



PUBLIC ORDER EVENTS

Policy and Operational Guidelines



Second edition (2020)

PUBLIC ORDER EVENTS

Policy and Operational Guidelines

SECOND EDITION (2020)





VISION STATEMENT

A professional police service for a safe and secure Malawi

MISSION STATEMENT

To provide quality policing services in partnership with the community and stakeholders

CORE VALUES

Independence
Integrity
Professionalism
Accountability
Quality Service

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LIST OF ACRONYMS AND ABBREVIATIONS

CID	Criminal Investigative Directorate
CMM	Conflict Management Model
DRRM	Dynamic Resistance Response Model
IG	Inspector General of the Malawi Police Service
IIRMACH	Information, Intention, Risk Assessment Methods, Administration, Communication and Human Rights
IPCC	Independent Police Complaints Commission
MPS	Malawi Police Service
PMS	Police Mobile Service
RO	Regional Operations Officer

DEFINITION OF TERMS

Assembly means any assembly, meeting, rally, gathering, concourse or procession of more than fifteen persons in or on any public place or premises or on any public road as defined in section 92 of the Police Act. Assemblies must be peaceful and unarmed, as per section 38 of the Constitution.

Bronze commander is the operational commander responsible for the deployment of resources and implementation of tactics set by the Silver commander.

Command is a term used within the Malawi Police Service to describe the authority for an organisation to direct the actions of its personnel and the use of equipment and other resources. The command roles are exercised by those who are given authority through their roles to police specific operations.

Demonstration is defined in section 92 of the Police Act to mean any demonstration, whether by way of a procession, march or otherwise, in or on any public place or premises or on any public road whether by one or more persons, for or against any person, organisation, cause, action or failure to take place, which is organised to be publicly held for the same purpose as the case of assembly.

Firearm includes, as per the Firearms Act, any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or missile and any weapon or contrivance of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, any component part of any such weapon or contrivance and any accessory to any such weapon or contrivance designed or adapted to diminish the noise or flash caused by the discharge thereof and a bomb, grenade and other like missile whether capable of use with such a weapon or not.

Gold commander is the officer in overall command and has responsibility and accountability for the event.





Peaceful assembly means an assembly in which the organisers have expressed peaceful intentions and the general conduct of the assembly participants is generally peaceful. Peaceful should be interpreted to include conduct that annoys or gives offence, as well as conduct that temporarily hinders, impedes or obstructs the activities of third parties. Isolated acts of violence should not render an assembly as a whole non-peaceful.

Police operation includes large or small numbers of officers deployed for a specific task whether planned in advance or with only short notice.

Public order relates to the absence of crime and disorder within the community.

Public order event is any assembly, demonstration or other incident for which a policing response is required.

Public order policing should be interpreted widely to capture the policing of large-scale national and regional events and the routine policing of local community events.

Public order management includes preventive activities such as high-visibility patrolling and popular confidence-building as well as crowd and riot control.

Silver commander is the forward or ground commander in overall tactical charge.

Spontaneous events where the police have not had prior warning to develop event-specific strategies, tactics and contingency plans.

Trigger incident is any incident which causes a change in the mood or behaviour of the community, the crowd, or any section of the community or crowd.

ACKNOWLEDGEMENTS

Numerous individuals from civil society as well as police officers contributed to the successful development of this Policy and Operational Guidelines document on the use of force and firearms by police officers during public disorders.

In 2013, the following police officers were appointed by the Inspector General to form a task team to develop the policy and guidelines. They deserve a special mention for their commitment and drive in realising this document:


- Richard C.C Luhanga, Deputy Commissioner of Police, team leader
- Hannings M.Z. Mlotha, Deputy Commissioner of Police
- M. Noel Kayira, Assistant Commissioner of Police
- Barbra Mchenga, Assistant Commissioner of Police
- Tadius Samveka, Assistant Commissioner of Police
- Senior Superintendent Francis Chisoti
- Superintendent Steven Makolomola.

The 2019 revision of this document was led by a task team established by the Inspector General and comprised the following officers:

- M. Noel Kayira, Deputy Commissioner of Police, team leader
- Barbra Mchenga Tsiga, Deputy Commissioner of Police
- Senior Superintendent Hanleck Chingolo
- Senior Superintendent Frank Kayange
- Superintendent Posiano Limbikani
- Assistant Superintendent Yotamu Kanjoka
- Inspector Moses Bushiri.

Special recognition is extended to various individuals from civil society, particularly Sean Tait and Louise Edwards from the African Policing Civilian Oversight Forum, with support from the Open Society Foundations, government departments and police officers, for their comments during the consultative process that preceded the development of this policy and guidelines document.





The Malawi Police Service (MPS) is also indebted to the senior management team and the special validation team for their invaluable and constructive contributions during the vetting process of this Policy and Operational Guidelines document. The advisory role played by the Inspector General and the High Command of the MPS is also highly appreciated.

FOREWORD

I am excited to present this 2020 revised edition of Policy and Operational Guidelines for Policing Public Order Events, including the use of force and firearms. The review of this document aimed at ensuring that contemporary issues in public order management are properly integrated into the policy and guidelines. The May 2019 post-election violence informed the revision of this policy. A key lesson from that violence is that democratic policing requires that the police should strike a balance between ensuring that people are able to exercise their constitutional rights including freedom of assembly and peaceful demonstration while at the same time ensuring that other people's rights are not infringed. This policy therefore represents management's determination and commitment to ensuring that people's rights are protected and respected during peaceful assemblies and demonstrations.



Dr George Kainja

The philosophy that underlies the Policy and Operational Guidelines is one of professional policing of all public order events to ensure that the rule of law and respect for human rights are maintained and adhered to at all times through deployment of national, regional and internationally acceptable methods.

This Policy and Operational Guidelines document represents a detailed articulation by the MPS of the core principles which govern and direct public order policing activities, including those that involve the use of force and firearms.

Therefore, the Policy and Operational Guidelines are intended to provide the framework for ensuring that the MPS at all times has the capacity to competently and professionally handle incidents of public disorder. It outlines the best practices, methods and procedures to be employed by police officers of the MPS. It is expected that all members of the MPS will abide by the provisions of this Policy and Operational Guidelines document as a benchmark for the planning and management of all public order events by the MPS.



This revision was made in line with the African Commission on Human and Peoples' Rights' Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa (2017), and the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa ('Luanda Guidelines', 2014), and reflects the ongoing efforts by the Malawi Police Service to maintain continental standards and good practice. The work of the late commissioner Med S.K. Kaggwa in leading the development of these standards, and his convening of discussions in Lilongwe about the implementation of the Luanda Guidelines in 2015, is remembered and appreciated.



Dr George Kainja
Inspector General of Police

1

INTRODUCTION

1.1. Structure

The Policy and Operational Guidelines document is divided into three parts:

Part 1 - Introduction

Part 2 - Policy

Part 3 - Operational Guidelines

1.2. Applicability and scope

The Policy and Operational Guidelines apply to all members of the MPS assigned to provide safety and security services in Malawi, specifically the policing of public order events and the use of force and firearms.

1.3. Background and problem statement

The advent of democracy in 1994 created several challenges for policing in Malawi as a result of awareness by the people of their fundamental freedoms and rights as enshrined in the Constitution. This has seen a rise in the number of incidents/events requiring public order management.

As a result, it has become imperative that the police develop clear procedures and guidelines for managing public order events, including the use of force and firearms. This was reiterated by the recommendations of a presidential commission of inquiry appointed on 7 October 2011 to look into events that took place during the 20 July 2011



demonstrations that led to the death of 20 people. The Malawi Human Rights Commission report on the same demonstrations also recommended that the police should be professional and independent in the execution of their duties and that the use of force and firearms should be guided by law. Specifically, the Commission recommended that the MPS should:

- professionally and independently execute their duties at all times;
- ensure that the use of force and firearms is guided by the law. The police should observe the threshold provided in the Police Act on their roles with regard to assemblies and demonstrations;
- refrain from a culture of violence and disrespect of human rights;
- thoroughly investigate the disproportionate use of firearms during the demonstrations and in the aftermath and ensure that all those implicated are duly prosecuted; and
- carry out investigations regarding the unlawful activities of vandalism, looting and damage to property, and prosecute the people responsible for perpetrating these actions.

It is against this background that a task team was instituted by the Inspector General to develop this Policy and Operational Guidelines document.

Following the adoption by the African Commission on Human and Peoples' Rights of the Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa, this Policy and Operational Guidelines document was reviewed and updated to ensure consistency with emerging regional standards and best practices in the management of assemblies and demonstrations by police.

1.4. Policy statement and objectives

The aims of the MPS in policing public order events are to:

- provide a policing response to public order events that provides for the safety and enjoyment of rights of the people of Malawi;
- minimise the risk to police officers and the general public involved in public order events;
- allow members of the public to lawfully exercise their rights and freedoms under the Constitution of Malawi to assemble peacefully and unarmed;

- work in partnership with stakeholders to develop operational plans that minimise disruptions to the community;
- prevent crime and public disorder; and
- ensure that all policing responses to public order events are proportionate, legal, accountable and necessary, and that the law and rights of all persons are upheld and protected.

This Policy and Operational Guidelines document has been formulated to detail the response by the MPS in dealing with public order events in order to:

- provide guidelines to police officers in dealing with both planned and spontaneous assemblies and demonstrations;
- provide guidance to commanding officers on the legal and policy frameworks on management of public order events;
- provide guidance and procedures to be followed in the use of force and firearms during such events by police officers;
- provide clear command structure and protocols on management of public order events; and
- enable officers to comply with legal authority when using force and firearms in the management of public order events.

1.5. Outcome of the policy

The following are the intended outcomes of the Policy and Operational Guidelines:

- reduced deaths and injuries resulting from excessive use of force by law enforcement officials during public order events;
- reduced use of lethal force during peaceful and unarmed public order events;
- reduced violence and destruction of property during peaceful and unarmed public disorder events;
- improved public safety and security during public order events;
- improved command and control during public order events;
- improved planning and coordination among key players during public order events; and
- improved management of both planned and spontaneous public order events.

2

POLICY

2.1. MPS approach to the policing of public order

2.1.1. Legal and policy framework

The right to assemble and demonstrate is an important part of Malawi's democracy, and protected by section 38 of the Constitution. Parts IX and X of the Police Act set out the powers of the police in public order management. Even if there are acts of violence during an assembly or demonstration, participants still enjoy the right to life, which means that police can only use force in accordance with the principles of precaution, proportionality, legality, accountability, necessity and non-discrimination.

2.1.2. Notice of assembly or demonstration

The procedures established in Part IX of the Police Act deal with planned assemblies, for which the provision of notice by the assembly or demonstration convenors is required pursuant to section 96. However, in many instances, assemblies are spontaneous or unplanned events, and may not have clear leadership structures that can provide notice as required under section 96. In these instances, the Constitution of Malawi continues to protect the right to peaceful and unarmed assembly or demonstration. Lack of prior notification of an assembly or demonstration should not automatically render it unlawful and should not be the sole basis of a decision by a Bronze commander to disperse it.

Although notification by assembly or demonstration organisers should be encouraged pursuant to section 96 of the Police Act, the police should be prepared to facilitate peaceful and unarmed assemblies in accordance with this

Policy and Operational Guidelines document, regardless of whether prior notification has been provided.

Therefore, it is the continuous assessment of the actual risk posed by an assembly or demonstration to public order and safety that is the primary determinant of any limitations imposed, or decisions to disperse an assembly or demonstration, and not whether prior notice of the assembly has been provided.

2.1.3. Planning and preparation for public order operations

The MPS is committed to being prepared, and having sufficient resources available, to fulfil its policy commitments when dealing with public order management operations. When notification is made of an intended assembly or demonstration, or the police become aware of a possible or actual spontaneous assembly or demonstration, they will put the following procedures into place:

- establish a clear, transparent and single command structure for the policing of assemblies which clearly sets out the roles of commanders within the hierarchy;
- information gathering, risk assessments and contingency plans to ensure that operational plans promote public safety and security;
- limit or restrict assemblies only if risks are identified, and then only to the extent that the limitations comply with the principles of proportionality, legality, appropriateness and necessity; and
- maintain communication with other service providers, assembly or demonstration organisers and participants, the media, affected community members and other stakeholders.

2.1.4. Use of force during public order management

In the policing of assemblies and demonstrations, police officers must respect and protect fundamental rights and freedoms, particularly the right to life which is guaranteed by section 16 of the Constitution. Police have a mandate and obligation to facilitate peaceful assembly and protect public safety. In doing so, they are not permitted to use either indiscriminate or excessive force. Force must only be used where it is legal, necessary and proportionate to do so. To the extent possible, police

will apply non-violent methods before resorting to the use of force. Where the use of force is unavoidable, police will respect and preserve human life and minimise injury and damage.

In the performance of their duties, officers are authorised to carry and use firearms, but their use by officers during a public order event will be an exceptional measure. Officers shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent their escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life.¹

2.1.5. Public order resources

The MPS is committed to ensuring that it has trained, competent and appropriately equipped officers to deal with public order management operations in each region.

2.1.5.1. Training

Training will include:

- Malawi Constitution and international human rights standards relevant to assemblies;
- parts IX and X of the Police Act;
- communication-skills training to ensure the effective facilitation of assemblies and demonstrations, including the possible ways in which non-verbal or other forms of indirect communication can be perceived by assembly or demonstration organisers and participants as intimidating;
- understanding participant behaviour, including the different types of group behaviour, and techniques for differentiating between various groups of people and their individual behaviours, rather than dealing with assembly or demonstration participants as a single, homogenous group;

¹ Government of the Republic of Malawi, 'Instructions to the Malawi Administrative, Military and Police Officers on the Use of Armed Force in Case of Civil Disturbance', Government Printer, Zomba, 1966, Revised 2018, section 9.

- techniques in minimising conflict, including the development of negotiating and mediation skills;
- tactics to promote the de-escalation of tension and violence, and methods for minimising the risk of harm to assembly or demonstration participants, observers and members of the general public;
- the lawful use of force and firearms;
- systems of intra-organisational cooperation, the units and how they interact;
- training in reconnaissance;
- the proper use of less lethal weapons to minimise the risk of abuse by law enforcement officers. Specific training should be devised for each weapon, and include both scenario-based training, as well as shooting at static or interactive targets;
- the safety and protection of persons and groups who are vulnerable to human rights abuses;
- first aid training; and
- principles of accountability and the roles and mandates of internal and external accountability mechanisms, with the obligation of police officers to cooperate with such mechanisms.

2.1.5.2. *Equipment*

To minimise the harmful effects, police officers must exercise particular caution when using crowd control devices or other less lethal weapons which have the potential for use in an arbitrary or indiscriminate manner, or are indiscriminate in their effects.

- Weapons that cannot be used safely and effectively in a crowd control setting are not permitted to be used in the policing of an assembly or demonstration.
- Crowd control weapons, including less lethal weapons, must only be used when:
 - there are legitimate grounds for the use of force or for dispersal;
 - their use is legal, necessary and proportionate in the circumstances; and
 - other less harmful means have been attempted and found to be ineffective or will be ineffective under the circumstances.
- Less lethal weapons, designed for the purpose of crowd control, can only be used by police who have received training in their use.

2.2. Accountability

The values of the MPS include transparency and accountability, and the MPS is committed to ensuring that these values apply to all areas of policing, including public order management. All public order operations are reviewed by MPS Command to identify what went right, what went wrong, and how changes can be made by the MPS to do better next time. The MPS will conduct prompt and thorough investigations of any complaints received about the conduct of its officers during public order management operations, cooperate with any external investigations, and respond to all recommendations made as a result of internal and external investigations. In the unfortunate event that MPS fails to achieve its commitment under this policy, the public can lodge complaints with the Professional Standards Unit or other institutions.

3

OPERATIONAL GUIDELINES

3.1. Legal basis for public order management and the use of force

3.1.1. The right to assemble

The right to assemble and demonstrate peacefully is an essential condition for the exercise of other human rights such as the freedom of expression. As a true foundation of democracy, the right to assemble and demonstrate peacefully is guaranteed by section 38 of the Constitution:

Every person shall have the right to assemble and demonstrate with others peacefully and unarmed.

Section 153 of the Constitution mandates the police to provide for the protection of public safety and rights of persons in Malawi, which includes facilitating and protecting the right to assemble or demonstrate peacefully and unarmed. Therefore, in all planning and decisions made regarding the policing of an assembly or demonstration, commanders and officers should always favour the presumption of the right to assemble freely with others by all persons involved in an assembly or demonstration. Any limitations and restrictions imposed on the right to assemble by police must be treated as an exceptional measure, be decided through continuous monitoring of actual risks to public safety by the Bronze commanders deployed to the operation, and be legal, necessary and proportionate to the actual risks.



3.1.2. Legal basis for the policing of assemblies and demonstrations

3.1.2.1. *Mandate of the police*

Public order policing is centred on the management of crowds and includes the policing of planned and spontaneous public events, including protests and policing of events resulting in public disorders.

Given the constitutional mandate to provide for the protection of public safety and rights of persons in Malawi, the functions and roles of the MPS in public order are derived from general functions of the MPS as provided in section 4 of the Police Act:

- the prevention, investigation and detection of crime;
- the apprehension and prosecution of offenders;
- the preservation of law and order;
- the protection of life, property, fundamental freedoms and rights of individuals;
- the due enforcement of all laws with which the police are directly charged; and
- the exercise or performance of such powers, functions and duties as are conferred on the police by or under the Police Act or any other written law or as may by law be exercised, performed or otherwise discharged by the police.

3.1.2.2. *Powers of police in relation to assemblies and demonstrations*

In a democracy the police have a role to facilitate assemblies and demonstrations. Part IX of the Police Act provides for powers of a police officer in relation to assemblies and demonstrations.

Other powers of the police in relation to assemblies and demonstrations are provided for under the Constitution, and in various pieces of legislation, including the Police Act and the Criminal Procedure and Evidence Code.² Examples of such powers include but are not limited to stop and search, arrest and detention, seizure of weapons and erection of road barriers.

² Sections 4, 34, 35, 39, 40, 41, 42, 43, 44 and 45 of the Police Act; 20A, 20C, 21, 22, 24, 24A, 27, 28 and 32 of the Criminal Procedure and Evidence Code.

3.1.2.3. Authority to carry and use firearms

This is provided for in section 4(2) of the Police Act, which states:

for the performance of any of the functions under sub section (1), the Police shall be entitled to carry and use arms but shall so use such arms only as authorised by this Act or by any other law.

Section 44 of the same regulates the general use of firearms by giving instances when a police officer is allowed to use a firearm.

Section 105(4 and 5) of the Police Act regulates the use of force, including firearms, during public disorder, assemblies and demonstrations, in the following circumstances:

- (4) if any person who participates in an assembly or demonstration or who hinders, obstructs or interferes with persons who participate in an assembly or demonstration-
 - (a) kills or seriously injures, or attempts to kill or seriously injure, or shows a manifest intention of killing or injuring, any person; or
 - (b) destroys, does serious damage, or attempts to destroy or to do serious damage to, or shows a manifest intention of destroying or doing a serious damage to, any property considered to be valuable, a police officer of or above the rank of inspector may order members of police under his command to take necessary steps to prevent such action and may for that purpose, if he finds other methods to be ineffective or inappropriate, order the use of force, including the use of firearms and other weapons.
- (5) The degree of force which may be used under this section shall not be greater than is necessary for prevention of the concerned actions and shall be appropriate to the circumstances of the case.

3.2. Preparation of planned and spontaneous public order management operations

3.2.1. Pre-event preparedness

The MPS will ensure the regular facilitation of training for officers on public order management. This will include exposure to theoretical courses, which includes dissemination and awareness of the Policy and Operational Guidelines, as well as practical simulations, such as dry-runs.

3.2.2. Principles of operational planning and deployment

The following principles are a basis for operational planning and deployment, and these responsibilities are part of every commander's role.

3.2.2.1. *Initial response*

Where there is a threat to public safety or potential for disorder, the initial police response should support and complement routine operations. The strategic intention should be to restore normality as soon as practicable by measures and appropriate interventions. It may be suitable to pursue an early resolution of the situation, whether by information or action.

Police should involve their stakeholders wherever possible at an early stage.

In order to establish and maintain any advantage, a number of options should be considered, from low-key to highly impactful activities. Those used will be guided by intelligence and community information management. The potential for trigger incidents must be considered.

3.2.2.2. *Tactical deployment*

This is the method of converting strategy into tactics by the use of appropriate and risk-assessed options, within set parameters. The overall intention should be to keep or restore the peace.

3.2.2.3. *Effective resourcing*

In order to maintain or restore a state of normality during public order events, effective resourcing is a key principle. The ability to mobilise

police officers and, where appropriate, partner agencies, is based on agreed protocols, sound planning and regular training.

The level of resources should reflect the ongoing threat to public safety and the potential for disorder. The welfare of those involved should be considered. Failure to do so may affect their ability to perform effectively and efficiently.

Any deployment of police resources and staff includes the responsibility to:

- consider and deal with several kinds of threats;
- understand clearly what needs to be done;
- communicate how it will be done;
- use resources to the best effect;
- be in a position to explain the decision made.

3.2.3. Operational planning process

A planned approach is needed for any activity which has the potential to involve MPS officers or resources. The key issue is not the scale of the operation but the approach taken in bringing about the deployment of the officers involved.

The C.O.P.S.C.O.R.E.P.A.C.K.A.G.E is used to aid strategic thinking when planning for an event. It sets out 15 elements of operational planning that can be brought together in the development of a comprehensive plan.

- **Command structure:** describes who is responsible for the operation and each element within it to ensure that officers know their role and the extent of their responsibilities.
- **Outline of the operation:** gives an overview of the operation (when, where, how, why and timeline) to provide a quick reference for what is being done and how it will be carried out.
- **Preparatory actions:** provides a log of events in the planning process with a chronological table to ensure there is a record of what was done.
- **Significant locations:** identifies all locations important before, during and after the operation to ensure everyone knows where the operation is to take place.
- **Communication:** looks at operational communication, and

public impact strategy to ensure effective communication and information.

- **Objectives:** gives a description of what success will look like for each aspect of the operation to guide and direct action during the operation.
- **Resource and responsibilities:** paints a picture of the scale of total staff and other resources being used in the operation.
- **Equipment:** gives an overview of the logistic needs of the operation and how equipment is to be managed.
- **Policies:** includes a broad statement of policy issues which will dictate priorities and helps to determine the approach that is expected, providing guidance before they have to act.
- **Administration:** provides details of all administrative matters.
- **Contingencies:** describes the 'what ifs' that have been identified and a brief detail of the responses that have been planned.
- **Key briefing points and debrief:** lists the key points to be included in the briefing and the arrangements for debriefing.
- **Assessment of risk impact:** provides an operational risk assessment in a set format looking at the health and safety implications of an operation, identifying risks and consequences, how likely they are, what needs to be done to reduce risk and who will do it.
- **Gathering information:** provides a checklist of information used on the basis of risk assessment to provide an audit trail.
- **External agencies and organisations:** includes an overview of the role and contacts of other agencies and organisations involved in the operation.

3.2.4. Command and control: Establishing the organisational command structure and the roles of commanders

3.2.4.1. Organisational command structure

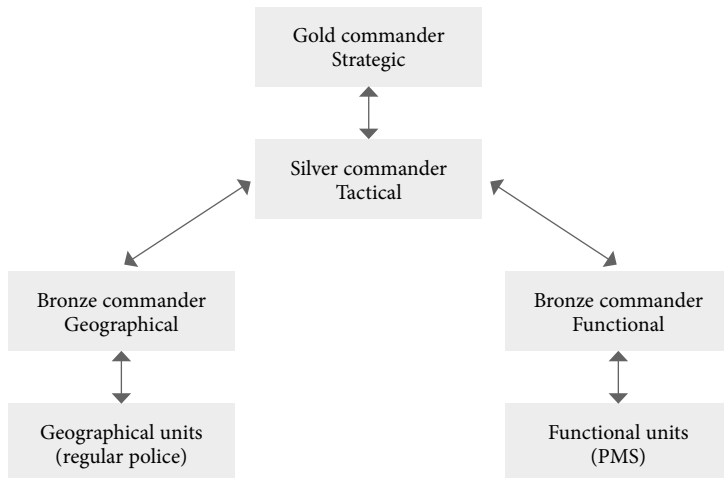
The public order command structure for use in the MPS for both planned and spontaneous police response is shown in Figure 1.

The MPS will appoint competent public order commanders based on operational threats and assessment to execute this structure.

It is important to note that the structure is role specific not rank related.

The leadership and competencies of individual commanders selected must be given careful consideration, and requires proper training and accreditation in public order management.

Figure 1: Public order command structure



3.2.4.2. Role of Gold commander (strategic)

The Gold commander is the overall in-charge person, responsible and accountable for the operation. This commander is required to set, review and update the strategy. The Gold commander must be well located to maintain effective strategic command and should not be drawn into tactical decisions.

The functions include but are not limited to the following:

- resourcing the event;
- chairing strategic meetings;
- conducting meetings with other parties to determine strategy; and
- approving the Silver commander's plan/operation order.

3.2.4.3. Role of Silver commander (tactical)

The Silver commander will develop and coordinate the overall tactical response of the operation in accordance with the objectives set by the

Gold commander. Silver runs the operation and only refers to Gold for strategic matters and to provide updates on tactical decisions made and logged.

The functions of the Silver commander include but are not limited to:

- developing and coordinating the tactical plan in order to achieve the strategic intention of the Gold commander;
- being so located as to be able to maintain an effective tactical plan;
- ensuring that all decisions are documented in the command log in order to provide a clear audit trail;
- providing a pivotal link in the command chain between the Bronze and Gold commanders. This ensures that all commanders are kept apprised of continuing developments;
- ensuring that all staff are fully briefed; and
- reviewing, updating and communicating changes in the tactical plan to the Bronze commander.

3.2.4.4. Role of bronze commander (operational)

The Bronze commander is responsible for implementing the Silver commander's plan through the use of appropriate tactics within their geographical (station commanders) or functional (Police Mobile Service, or PMS, commanders) areas of responsibility. The Bronze commander should be located on the ground so as to have effective operational command.

The functions of the Bronze commander include but are not limited to:

- operationalising the tactical plan and their roles within it;
- fully briefing and debriefing the staff and their command;
- keeping the Silver commander updated on current developments including any variation in agreed tactics within their geographical or functional areas of responsibility;
- being available to unit commanders. However, they must allow them the independence to carry out their role in accordance with strategy and the tactical plans;
- documenting all decisions taken in a command log to ensure a clear audit trail exists.

3.2.4.5. Training and operational competency

Senior officers of the MPS must attend a command course on public order management and be assessed accordingly to be operationally competent and will at all times be subjected to continuous professional development programmes so that they remain competent to perform command roles and responsibilities.

3.2.4.6. Management of large-scale operations, demonstrations and assemblies

All large-scale operations in the MPS will be managed at regional levels with the regional commissioner or their appointee as the Gold commander. Deputy commissioners will be Gold support. Headquarters will have an oversight and strategic guidance role over the regions. Regional Operation Officers or their designates will be Silver commanders responsible for developing tactical plans in line with the Gold strategy.

The officer-in-charge stations will be Bronze commanders who will mobilise officers in their areas to work in teams based on a proper deployment plan in accordance with the operational order demand and threat assessment to implement tactical plans produced by the Silver commander.

Examples of Gold, Silver and Bronze commanders at national, regional and station levels are illustrated in Figure 2.

Figure 2A: Examples of Gold, Silver and Bronze commanders at national and regional levels

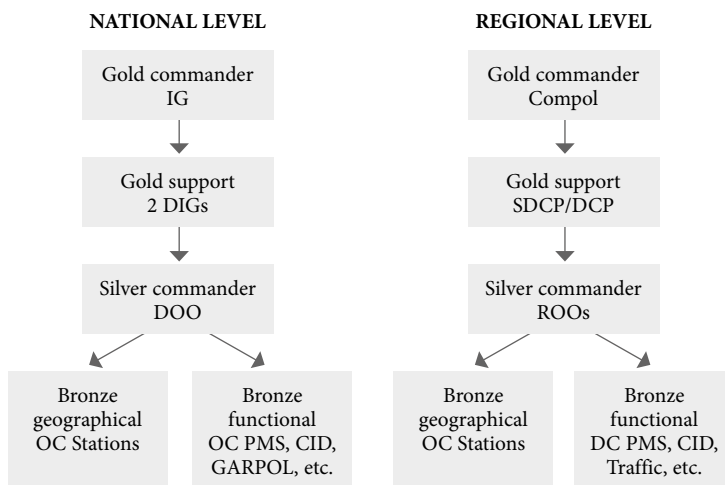
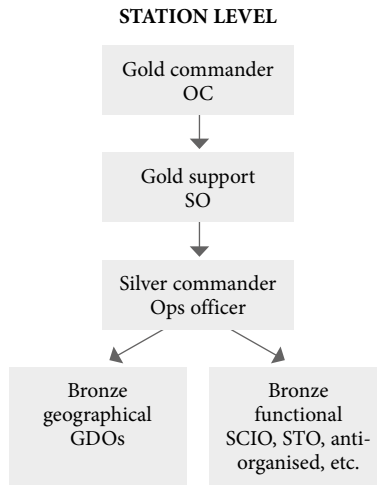


Figure 2B: Example of Gold, Silver and Bronze commanders at station level



3.2.5. Establishment of a tactical planning group

A tactical planning group chaired by the Silver commander should be convened to develop a tactical plan that reflects the overall intention of the Gold strategy. The following functions or individuals will be part of the tactical planning group:

- relevant Bronze both functional and geographical;
- planning officers;
- finance officer;
- communications;
- transport;
- legal;
- police intelligence (anti-organised crime);
- CID;
- press officer; and
- any other necessary Bronze.

3.2.6. Operational readiness and unit interoperability

Operation readiness is the level of preparedness that commanders need to take into consideration before undertaking an operation. This entails commanders conducting a thorough audit of capabilities available to match the scope of the operation to be undertaken. These include but are not limited to:

- competent personnel (with a various range of skills);
- equipment and other necessary logistics; and
- available tactical options (means) for the conduct of the operation.

In order to enhance operational readiness, commanders should conduct training, including dry-runs or simulation exercises. This should include checking the availability as well as the working condition of the various equipment, personnel and tactical options.

Different units within the MPS should be able to work together (interoperate) for overall effectiveness of the operation. There should be good coordination and exchange of information. There should be clear functional lines and command linkages.

Where personnel, including PMS, have been drawn from areas of jurisdiction other than the region where the operation is taking place, they will be placed under the command of the regional commissioner handling the operation and will be thoroughly briefed on their roles and how they will operate with other units already on the ground.

The regional command centre will reflect the character of interoperability by representing various units for ease of communication and coordination.

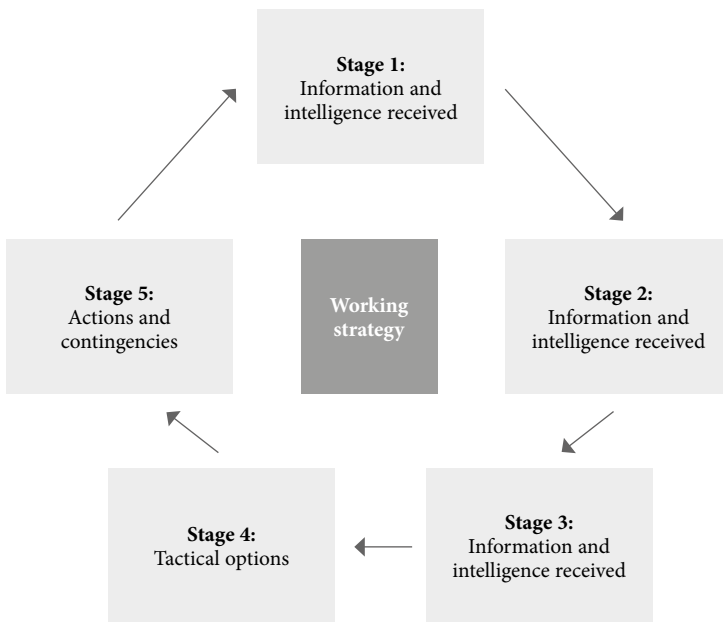
3.2.7. Conflict management model

The MPS will adopt a conflict management model (CMM) decision-making and operational planning tool (Figure 3). The tool will be applied before, during and after any public order operation and provide commanders, officers, planners and advisers with a structured framework for rationalising and recording the decision-making process and managing a legal, reasonable and proportionate police response. Each stage of the CMM is driven by information and provides the user

with an area for focus and consideration. The CMM application is a continuous, cyclic process which should be constantly subjected to review in light of new information and assessment that will ultimately affect the police response.

None of the stages of the CMM should be seen as the sole responsibility of the MPS. Effective conflict management relies on appropriate partnerships, assistance and cooperation.

Figure 3: The conflict management model



3.2.71. Stage 1: Information and intelligence received

This stage involves gathering all necessary information and intelligence that needs to be considered in planning police operations. Information is all forms of information obtained and recorded by the police. Intelligence is information that has undergone a process of analysis and is capable of being acted upon.

Police officers need always to create assumptions based on the information and intelligence already known. Different scenarios need to be considered when creating assumptions.

3.2.7.2. *Stage 2: Risk assessment*

This involves analysis of all risks and threats. A threat may be summarised as a source of actual potential harm.

Risk refers to the likelihood of harm occurring to both officers and members of the public. This includes measurement of both likelihood and impact of an event which could cause harm.

The purpose of threat assessment is to provide commanders with clarification of what is known/risks and the police responsibility for mitigation. The threat analysis should be reviewed and updated on an ongoing basis. MPS officers are expected to exercise professional judgement based on the circumstances prevalent at a particular time.

Risk assessments should be informed by continuous information gathering and communication with all relevant stakeholders; favour the presumption of the right to assemble (rather than dispersal); take into account factors such as political or social tension; and the protection of vulnerable persons.

3.2.7.3. *Stage 3: Powers and policy*

Consideration of relevant powers and policies should be combined with choice of the appropriate tactical options to manage the threat and resolve the conflict. Selection of appropriate powers and policies, and documenting an audit trail of the rationale behind the strategy, will provide evidence of a proportionate response.

In defining strategic intentions, powers and policy considerations should include:

- police duties and other statutory/common law obligations;
- human rights obligations; and
- legal basis for police actions.

3.2.7.4. *Stage 4: Tactical options*

These are means and ways employed by the police in maintaining law and order in the communities. Tactical plans are to be developed by the Silver commander and should be reviewed regularly to ensure that they remain legal, reasonable and proportionate policing responses to meet the strategic intentions. Tactical plans should provide a clear description

of chosen tactical options across a range of operational contexts, and identify any contingency plans.

3.2.7.5. *Stage 5: Actions and contingencies*

Bronze commanders are charged with the implementation of tactical plans as directed by the Silver commander within their geographical and functional areas of responsibility. This includes choosing actions and contingencies that are reasonable and proportionate to the circumstances, and assigning those actions to appropriate police support units and other police resources.

Police actions must be lawful, and individual officers will be called upon to account for their actions. They will need to show that any force used was necessary and reasonable on the basis of their honestly held belief of the information or intelligence available to them in line with the Constitution and other human rights legislation. The test which will be applied in such cases will be one of proportionality in terms of the action taken and the legitimate aims pursued.

All officers have an individual responsibility of ensuring that they are properly educated and informed about the extent of their legal powers and the context within which those powers can properly be exercised. Commanders should clearly communicate the policing style and how it may be escalated or de-escalated in response to the circumstances.

3.2.8. Disorder model

Keeping the peace should be achieved through partnership with the community. This principle remains when tensions rise and incidents of conflict or disorder occur. The following model will assist in understanding disorder, and help advisors, commanders and planners to manage events where there is a risk to public safety or a potential for disorder.

The disorder model is a dynamic process. It is a flexible framework in which serious disorder or rioting may be viewed and may assist in understanding and managing disorder.

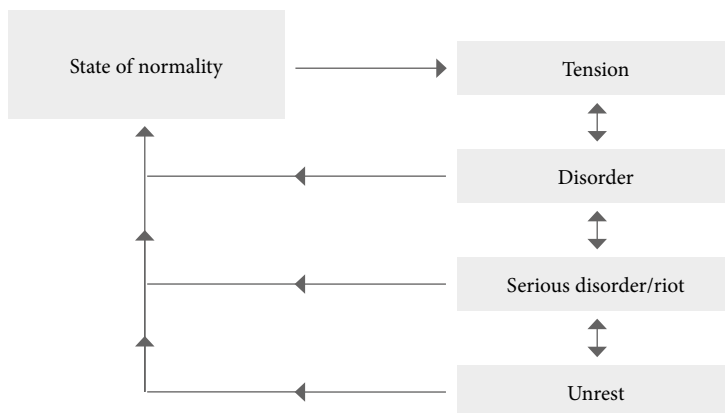
The stages of the disorder model are (Figure 4):

- **State of normality:** The day-to-date state of order and provision of policing services within a community. This can vary widely from one area to another and even by time of day. Community

information management will provide accurate information as to the current state. Communities are varied entities and may be permanent or transient in nature.

- **Tension:** A level of increased concern or feelings in a community. A trigger incident can result in movement from a state of heightening tension to disorder. Such incidents can be instigated by the police, the community or a third party.
- **Disorder:** This represents the stage at which mood is supplemented by action, whether isolated or sustained. It manifests in disruption, damage or violence. Such disorder may occur following a series of triggering events. At this level, unchecked or uncontrolled activity may encourage serious disorder.
- **Serious disorder/riot:** Escalation into violence or disruptive behaviour. This stage may be typified by extreme conflict. This could take the form of violent protest, the act of rioting, criminal damage, looting or the use of weapons.
- **Unrest:** This is the period, sometimes prolonged, when the rebuilding of relationships takes place. Sensitivity and trust are key factors in this process. Police activity must focus on a structured return to a state of normality, and commanders should be aware that it is possible to return to disorder or riot by excessive or inappropriate action.

Figure 4: Stages of the disorder model



Note: As can be seen, progression through all levels is not necessary. In some circumstances it may be possible to return to a state of normality

from any level. The stages from state of normality through to serious disorder/riot can be viewed in terms of an increase in tension and conflict. A return to normality from any other stage can be viewed as a decrease in tension.

3.2.9. Operation order (IIRMACH)

The operation order is a document that links basic information of the event together with the structure of the police and primary operation resource requirement. It may also be used as a briefing tool developed by the Silver commander to outline the tactical plan.

The operation order should reflect the duration and complexity of the operation and identify contingency plans. It should be approved by the Gold commander. The purpose of the operation order is to focus and coordinate response towards specific objectives, by describing how resources are to be deployed.

For all police operations an operation order should be developed in accordance with parameters set by the Gold strategy. A planning team should be appointed to develop the operation order in accordance with the MPS format, IIRMACH (Information, Intention, Risk Assessment, Methods, Administration, Communication and Human Rights)

3.2.9.1. Information

General background about the event: There should be sufficient information to allow anyone reading this section of the order to have a clear understanding of what is planned to take place.

3.2.9.2. Intention

Derived directly from the strategy for the event and clearly indicating the desired objectives of the operation and detailing what we aspire to do.

3.2.9.3. Risk assessment

Look for the hazards – decide who may be harmed, and how. Evaluate the risks. Implement control measures. Record, review and revise findings when necessary.

3.2.9.4. *Methods*

This involves how the operation will be conducted, including:

- details of the tactics for achieving the strategy;
- command structure and protocols;
- numbers of staff to be involved;
- details of each phase of the event;
- details of any sectors to be used;
- prisoner handling arrangements; and
- command and control arrangements.

3.2.9.5. *Administration*

This deals with general administrative provisions, including:

- catering arrangements;
- assembly areas;
- transport arrangements, uniform and equipment to be worn or brought;
- hours of duty, overtime;
- welfare arrangements; and
- maps and plans.

3.2.9.6. *Communications*

This includes:

- location of command and control;
- telephone (landline and mobile) details;
- use of call signs such as Gold, Silver and Bronze; and
- Alternatives, e.g. fax, mobile phones, loud hailer.

3.2.9.7. *Human rights*

In all decisions, consideration will be given by commanders and all officers to protecting and promoting the human rights of all people, in accordance with Chapter IV of the Constitution of Malawi. In particular:

- Section 16 – the right to life
- Section 18 – the right to liberty

- Section 19 – human dignity and personal freedoms
- Section 20 – the right to equality
- Section 21 – the right to privacy
- Section 32 – freedom of association
- Section 33 – freedom of conscience
- Section 34 – freedom of opinion
- Section 35 – freedom of expression
- Section 36 – freedom of the press
- Section 37 – access to information
- Section 38 – freedom of assembly
- Section 42 – freedom from arbitrary arrest and detention.

All commanders are required to reach lawful, necessary and proportionate decisions, which should be recorded.

3.2.10. Briefing

Good communication is crucial to the organisation and management of public order events. Effective briefing (and debriefing) will act as quality assurance for operational effectiveness and should be performed by suitably trained personnel. It must be borne in mind that disclosure implications may arise in both criminal and civil proceedings in respect of briefing (and debriefing).

All staff should be thoroughly briefed prior to participating in any operations. Briefings should be concise and recorded, and should include:

- relevant information;
- evaluated intelligence;
- the strategy and tactical plan;
- health and safety information;
- specific duties; and
- advice on legal implications.

Experience has shown that the IIRMACH briefing model assists in the communication process. This includes:

- Information
- Intention
- Risk assessment
- Method

- Administration
- Communication
- Human rights.

There are four types of briefing (Table 1):

- **Individual briefing**, whereby the overall commander briefs individual commanders before the operation. For example, the Gold commander can brief the commander of one sector, such as the geographical Bronze commander.
- **Mass briefing** refers to general briefings made by the overall-in-charge person to all officers involved in that operation. For example, the Gold commander can brief Silver commander(s), Bronze commanders and all officers available.
- **Cascade briefing** is performed by the overall-in-charge commander during an operation. For example, the Gold commander can brief Silver commander(s) and Bronze commander(s) separately.
- **Cascade overlap briefing** refers to briefings made by the person overall in charge of the operation to different commanders in the command chain. For example, the Gold commander can brief Silver and Bronze commanders, then Police Support Unit commanders and Serial commanders.

Table 1: Types of briefing

	(1) Individual briefing	(2) Mass briefing	(3) Cascade briefing	(4) Cascade overlap briefing
Gold	G	G	G	G
Silver	S1 S2	S1 S2	S1 S2	S1 S2
Bronze	B1	B1 B2 B3 B4 B5	B1 B2 B3 B4 B5	B1 B2 B3 B4 B5
Police support unit commanders (Psuc)	PSUC	1 2 3		1 2 3 1 2 3
Serial commanders	1 2 3	1 2 3		

3.2.11. Media relations and strategy

The MPS will establish a professional relationship with the media before, during and after public management operations in order to ensure the free and fair flow of accurate information. The aims of establishing media relationships are to:

- support and maintain public safety;
- provide accurate information to members of the public;
- gather information from members of the public;
- promote public confidence; and
- minimise the fear of crime.

The MPS Public Relations Officers (PROs) and the designated press and liaison officers are responsible for the development of a media plan in their respective areas. This should be done in line with the provision of the Service Standing Orders. No other member of the MPS other than those authorised will have the liberty to speak to the press.

3.2.12. Community mediation and relations

During preparation of policing assemblies and demonstrations or any other police operation where disruption of community activities is likely to happen, the MPS will develop a plan to effectively raise awareness on the impending events as well as reach out and communicate with the wider public. The plan must be cognisant of the fact that it may not be possible to divulge some information, and that appropriate strategies should be developed around this. However, the aim of the strategy should be to promote confidence and provide sufficient information to give the MPS perspective of the events.

3.2.13. Multi-agency approach

The MPS will adopt a multi-agency approach when dealing with assemblies and demonstrations. Effective cooperation among different agencies and stakeholders is extremely important and a precondition for accomplishing operation objectives. Stakeholders include, but are not limited to:

- medics (hospitals, Red Cross, St. Johns Ambulance);
- fire brigade;

- local media to ensure timely and accurate broadcasts (to operate within agreed guidelines);
- organisers and civil society organisations (before, during and after the event);
- public officials and local communities regarding the potential for civil unrest;
- other law enforcement agencies (military, immigration, prisons, judiciary and National Intelligence Bureau) to monitor the potential for civil unrest or disturbance; and
- Department of Disaster Management.

It is important that command protocols – that is, who does what and when – are communicated by the Bronze commander to all stakeholders on the ground.

The Bronze commander should maintain open communication with all relevant stakeholders during the conduct of the assembly operation.

3.3. The conduct of assembly management operations

3.3.1. Command and decision logging

For a clear audit trail, all commanders' decisions and rationales behind the chosen tactical options must be clearly documented. This should be subjected to public scrutiny and disclosure if so required, and presented in the format that follows.

Note: The log should be completed as the events happen or as soon as it is practicable. All entries must be dated and signed. Any alterations must be dated and signed and counter-signed contemporaneously by a witness. All signatures must be accompanied by a printed name at least once by every person signing this log.

All decisions made should as far as possible be referenced to any MPS policy documents, and any legal powers invoked.

Reasons must be clear and include reference to risk assessments undertaken and human rights considerations where appropriate.

This record must be stored for five years before being offered for destruction.

Actions/Decisions

Reason(s)	Reference(s)
------------------	---------------------

Sign: _____ Officer making decision _____ Date and Time _____	Sign: _____ Officer making entry _____ Date and Time _____
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3.3.2. Deployment

Bronze commanders have responsibility for the deployment of MPS officers to public order events. The Bronze commander will ensure the availability of both male and female officers so that there are female officers available in the event of the stop, search, arrest or detention of females.

3.3.2.1. *General*

In deploying officers to an assembly or demonstration, the Bronze commander must take into account the potential adverse influence that the visible appearance of police officers, deployment tactics and equipment can have on the way in which the assembly or demonstration develops. The Bronze commander should generally deploy only the minimum number of officers necessary, commensurate to the size of the assembly or demonstration, to ensure the protection and safety of police officers, participants, observers and members of the general public. The Bronze commander should take a graduated approach to any increase of visible policing numbers during the course of the assembly or demonstration. Any reinforcement units should be stationed out of sight of participants to the extent that this is possible and appropriate, taking into account the risk assessment and contingency planning. All officers deployed to an assembly operation should have visible identification.

3.3.2.2. *Deployment of forward intelligence teams*

The MPS will deploy forward teams during assemblies and demonstrations. These teams will have the following duties:

- to act as an early warning system on the motive for and magnitude of the event;
- to collect information and intelligence to assist in informed decision-making; and
- to detect crime and identify would-be perpetrators.

3.3.2.3. *Deployment of evidence gatherers*

Bronze commanders will deploy CID, reconnaissance and police intelligence (anti-organised crime) personnel to detect crime and collect evidence for the successful prosecution of wrongdoers. Bronze

commanders have the authority to deploy any other evidence gatherers, whether in uniform or not.

3.3.2.4. Resourcing of the events

The regional commissioners will authorise the deployment of PMS personnel specialised in public order management to support the regular police in policing the events in accordance with Service Standing Orders and the operational plan where necessary. The regional commissioners can mobilise personnel within their command to support the concerned stations in policing the event. Regional commissioners may liaise with the office of the Inspector General of Police to mobilise additional personnel from outside their area of jurisdiction to support policing the event. The deployment of PMS personnel should always be in accordance with their approved formations, with a minimum deployable unit being a section.

3.3.3. Communication

Bronze commanders should engage continuously in dialogue and negotiation with assembly or demonstration organisers and participants to proactively address any issues that may arise during the operation. Where possible, specially trained negotiators should be deployed to operations for this purpose, based on any need identified during the risk assessment and contingency planning.

Open communication should be maintained by all commanders and officers with relevant stakeholders, including essential service providers and marshals. Communication with assembly or demonstration participants should be clearly audible, in a language understood by the intended audience, and give the participants reasonable time to follow any instructions of their own accord, including any warnings or directions provided, before further action is taken.

3.3.4. Documenting assemblies and demonstrations

The conduct of an assembly or demonstration operation can be documented by the Bronze commander, including through the use of still or video cameras. Documenting the assembly or demonstration is only for the purposes of training, review or criminal procedures, and is not to be used to intimidate or harass participants, or for any other unlawful purpose. If a decision to document the assembly or demonstration is

taken, the Bronze commander must notify the organisers of the assembly or demonstration. The retention of information gathered through documentation must be in compliance with the Criminal Procedure and Evidence Act.

Participants and members of the general public have the right to document assemblies and demonstrations, including the right to record law enforcement presence and action. The confiscation of equipment is not permitted, except where such seizure is authorised by law.

3.3.5. Enforcing conditions and limitations imposed on assemblies and demonstrations

If assembly or demonstration organisers or participants do not comply with the conditions imposed, the response of the Bronze commander must be legal, proportionate and necessary. Orders to disperse assemblies or demonstrations for simple technical violations of limitations or restrictions are not permitted. There must be other serious cause, such as violence, to justify dispersal. Officers should continually assess the situation.

Further restrictions can be applied by Bronze commanders during the course of an assembly or demonstration where it is necessary and reasonable to do so, as in cases when the situation rapidly deteriorates or becomes violent. Any limitations must be based on a clear risk assessment and be legal, proportionate and necessary to abate that risk. The Bronze commander, in implementing such restrictions, must negotiate and mediate prior to the implementation, where feasible, and clearly communicate the intention to impose limitations.

3.3.6. The use of force and firearms

3.3.6.1. Introduction

The use of force and firearms during an assembly operation is an exceptional measure. In carrying out their duties, officers shall, as far as possible, apply non-violent methods before resorting to the use of force and firearms. Force and firearms may only be used if other means of achieving a legitimate law enforcement objective are ineffective or unlikely to be successful. Officers must, as far as and for as long as possible, differentiate between peaceful assembly participants and

those who engage in violent acts. An assembly or demonstration should be deemed peaceful if its organisers have expressed peaceful intentions, and if the conduct of the participants is generally peaceful.

Where the use of force is unavoidable, officers must minimise damage and injury, respect and preserve human life, and ensure at the earliest possible moment that assistance is rendered to any injured or affected person.

The intentional use of lethal force is prohibited unless it is strictly unavoidable in order to protect life, thus making it proportionate, and all other means are insufficient to achieve that objective, making it necessary.

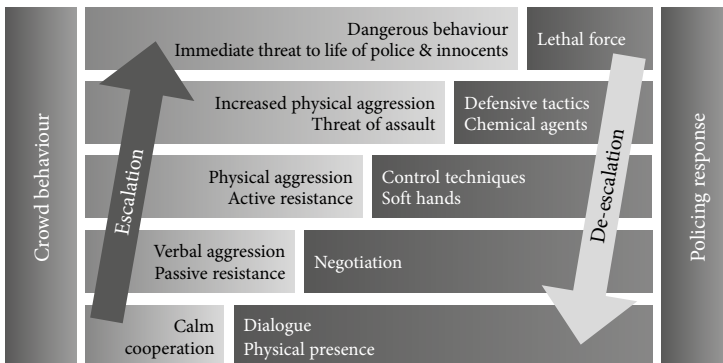
3.3.6.2. De-escalation tactics

Bronze commanders must continuously monitor assemblies and demonstrations with the aim of identifying and proactively addressing issues as they arise. Their response to any situation must give priority to de-escalation tactics such as:

- open communication;
- negotiation; and
- dialogue.

Bronze commanders must take into account the potential adverse influence that the visible escalation of policing tactics can have on the way in which an assembly or demonstration develops.

3.3.6.3. Use of force continuum



3.3.6.4. *The dynamic resistance response model (DRRM)*

The DRRM combines a use-of-force continuum with the application of four broad categories of suspects:

Non-resistant suspect

- These are suspects who do not resist but follow all commands (are compliant).

Only a law enforcement officer's presence and verbal commands are required when dealing with these individuals; no coercive physical contact is necessary.

Passively resistant suspect

- One who fails to follow commands and may be verbally abusive.
- Suspect may attempt to move away from the officer, escape from the officer's grip or flee.
- Suspect's actions are neutral or defensive, and the officer does not feel threatened by the actions.

Appropriate responses include using a firm grip, control holds, and pressure points to obtain compliance.

Aggressively resistant suspect

- This suspect takes offensive action by attempting to push, throw, strike, tackle or physically harm the officer or another person.
- To defend himself, the officer must respond with appropriate force to stop the attack.
- The officer feels threatened by the suspect's actions.

Justified responses include the use of personal weapons (hands, fists, feet), batons, pepper spray and tear gas.

Deadly resistant suspect

- This suspect will seriously injure or kill the officer or another person if immediate action is not taken to stop the threat.

The officer is justified in using force, including deadly force, reasonably necessary to overcome the offender and effect custody.

3.3.6.5. *Crowd behaviour*

If participants are generally behaving peacefully, officers must avoid the use of force. Where participants are acting non-peacefully or in violation of the law, police should, to the extent possible, use communication and de-escalation strategies and measures for the containment of individuals committing or threatening violence or, if necessary and proportionate, arrest individuals who are committing or preparing to commit violent acts.

The following key principles should be considered during the planning, briefing and deployment stages of any policing operation involving the management of crowds:

- **Intelligence:** Prior to any event, the police should identify the groups that might be involved, their intentions, their tactics, their notions of acceptable behaviour, together with their views of other groups and the projected number of participants. Intelligence may also indicate the proportion of activists within the crowd, and how homogenous that crowd might be in its intention, for example the balance of those prone to violence and those who are peaceful.
- **Facilitation:** The police should seek to facilitate any lawful and legitimate aims of the group, especially when conflict breaks out. The aim should be to permit the pursuit of lawful aims while dealing with groups acting illegally.
- **Communication:** The police should communicate to the crowd how they are seeking to facilitate the crowd's legitimate aims and how the illegitimate actions of some in the crowd may serve to impede those aims. Communication should be through figures respected by crowd members. Liaison should be established at an early stage.
- **Identification:** The Bronze commander should encourage officers not to treat all crowd members in the same manner. When violence starts, there is a tendency to treat everyone with hostility. However, especially in such situations, it is crucial to treat people with respect and win them to your side, not the side of those already promoting conflict. It may be necessary to facilitate the desires of the many, such as the wish to peacefully assemble or demonstrate, so that they may assist the police with their overall intention which is to prevent disorder.

3.3.6.6. *Procedures for the use of force*

Whenever officers resort to the lawful use of force or firearms, they must:

- exercise restraint in such use and act in proportion to the seriousness of the threat and the legitimate objective to be achieved;
- minimise damage and injury, and respect and preserve human life;
- ensure that assistance and medical aid are provided to any injured person at the earliest opportunity; and
- report the incident to the Bronze commander.

3.3.6.7. *Additional procedures for the use of firearms*

Firearms are not an appropriate tactical tool for the policing of assemblies and demonstrations. Firearms must never be used to disperse an assembly or demonstration. The indiscriminate discharge of firearms into a crowd is not permitted. Shots fired into the air or other warning shots should not be used in the context of an assembly operation.

Officers shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent their escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life.³

Whenever officers resort to the use of firearms, they must identify themselves and give a clear warning of their intention to use firearms with sufficient time for the warnings to be observed. The officer must then:

- (1) Notify and submit a full report of the incident to his or her immediate supervisor.
- (2) The supervisor notified under subsection (1) must:
 - a. investigate the reason for the discharging of the firearm, and

³ Government of the Republic of Malawi, 'Instructions to the Malawi Administrative, Military and Police Officers on the Use of Armed Force in Case of Civil Disturbance', Government Printer, Zomba, 1966, Revised 2018, section 9.

- b. submit a full report to the Inspector General through the appropriate channels.
- (3) If a person is killed or injured as a result of the discharge of a firearm the Inspector General must promptly initiate an investigation into the incident.
- (4) Medical aid is to be rendered to all injured persons.
- (5) The relatives or friends of those affected are to be notified.
- (6) If a person is killed or injured as a result of the discharge of a firearm by a police officer the officer must immediately surrender the firearm for ballistic testing to the officer's supervisor.

3.3.6.8. Accountability for the use of force and firearms

- Reporting and review by superior officers shall follow all incidents of the use of force and firearms.
- Superior officers shall be held responsible for the actions of police officers under their command if the superior officer knew or should have known of abuses but failed to take concrete action.
- Officers who refuse to take unlawful superior orders shall be given immunity.
- Officers who commit abuses of these rules shall not be excused on the grounds that they were following superior orders.
- After every public order event where a firearm has been used, the ammunition and firearms inventory must be updated in line with SSO 394-396.

3.3.7. Dispersals

3.3.7.1. Introduction

The dispersals of assemblies should be a measure of last resort and only ordered in circumstances where it is legal, necessary, proportionate and non-discriminatory to do so.

3.3.7.2. Procedures for dispersal

Sections 105(2) and (3) of the Police Act set out the following regarding dispersals:

- (2) where a District Commissioner has prohibited an assembly or a demonstration at any place and the High Court has upheld such

prohibition or where a police officer of or above the rank of Inspector has reasonable grounds to believe that danger to persons or property, as a result of the assembly or demonstration, cannot be averted by the steps referred to in subsection (1) if the assembly or demonstration proceeds, any police officer of or above the rank of Inspector as the case may be - :

- (a) make or cause to be made a proclamation, commencing with the President's name in such form as may be prescribed or, if no form be prescribed, in such form as he thinks fit to enable the persons participating in the assembly to disperse; and
 - (b) in a loud voice in the English language or in a language understood by the majority of the persons present, order the persons to disperse and to depart from the place of assembly or demonstration within a time specified by him, which shall be reasonable.
- (3) where, pursuant to subsection (2), a police officer orders persons gathered to disperse and such persons have not dispersed or have made no preparations to disperse, the police officer may order the members of police under his command to disperse the persons concerned and such members of police may for that purpose use such force as may be reasonably necessary and as shall be appropriate to the circumstances of the cases.

3.3.7.3. *Use of force in dispersal*

The use of force to disperse assemblies or demonstrations should be a measure of last resort, and used only in circumstances in which it is legal, necessary and proportionate to do so. If participants are acting non-peacefully or in violation of the law, police should use, to the extent possible, communication and de-escalation tactics and measures for the containment or arrest of individuals committing or threatening violence, before attempting to disperse an assembly or demonstration.

When a dispersal is unavoidable, force must never be used against peaceful participants who are unable to disperse.

Firearms should never be used simply to disperse an assembly or demonstration. The use of firearms shall be ordered by an officer of or above the rank of inspector after a riot proclamation has been made and only in circumstances where there is an imminent threat to life, and other less lethal methods of preserving life have or are likely to fail.

Additionally, section 75 of the Penal Code allows police officers to use force to disperse rioters. According to that section, however, force can only be used after a proclamation has been made. Force in this case can be used when it is necessary to disperse a continued assembly or demonstration or to apprehend the rioters where they are resisting.

The use of force and firearms by police during the facilitation of a demonstration or assembly should be an exceptional measure.

3.4. Review of assemblies and demonstrations

3.4.1. Debriefing

Debriefing should be regarded as part of the planning process for future events. The purpose of debriefing is not to apportion blame but to identify the most and least effective aspects of the operation.

After debriefing, the Bronze commander (officer in charge) will submit a report to the national Gold commander (Inspector General) through the regional Gold commander (commissioner).

Debriefing should:

- be carried out in chronological order;
- be structured;
- make use of open questions and encourage participation;
- identify and promote good practice; and
- be timely if appropriate ('hot' debriefs can be a suitable forum for ensuring that all evidence and intelligence has been gathered).

There are three types of debriefing:

- **Hot debriefing** takes place close to the action and when emotions are still running high. For example, a debrief can be made immediately after something has happened.
- **Cold debriefing** takes place sometime after the event to give those involved more emotional distance and provide time to think more logically and with reflection. For example, a debrief can take place two days after the operation.
- **Structured debriefing** is a flexible, but disciplined, technique for maximising the learning from an event. For example, sending

questionnaires to commanders and all officers involved in the operation to give necessary feedback. It is time-efficient and ensures that everyone has the opportunity to contribute to the debrief. A structured debriefing will illustrate:

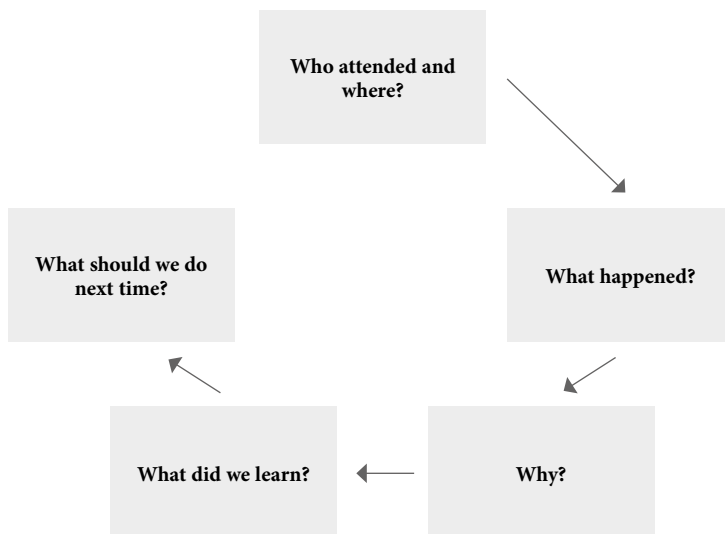
- what went well and why;
- what went wrong and why;
- what should be done differently next time; and
- identify any actions for improvement/progress.

Note: A debrief process will:

- provide constructive feedback;
- capture any intelligence and information;
- identify learning points from the experience;
- identify best practice;
- identify any training needs (help review individual or team performance); and
- form the basis of planning for future similar events and operations.

Figure 5 shows a debriefing model.

Figure 5: Debriefing model



Some practical examples of debriefing structures (using the above model) are described below.

Structured Agenda One

- Group roles and areas of responsibility, together with example of initial response to scene, cordon officers, communications, arrest teams.
- Debriefing structure: areas of good practice (what went well); areas to avoid (what did not go well); areas for further research (is there a better way of doing it?).
- The formulation of actions in the above three areas to consolidate the debriefing process.

Structured Agenda Two

- Aims of debrief.
- Emerging issues: communication, equipment, human resources, planning and briefings, command and tactics, welfare, other issues.
- Key learning points for individuals: most significant thing learnt during event; what would be done differently facing a similar operation; how the operation could be improved.
- Actions.

3.4.2. Post-event reporting procedures

A post-event officer has to be appointed by the Silver commander to facilitate an event investigation and ensure the integrity of the process. The officer must be independent with respect to the event, and trained in post-event procedures. Post-event procedures in public order should be commenced in any situation where there has been an operation or spontaneous police response which has the potential to cause serious damage to confidence in policing. Examples include operations that have:

- resulted in death or serious injury;
- revealed failings in command; and/or
- where police actions may have caused danger to officers or the public

3.4.3. Occupational health, safety and risks by police officers during public assemblies

3.4.3.1. Care and support

Police officers and their families face a range of risks at work: homicide, injuries during disorders and loss of property as a result of public hostilities.

In the event that police officers and/or their families suffer such risks, there is a need for special care and support both emotionally and physically. Such care and support should include:

- proper and adequate equipment, including protective gear;
- counselling;
- provision of special medical aid;
- spiritual guidance; and
- compensation.

3.4.3.2. Compensation

Police officers who sustain injuries or contract diseases in the course of executing their duties must be compensated through the Workers Compensation Fund.⁴ This includes death resulting from such injuries or diseases.

Procedures to be followed by police officers when accessing their compensations

- i. A report of the incident that resulted in such injury has to be submitted to the MPS Human Resources Office.
- ii. The injured officer should fill in the appropriate forms, which will be attached to a covering letter by human resource management.
- iii. The completed documents will then be submitted to the Ministry of Labour for further procedures in assessing eligibility and administering compensation.

⁴ Section 35 of the Workers Compensation Act.

Provision of welfare assistance to families of police officers who have suffered damages as a result of public disorder

There is no direct procedure through which spouses and families of police officers who have suffered damage to property or injury as a result of vindictive attacks on them by persons involved in public disorder can claim compensation. It is thus incumbent on the MPS headquarters, in liaison with the regional commissioner, to provide welfare assistance to such victims within the limits of the welfare resources. Responsible officers must always bear in mind that the families are traumatised and any assistance offered may provide much-needed relief to them.

Claims by individual police officers

Individual police officers and their families are at liberty to seek legal redress where they have suffered harm, or loss of property including life, or feel that their rights have been violated as a result of their professional affiliation. In such instances, the MPS should not interfere with any claims and must endeavour to provide the individual police officer concerned, their families or their agents with all relevant information to facilitate any such legal and administrative proceedings at no cost.

Duty of the MPS to support claims of individual police officers

The MPS has a duty to investigate any complaints or reports that have been received from police officers, their families or agents concerning harm suffered, or loss of property including life, or violation of their rights as a result of their professional affiliation or conduct.

If it is established after such investigations that indeed the police officer(s) or their families suffered harm, or loss of property including life, or violation of their rights, the MPS shall advise in writing the next course of action to be taken in order to seek redress. Alternatively, the Office of the Inspector General should endeavour to seek redress on behalf of such officers and their families by referring the cases to relevant authorities, including the Office of the Attorney General, for any administrative remedies.

3.4.4. Accountability

Currently, the Police Service Act provides for the establishment of an Independent Police Complaints Commission (IPCC). Once established, this independent body will investigate all deaths as a result of police

action or in police custody, and any death during an assembly operation must be reported to the IPCC.

In the absence of the IPCC, and in the event of a death, the Bronze commander at local level will make a full report to the national Gold commander (Inspector General of Police), via the regional Gold commander (the regional commissioner). At the same time, the Bronze commander at local level will report the matter to the Coroner's Office as per the Inquest Act. The coroner will report their findings to the officer requesting the investigation, and to the Director of Public Prosecutions. On receipt of the coroner's findings, the Inspector General will initiate a full investigation by the Criminal Investigative Directorate and the Professional Service Unit.

Members of the public and stakeholders should be informed by the Bronze commander of the ability to lay complaints of human rights violations against the MPS at the Malawi Human Rights Commission.

3.5. Monitoring and evaluation

On an annual basis, the MPS Research and Planning Unit will conduct an assessment of public order event management by the MPS against the outcomes of this Policy and Operational Guidelines document. The review will include recommendations to improve the way in which operations are carried out, and any needs regarding equipment, training or other identified issues.



PUBLIC ORDER EVENTS

Policy and Operational Guidelines