty of vandalism:

- (1) Defaces with **graffiti** or other inscribed material.
- (2) **Damages.**
- (3) **Destroys.**

Whenever a person **violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity**, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b) (1) If the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more, vandalism is punishable by imprisonment pursuant to subdivision (h) of Section 1170 or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

640.5: (a) (1) Any person who defaces with **graffiti** or other inscribed material the **interior or exterior of the facilities or vehicles of a governmental entity**, as defined by Section 811.2 of the Government Code, or the interior or exterior of the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code . . . for which any of the above entities incur costs of less than two hundred fifty dollars (\$250) for cleanup, repair, or replacement is guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000) and by a minimum of 48 hours of community service for a total time not to exceed 200 hours over a period not to exceed 180 days, during a time other than his or her hours of school attendance or employment. This subdivision does not preclude application of Section 594.

(b) (1) If the person has been convicted previously of an

infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.6, or 640.7, the offense is a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) (1) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year, by a fine not to exceed three thousand dollars (\$3,000), or by both that imprisonment and fine.

640.6: (a) (1) Except as provided in Section 640.5, any person who **defaces with graffiti or other inscribed material any real or personal property not his or her own**, when the amount of the defacement, damage, or destruction is less than two hundred fifty dollars (\$250), is guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000). This subdivision does not preclude application of Section 594.

In addition to the penalty set forth in this section, the court shall order the defendant to perform a minimum of 48 hours of community service not to exceed 200 hours over a period not to exceed 180 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) (1) If the person has been convicted previously of an

infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.5, or 640.7, the offense is a misdemeanor, punishable by not to exceed six months in a county jail, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 96 hours of community service not to exceed 400 hours over a period not to exceed 350 days during a time other than his or her hours of school attendance or employment.

(c) (1) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.5, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year, by a fine not to exceed three thousand dollars (\$3,000), or by both that imprisonment and fine.

640.7. Any person who violates Section 594, 640.5), or 640.6 on or **within 100 feet of a highway, or its appurtenances, including, but not limited to, guardrails, signs, traffic signals, snow poles, and similar facilities, excluding signs naming streets,** is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. A second conviction is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

640.8. Any person who violates Section 594, 640.5, or 640.6, **on a freeway, or its appurtenances,** including sound walls, overpasses, overpass supports, guardrails, signs, signals, and other traffic control devices, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed one

year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine. As a condition of probation, the court may order the defendant to perform community service not to exceed 480 hours over a period not to exceed 420 days during a time other than his or her hours of school attendance or employment.

647c. Every person who **willfully and maliciously obstructs the free movement of any person on any street, sidewalk, or other public place** or on or in any place open to the public is guilty of a misdemeanor.

Nothing in this section affects the power of a county or a city to regulate conduct upon a street, sidewalk, or other public place or on or in a place open to the public.