



SEATTLE CITY COUNCIL

Public Safety Committee

Agenda

Tuesday, January 14, 2025

9:30 AM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Robert Kettle, Chair
Rob Saka, Vice-Chair
Joy Hollingsworth, Member
Cathy Moore, Member
Sara Nelson, Member

Chair Info: 206-684-8807; Robert.Kettle@seattle.gov

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Public Safety Committee
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January 14, 2025 - 9:30 AM

Meeting Location:

Council Chamber, City Hall , 600 4th Avenue , Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/public-safety>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

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Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. [CB 120916](#) **AN ORDINANCE** relating to the Seattle Police Department; mandating that the Police Department adopt and maintain crowd management policies that prohibit the use of less lethal tools in crowd management settings unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage; and repealing Section 3.28.146 of the Seattle Municipal Code and Ordinance 126422.

Attachments: [Att A - Seattle Municipal Code Section 3.28.146](#)
[Att B - Ordinance 126422](#)

Supporting Documents: [Summary and Fiscal Note](#)
[Central Staff Memo](#)
[Central Staff Presentation](#)
[Mayor's Office Presentation](#)
[Community Police Commission Letter](#)
[Office of Police Accountability Letter](#)
[Amendment 1](#)
[Amendment 2](#)
[Amendment 3](#)
[Amendment 4](#)
[Amendment 5](#)
[Amendment 6](#)
[Amendment 7](#)
[Amendment 8](#)
[Amendment 9](#)
[Amendment 10](#)
[OPA Letter Updated 1/13/2025](#)

Briefing, Discussion, and Possible Vote (90 minutes)

Presenters: Tim Burgess, Deputy Mayor; Brian Maxey, Chief of Operations, Yvonne Underwood, Acting Deputy Chief, and Tyrone Davis, Assistant Chief, Seattle Police Department; Joel Merkel, Co-Chair, and Lisa Daugaard, Founding Member, Community Police Commission

E. Adjournment



Legislation Text

File #: CB 120916, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the Seattle Police Department; mandating that the Police Department adopt and maintain crowd management policies that prohibit the use of less lethal tools in crowd management settings unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage; and repealing Section 3.28.146 of the Seattle Municipal Code and Ordinance 126422.

WHEREAS, the City Charter was enacted to enhance “the health, safety, environment, and general welfare of the people,” and under the Charter the “Chief of Police shall maintain the peace and quiet of the City”; and

WHEREAS, The City of Seattle (“City”) has a strong interest in encouraging and supporting civic celebrations, festivals, sporting events, and other gatherings that foster a vibrant and engaged community; and

WHEREAS, the City has a long tradition of encouraging expression, supporting free speech, and facilitating the right of assembly through public demonstrations; and

WHEREAS, the City Charter authorizes the Chief of Police to prescribe rules and regulations, consistent with law, for the governance and control of the Police Department; and

WHEREAS, on May 18, 2021, Governor Inslee signed ESHB 1054, codified in relevant part at RCW 10.116.030, establishing requirements for tactics and equipment used by peace officers, which include 1) restricting law enforcement agencies from using tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation; 2) requiring that, before using tear gas the law enforcement officer or employee must exhaust alternatives to the use of tear gas, obtain authorization to use tear gas from a supervising officer, announce to the subject or subjects the intent to

use tear gas, and allow sufficient time and space for compliance with the officer's or employee's directives; and 3) directing that, in the case of a riot outside of a correctional, jail, or detention facility, the law enforcement officer or employee may use tear gas only after receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used; and

WHEREAS, the public demonstrations, protests, and the police response in the summer of 2020 demonstrated a need for changes in the tactics, philosophy, and approach by the Police Department to crowd management; and

WHEREAS, the Police Department made critical updates to its crowd management policy, which were approved in 2021 by the Honorable Judge James R. Robart of the Western District of Washington, as part of iterative policy revisions under the 2012 Settlement Agreement with the Department of Justice, and with passage of this ordinance the City Council requests that the City Attorney submit the Police Department's updated policies to the Court-appointed Monitor, the U.S. Department of Justice, and the Court for review and approval; and

WHEREAS, the 2021 policy changes made by the Police Department incorporated recommendations from the department's internal review process, the Office of Inspector General for Public Safety, and the Office of Police Accountability and are consistent with the terms of a federal court injunction issued in *Black Lives Matter-King County, et al. v. City of Seattle*, No. 2:20-civ-00887-RAJ (W.D. Wa.), by the Honorable Judge Richard A. Jones; and

WHEREAS, less lethal tools, such as OC (pepper spray), pepper ball launchers, blast balls, CS (tear gas), 40mm launchers, and batons, are use of force substances/devices designed and intended to apply force not intended nor likely to cause the death of the subject or great bodily harm; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.146 of the Seattle Municipal Code, enacted by Ordinance 126102 and attached to this ordinance as Attachment A, and Ordinance 126422, attached to this ordinance as Attachment B, are

repealed.

Section 2. The Seattle Police Department shall adopt and maintain a crowd management policy that is consistent with the following City values and expectations:

A. The people of Seattle have the right to assemble to celebrate, engage, worship, watch sporting events, exchange ideas, protest, or simply gather. The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the U.S. Constitution and Article I, sections 4 and 5 of the Washington State Constitution. These rights are essential to democracy and will be protected in Seattle.

B. The Police Department has a role in facilitating safe gatherings.

C. Police Department collaboration with event sponsors or organizers shall facilitate and advance Seattle's public safety interests and help maintain the peace and safety of the City. De-escalation, engagement, and dialogue to resolve conflicts shall be prioritized when safe and feasible.

D. Any police use of force for crowd control shall be objectively reasonable, necessary, and proportional to the threat presented.

E. Police Department crowd management and use of force policies shall prohibit the use of less lethal tools on a person or persons for crowd control purposes unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage. Police Department policy shall continue to require approval by an Incident Commander or supervisor before less lethal tools may be used for general crowd dispersal.

F. A police officer may only use less lethal tools expressly authorized by Police Department policy and for which that officer has been trained.

G. Police Department policy on the use of tear gas shall be consistent with RCW 10.116.030, which states that a "law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation." It also requires that before using tear gas, the following conditions must be met:

“(a) Exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances;

“(b) Obtain authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted as provided under this section;

“(c) Announce to the subject or subjects the intent to use tear gas; and

“(d) Allow sufficient time and space for the subject or subjects to comply with the officer’s or employee’s directives.”

RCW 10.116.030 further mandates that, “In the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after ... [r]eceiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used...”.

In addition to the requirements of RCW 10.116.030, Police Department policy shall prohibit the use of tear gas in crowd management unless 1) all other reasonable force options have been exhausted or are not feasible, 2) specific facts and circumstances establish that the risk to life is imminent, and 3) the Mayor has issued a proclamation order of civil emergency pursuant to Seattle Municipal Code Chapter 10.02.

Section 3. To the extent collective bargaining is required with regard to implementation of this ordinance or the Police Department’s associated revisions to its crowd management policy, the City will comply with its legal obligations.

Section 4. The Police Department shall publish its crowd management policy and any future revisions on its website, which shall be available to the public.

Section 5. The Police Department, in collaboration with the Office of Inspector General for Public Safety, shall create an annual report on the use of force in crowd management situations, including details of the use of less lethal tools, to be filed with the City Clerk by the end of the first quarter of the following year.

Section 6. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and

1.04.070.

Passed by the City Council the _____ day of _____, 2024, and signed by
me in open session in authentication of its passage this _____ day of _____, 2024.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2024.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2024.

Scheereen Dedman, City Clerk

(Seal)

Attachments:

Attachment A - Seattle Municipal Code Section 3.28.146

Attachment B - Ordinance 126422

3.28.146 Prohibition of the use of crowd control weapons

A. Unless exempted or excepted, no City department shall own, purchase, rent, store or use crowd control weapons.

B. Law enforcement agencies operating under mutual aid agreements are prohibited from using crowd control weapons while rendering aid to the Seattle Police Department. Seattle Police Department mutual aid agreements for crowd control must prohibit other law enforcement agencies from using crowd control weapons for the purpose of crowd dispersal.

C. As used in this Section [3.28.146](#), "crowd control weapons" means kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort.

D. Oleoresin capsicum (OC) spray is not a crowd control weapon for purposes of owning, purchasing, renting, or storing under subsection 3.28.146.A. Use of OC spray is prohibited under subsection 3.28.146.A if:

1. It is used in a demonstration, rally, or other First Amendment-protected event; or
2. When used to subdue an individual in the process of committing a criminal act or presenting an imminent danger to others, it lands on anyone other than that individual.

E. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of crowd control weapons for crowd dispersal that occur after this ordinance takes effect.

F. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this Section [3.28.146](#) shall be \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery or process available to a person under federal and state law.

CITY OF SEATTLE
ORDINANCE 126422
COUNCIL BILL 120105

AN ORDINANCE relating to the Seattle Police Department; banning the ownership, purchase, rent, storage, or use of less lethal weapons; and amending Section 3.28.146 of the Seattle Municipal Code.

WHEREAS, in 2020, tens of thousands of community members joined mass demonstrations in Seattle in support of black lives and against police violence; and

WHEREAS, the Seattle Police Department (SPD) responded to these protests against police violence with devices designed to cause severe discomfort and/or pain, including tear gas, pepper spray and explosive devices such as blast balls and stun grenades; and

WHEREAS, Seattle’s Office of Professional Accountability reported on June 3, 2020 that it had received 15,000 complaints of police misconduct related to SPD’s response to these protests; and

WHEREAS, studies into the impacts of policing at protests have determined that escalating force by police at protests leads to increasing violence; and

WHEREAS, on June 15, 2020, the City Council adopted Ordinance 126102 banning the ownership, purchase, rent, storage, or use of crowd control weapons, defined as kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort; and

WHEREAS, on July 24, 2020, the Honorable Judge James L. Robart of the U.S. District Court for the Western District of Washington imposed a temporary restraining order against

1 enactment of Ordinance 126102, expressing concern that “by removing all forms of less
2 lethal crowd control weapons from virtually all police encounters, the Directive and the
3 CCW Ordinance will not increase public safety,” and asked the Office of Police
4 Accountability, the Community Police Commission, and the Office of the Inspector
5 General to review its possible impact on court-mandated police reforms. Judge Robart
6 also expressed concern in the temporary restraining order that the CCW Ordinance did
7 not “provide time for police training in alternative mechanisms to de-escalate and resolve
8 dangerous situations if the crowd control implements with which the officers have been
9 trained are abruptly removed”; and

10 WHEREAS, on August 10, 2021, the Honorable Judge Richard Jones of the U.S. District Court
11 for the Western District of Washington issued a preliminary injunction extending a ban
12 on SPD’s use of less lethal chemical and projectile weapons against peaceful protesters;
13 and

14 WHEREAS, on September 11, 2020, as requested in Ordinance 126102 and consistent with the
15 advisory roles established in the Accountability Ordinance (Ordinance 125315),
16 subsection 3.29.030.B, the Office of Police Accountability, the Community Police
17 Commission, and the Office of the Inspector General reported their findings with respect
18 to the impact of banning less lethal weapons to the Council’s Public Safety and Human
19 Services Committee. The findings showed consensus among the three reports to allow
20 specific non-crowd control uses of pepper spray, 40-millimeter launchers and noise flash
21 diversionary devices, and to ban patrol officers’ use of tear gas; and

22 WHEREAS, on October 1, 2020, the Honorable Judge James L. Robart converted the Court’s
23 temporary restraining order regarding Ordinance 126102 into a preliminary injunction in

1 order to facilitate review under the process set forth in paragraphs 177 to 181 of the
2 Consent Decree (“Policy Review Process”); and

3 WHEREAS, on December 7, 2020, the Honorable Judge Richard Jones found the Seattle Police
4 Department in contempt of court for the indiscriminate use of blast balls and noted that
5 “Of the less lethal weapons, the Court is most concerned about SPD’s use of blast balls”;
6 and

7 WHEREAS, the City Council recognizes the role of the Chief of Police to prescribe rules and
8 regulations for the government and control of the police department; and

9 WHEREAS, at the time of passing this ordinance, pursuant to a federal consent decree, the
10 United States Department of Justice, the Honorable James L. Robart of the U.S. District
11 Court for the Western District of Washington, and the court-appointed Seattle Police
12 Monitor exercise oversight of SPD’s policies related to the use of force; and

13 WHEREAS, on February 26, 2021, the U.S. District Court for the Western District of
14 Washington issued an order in *United States v. City of Seattle*, Civil Case Number 12-
15 1282, approving SPD’s revised use of force and crowd management policies, which
16 included authorization of the deployment of officers trained in the use of use of 40-
17 millimeter launchers in crowd management events, upon approval of the Chief of Police,
18 and authorization of the use of a pepperball launcher “only when such force is objectively
19 reasonable, necessary, and proportional to protect against a specific imminent threat of
20 harm to officers or identifiable others or to respond to specific acts of violence or
21 destruction of property”; and

22 WHEREAS, on May 18, 2021, Governor Inslee signed ESHB 1054, establishing requirements
23 for tactics and equipment used by peace officers, which include 1) restricting law

1 enforcement agencies from using tear gas unless necessary to alleviate a present risk of
2 serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation; 2)
3 requiring that, prior to using tear gas the law enforcement officer or employee must
4 exhaust alternatives to the use of tear gas, obtain authorization to use tear gas from a
5 supervising officer, announce to the subject or subjects the intent to use tear gas, and
6 allow sufficient time and space for compliance with the officer's or employee's directives;
7 and 3) directing that, in the case of a riot outside of a correctional, jail, or detention
8 facility, the law enforcement officer or employee may use tear gas only after receiving
9 authorization from the highest elected official of the jurisdiction in which the tear gas is
10 to be used; NOW, THEREFORE,

11 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

12 Section 1. Section 3.28.146 of the Seattle Municipal Code, enacted by Ordinance 126102,
13 is amended as follows:

14 **3.28.146 Prohibition of the use of ((~~crowd control~~)) less lethal weapons**

15 A. Unless exempted or excepted, no City department shall own, purchase, rent, store or
16 use ((~~crowd control~~)) less lethal weapons.

17 B. Law enforcement agencies operating under mutual aid agreements are prohibited from
18 using ((~~crowd control~~)) less lethal weapons in a manner inconsistent with this Section 3.28.146
19 while rendering aid to the Seattle Police Department. Seattle Police Department mutual aid
20 agreements for crowd control must prohibit other law enforcement agencies from using ((~~crowd~~
21 ~~control~~)) less lethal weapons ((~~for the purpose of crowd dispersal~~)) in a manner inconsistent with
22 this Section 3.28.146.

23 C. As used in this Section 3.28.146((~~;~~)) :

1 “For the purpose of crowd control” means with the intent to move or disperse a
2 crowd.

3 ~~“(crowd control)~~ Less lethal weapons” means kinetic impact ~~((projectiles))~~
4 launchers used to deploy chemical irritants; ((;)) chemical irritants, including but not limited to
5 pepper spray and tear gas; ((;)) acoustic weapons((;)) ; directed energy weapons((;)) ; water
6 cannons((;)) ; disorientation devices, including but not limited to blast balls and noise flash
7 diversionary devices; ultrasonic cannons((;)) ; or any other device that is primarily designed to be
8 used on multiple individuals for crowd control and is designed to cause pain or discomfort.

9 “Violent public disturbance” means any gathering where 12 or more persons who
10 are present together use or threaten to use unlawful violence towards another person or group of
11 people and the conduct of them (taken together) is such as would cause a person of reasonable
12 firmness present at the scene to fear for his personal safety.

13 D. ~~((Oleoresin capsicum (OC) spray is not a crowd control weapon for purposes of~~
14 ~~owning, purchasing, renting, or storing under subsection 3.28.146.A. Use of OC spray is~~
15 ~~prohibited under subsection 3.28.146.A if~~

16 ~~1. It is used in a demonstration, rally, or other First Amendment-protected event;~~
17 ~~or~~

18 ~~2. When used to subdue an individual in the process of committing a criminal act or~~
19 ~~presenting an imminent danger to others, it lands on anyone other than that~~
20 ~~individual.))~~

21 Noise flash diversionary devices are not banned as less lethal weapons for purposes of subsection
22 3.28.146.A if used by Special Weapons and Tactics (SWAT) officers outside the setting of a

1 demonstration or rally in circumstances in which the risk of serious bodily injury from violent
2 actions outweighs the risk of harm to bystanders.

3 E. Forty-millimeter launchers used to deploy chemical irritants and launchers used to
4 deploy pepperballs are not banned as less lethal weapons for purposes of subsection 3.28.146.A
5 if:

6 1. Used by SWAT officers outside the setting of a demonstration or rally in
7 circumstances in which the risk of serious bodily injury from violent actions outweighs the risk
8 of harm to bystanders; or

9 2. Used by SWAT officers in a demonstration or rally for purposes other than
10 crowd control in circumstances in which the risk of serious bodily injury from violent actions
11 outweighs the risk of harm to bystanders.

12 F. Oleoresin capsicum (OC) spray is not banned as a less lethal weapon for purposes of
13 subsection 3.28.146.A if:

14 1. It is being used outside the setting of a demonstration or rally and the risk of
15 serious bodily injury from violent actions outweighs the risk of harm to bystanders; or

16 2. It is being used at a demonstration or rally, but not for the purpose of crowd
17 control, and the risk of serious bodily injury from violent actions outweighs the risk of harm to
18 bystanders; or

19 3. It is being used at a demonstration or rally for the purpose of crowd control,
20 during a violent public disturbance, and the risk of serious bodily injury from violent actions
21 outweighs the risk of harm to bystanders.

22 G. Tear gas is not banned as a less lethal weapon for purposes of subsection 3.28.146.A
23 if:

1 1. It is being used by SWAT officers outside the setting of a demonstration or
2 rally, the use is reasonably necessary to prevent threat of imminent loss of life or serious bodily
3 injury, and the risk of serious bodily injury from violent actions outweighs the risk of harm to
4 bystanders; or

5 2. It is being used in a violent public disturbance, under direction of or by officers
6 who have received training for its use within the previous 12 months, with a detailed tactical plan
7 developed prior to deployment, the use is reasonably necessary to prevent threat of imminent loss
8 of life or serious bodily injury, and the risk of serious bodily injury from violent actions
9 outweighs the risk of harm to bystanders.

10 ~~((E))~~H. A person shall have a right of action against the City for physical or emotional
11 injuries proximately caused by the use of ~~((crowd control))~~ less lethal weapons in violation of
12 this Section 3.28.146~~((for crowd dispersal))~~ after this ordinance takes effect. A person who, in
13 the judgment of a reasonable person, commits a criminal offense at or immediately prior to the
14 use of less lethal force may not recover under this Section 3.28.146.

15 ~~((F))~~I. Absent evidence establishing a greater amount of damages, the damages payable
16 to an individual for injuries proximately caused in violation of this Section 3.28.146 shall be
17 \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery
18 or process available to a person under federal and state law.

19 Section 2. In accordance with United States of America v. City of Seattle, 12 Civ. 1282
20 (JLR), during the pendency of the consent decree Council requests that notice of this action be
21 submitted by the City Attorney to the Department of Justice and the Monitor.

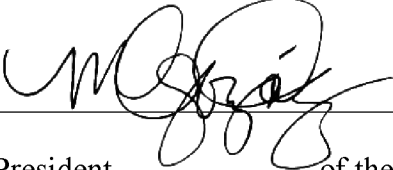
22 Section 3. Council will engage with the Labor Relations Director and staff as they work
23 with the City's labor partners in the implementation of this ordinance.

1 Section 4. Within 60 days after this ordinance takes effect, the Seattle Police Department
2 shall draft revisions to the Seattle Police Manual to bring it into compliance with this ordinance
3 and publish the proposed revisions on its website.

4 Section 5. Section 1 of this ordinance shall take effect and be in force 30 days after the
5 Court in *United States v. City of Seattle*, Western District of Washington Civil Case Number 12-
6 cv-1282, has approved the revised policies required by Section 4 of this ordinance.

1 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 16th day of August, 2021,
5 and signed by me in open session in authentication of its passage this 16th day of
6 August, 2021.

7 
8 President _____ of the City Council

9 Approved returned unsigned vetoed this 27th day of August, 2021.

10 **Returned Unsigned by Mayor**

11 Jenny A. Durkan, Mayor

12 Filed by me this 27th day of August, 2021.

13 
14 _____

14 Monica Martinez Simmons, City Clerk

15 (Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
Mayor's Office	Michelle Nance	

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the Seattle Police Department; mandating that the Police Department adopt and maintain crowd management policies that prohibit the use of less lethal tools in crowd management settings unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage; and repealing Section 3.28.146 of the Seattle Municipal Code and Ordinance 126422.

Summary and Background of the Legislation: The legislation mandates that the Police Department maintain crowd management policies that prohibit the use of less lethal tools for crowd control purposes “unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage.” It also requires that any police use of force for crowd control be objectively reasonable, necessary, and proportional to the threat presented. In addition, it requires that the adopted crowd management policies affirm and protect the rights to free speech and peaceable assembly.

The proposed ordinance also codifies state law requirements in City law regarding the use of tear gas. Further, it restricts tear gas as a tool of last resort when the risk to life is imminent, and then only when the Mayor has issued an order of civil emergency.

This legislation repeals Section 3.28.146 of the Seattle Municipal Code, as well as Ordinance 126422.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts.

No.

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

N/A

Please describe any financial costs or other impacts of *not* implementing the legislation.

Crowd management experts and constitutional policing experts widely agree that police officers should be equipped with less lethal tools, in addition to firearms. The previous ordinances, passed in 2020 and 2021, are more restrictive since they do not allow SPD officers to use a less lethal tool, such as pepper spray, in a targeted manner to isolate an offender and when it is reasonable, necessary, and proportional to protect the safety, property rights, and First Amendment rights of protesters and bystanders.

The Court overseeing the Consent Decree has ordered the Police Department to submit a revised crowd management policy for further review. If this ordinance passes, the Police Department will submit a revised crowd management policy consistent with this ordinance for the Court's review and approval.

4. OTHER IMPLICATIONS

a. Please describe how this legislation may affect any departments besides the originating department.

N/A

b. Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.

No.

c. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.

i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.

This ordinance is designed to protect the First Amendment rights of protesters and bystanders. It upholds and affirms the constitutional rights of individuals to freely exercise their freedom of speech and assembly. In limited circumstances, force is necessary to protect the safety, property rights, and First Amendment rights of all crowd members and bystanders. This ordinance articulates strict standards for the use of less lethal weapons, limiting it to situations where there is an imminent risk of physical injury to any person or significant property damage.

- ii. **Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

N/A

- iii. **What is the Language Access Plan for any communications to the public?**

d. Climate Change Implications

- i. **Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

N/A

- ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

N/A

- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

N/A

5. CHECKLIST

- Is a public hearing required?**
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?**
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**

6. ATTACHMENTS

Summary Attachments: None.

December 10, 2024

MEMORANDUM

To: Public Safety Committee
From: Greg Doss, Analyst
Subject: CB 120916 – Crowd Control Legislation

On December 10, 2024, the Public Safety Committee will discuss CB 120916, which would:

1. Repeal Seattle Municipal Code (SMC) [SMC 3.28.146](#), and [Ordinance 126422](#) restricting the Seattle Police Department’s (SPD’s) use of less lethal weapons (LLWs), including use of LLWs for crowd management purposes; and
2. Require SPD to adopt and maintain a crowd management policy that is consistent with City values and expectations as outlined in uncodified language in Section 2 of CB 120916 (described in more detail below).

The Executive has indicated that SPD’s current interim crowd management policy ([Interim Policy 14.090](#)) is consistent with the requirements of Section 2 of CB 120916. Although, CB 120916 does not codify or incorporate by reference SPD’s Interim Policy.

The Public Safety Committee Chair has indicated that today’s hearing will be the first of two hearings on CB 120916. The second Committee meeting is scheduled for January 14, 2025, and a vote by the Full Council is anticipated for January 21, 2025.

Background

The City’s use of LLWs for crowd control is currently *unregulated* by either the Seattle Municipal Code, or the Council Ordinances noted above. In June 2020, the Council passed [Ordinance 126102](#), enacting SMC 3.28.146, which completely banned LLWs for any use, but soon thereafter was enjoined by the United States District Court.¹

In August 2021, the Council passed Ordinance 126422, which updated city policies to allow some LLWs to be used by trained SPD officers under specific circumstances. This Ordinance did not take effect because its implementation was conditioned on the Court approving compliant policies, and per a recommendation from the Executive, the federal monitor did not allow a submittal for judicial review.² Neither Council ordinance was signed by then Mayor Durkan, who submitted memos indicating her reasons for returning the legislation (see Attachment 1).

¹ On June 17, 2020, Judge Robart issued a temporary restraining order (TRO) against Ordinance 126102, which prevented it from going into effect. The initial “temporary” order that enjoined the Ordinance and the subsequent order converting it into a more “long term” type of order can be found in Court Docket numbers 630 and 647 for Western District of Washington Civil Case Number 12-cv-1282.

² Section 5 of the Ordinance 126422 required approval of the Court in *United States v. City of Seattle*, Western District of Washington Civil Case Number 12-cv-1282.

The City's use of LLWs is currently governed by SPD Interim Policy 14.090 – Crowd Management, Intervention, and Control (Interim Policy), and state statutes related to use of force and tear gas. In 2021, the Court approved this policy as required by the 2012 Settlement Agreement with the Department of Justice.³ While the policy has been approved by the Court, its provisions are inconsistent with the restrictions that were adopted in Council Ordinance 126422. Attachment 2 shows how Ordinance 126422 would restrict SPD's Interim Policy. Therefore, the SPD policy remains in "Interim" status.

In a hearing on October 16, 2024, the Court indicated that the City is close to being ready to file a motion to end the Consent Decree and dismiss the case. But first, the City must submit final SPD policies on crowd management and less lethal tools to the federal monitor and the DOJ for their review, and then to Judge Robart for his approval. The City cannot submit such policies if they are inconsistent with the SMC and/or prior Council Ordinances, regardless of whether the current City laws carry any legal effect. CB 120916 would eliminate all prior City laws and ordinances and clear the way for SPD to submit its Interim Policy for final judicial review.

CB 120916

CB 120916 would repeal SMC 3.28.146, and Ordinance 126422. The bill would also require SPD to adopt and maintain a crowd management policy that is consistent with the following City values and expectations:

- The people of Seattle have the right to assemble to celebrate, engage, worship, watch sporting events, exchange ideas, protest, or simply gather. The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the U.S. Constitution and Article I, sections 4 and 5 of the Washington State Constitution. These rights are essential to democracy and will be protected in Seattle.
- The Police Department has a role in facilitating safe gatherings.
- Police Department collaboration with event sponsors or organizers shall facilitate and advance Seattle's public safety interests and help maintain the peace and safety of the City. De-escalation, engagement, and dialogue to resolve conflicts shall be prioritized when safe and feasible.
- Any police use of force for crowd control shall be objectively reasonable, necessary, and proportional to the threat presented.
- Police Department crowd management and use of force policies shall prohibit the use of less lethal tools on a person or persons for crowd control purposes unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage. Police Department policy shall continue to require approval by an Incident Commander or supervisor before less lethal tools may be used for general crowd dispersal.
- A police officer may only use less lethal tools expressly authorized by Police Department policy and for which that officer has been trained.

³ Docket 662 for Western District of Washington Civil Case Number 12-cv-1282 and [SPD Interim Crowd Management Policies](#) and [SPD Use of Force Weapons and Tools policies](#).

CB 120916 further requires that SPD policy on the use of tear gas shall be consistent with RCW 10.116.030, which states that a “law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation.” It also establishes specific conditions that must be met before a jurisdiction can deploy tear gas (see Section 2 of CB 120916).

In addition to the requirements of RCW 10.116.030, Police Department policy shall prohibit the use of tear gas in crowd management unless 1) all other reasonable force options have been exhausted or are not feasible, 2) specific facts and circumstances establish that the risk to life is imminent, and 3) the Mayor has issued a proclamation order of civil emergency pursuant to Seattle Municipal Code Chapter 10.02.

Finally, CB 120916 requires SPD to:

1. Collaborate with the Office of the Inspector General for Public Safety (OIG) to create an annual report on the use of force in crowd management situations, including details of the use of less lethal tools, to be filed with the City Clerk by the end of the first quarter of the following year;
2. Publish its crowd management policy and any future revisions on its website, which shall be available to the public; and
3. Fulfill collective bargaining requirements to implement the ordinance.

SPD Interim Crowd Management Policy

SPD’s Interim Policy is intended to provide clear guidance to officers, supervisors, and commanders in employing appropriate crowd management, intervention, and control strategies in a manner so as to facilitate, to the extent safe and feasible, the right to free expression and peaceable assembly. The policy is also intended to provide guidance by which officers and supervisors may objectively determine at what juncture a demonstration or assembly leaves the realm of legal protest and becomes an abridgement on the life, safety and property rights of others.⁴ To facilitate decision making, SPD’s Incident Commanders are required to use the Interim Policy’s Crowd Management, Intervention, and Control (CMIC) matrix to determine when to disperse a crowd. The CMIC is an operational tool that was recommended by the OIG as part of a series of recommendations stemming from its Sentinel Event Review process. (see CMIC matrix and Interim Policy in Attachment 3).

Because SPD’s Interim Policy is not incorporated by reference in CB 120916, the Department can at any time change its policy, subject to consistency with Section 2 of the bill and the Court, as long as the City is bound by the Consent Decree. Notable though, is that the City’s Accountability Ordinance (ORD 125315) provides a role for OIG, OPA and CPC to review SPD policy changes and that such changes cannot not occur in a vacuum.

⁴ [SPD Manual 14.090 Interim Crowd Management Policies.](#)

Consistency with Best Practices and Accountability Agency Recommendations

Central Staff have consulted with a workgroup consisting of city staff from the Mayor's Office, SPD, the OIG, and OPA. The workgroup advised that there are some novel, emerging practices in the areas of crowd psychology, police crowd facilitation techniques, and civil rights law that can be applied to crowd management situations. Seattle's OIG has been a national leader in identifying such practices through its Sentinel Event Review (SER).

The [OIG's Sentinel Event Review](#) process created panels of community members, SPD officers, data analysts, and a group of academic experts to: (1) review SPD's actions during the 2020 Black Lives Matter (BLM) protests; and (2) recommend policy changes that would allow SPD to facilitate peaceful demonstrations, deescalate violent behavior, and safely disperse an unlawful crowd, when necessary. The OIG made approximately 136 recommended policy changes, nearly all of which are incorporated into SPD's Interim Policy. (see Attachment 4 Sentinel Event Review – Comprehensive Response).

SPD's Interim Policy also incorporates crowd management recommendations outlined in several "best practice" documents:⁵

- [Rethinking the response to mass demonstrations](#), 2022, Police Executive Research Forum (PERF);
- [Guiding Principles for Crowd Management](#), 2024, Center for Police Equity (CPE)
- [Model Use of Force Policy](#), 2022, Washington State Attorney General's Office (AGO);
- [Use of Physical Force in Crowd Management Incidents](#), 2022, WA State Attorney General's Office (AGO);
- Crowd Management, 2019, International Association of Chiefs of Police (IACP).⁶

In 2020, the OIG indicated that SPD's overall approach to crowd management was consistent with several other major jurisdictions.⁷ That said, OIG has not updated this information, and their 2020 reports do not make comparisons among specific use of LLWs at a jurisdictional level. Some information about crowd management and LLW restrictions enacted in other jurisdictions can be found at the International Center for Non-Profit Law website: [Reforms Introduced to Protect Freedom of Assembly](#).

⁵ The Executive, OIG and OPA workgroup have stated that there are not definitive "best practices" for crowd control, but rather emerging practices that can serve to guide creation of responsible policies.

⁶ Notable is that the IACP document has not been updated to include recommendations from the 2020 BLM Demonstrations, and the National Institute of Justice has not published a best practice guide. See Attachment 5.

⁷ OIG June and Aug 2020 Reports: [Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons](#)

Issues for Consideration

After discussion with the Executive, OIG and OPA workgroup, Central Staff have identified four issues that the Council may wish to consider regarding the use of existing LLWs. Other issues are expected to be identified by the City's Office of Civil Rights (OCR), Community Police Commission (CPC) and Office of Police Accountability (OPA). The OPA and CPC have provided recommendations on SPD's crowd management policies in the past, but are expected to produce and release updated recommendations in the upcoming days or weeks.⁸

1. Threshold to determine a "riot" or "unlawful assembly"

The CMIC Matrix defines an unlawful assembly as "Violent acts by four or more persons or acts that pose an imminent threat of violence against persons or property," and references [RCW 9A.84.010\[1\]](#), which is the state's standard for misdemeanor Criminal Mischief.⁹ Prior to 2014, the state had used this same standard to define a "Riot."

In the past, the CPC has indicated that community members believe that the Criminal Mischief standard is too low for SPD to declare a Riot. Central Staff and the Workgroup have not identified a "best practice" on the number of violent individuals that must be necessary to declare a crowd unlawful. Since there is no best practice, it may be logical to use the CMIC Matrix that incorporates an RCW definition.

The OIG, PERF, and CPE note that when property damage is used as a reason to disperse a crowd, then such property damage should be "significant" or "substantial," such as setting fire to a building. SPD's Interim Policy reflects these recommendations and indicate that a crowd may be dispersed when there is "substantial harm to property." (see 14.090 POL 8). However, the CMIC Matrix does not specify that property damage must be significant.

SPD staff have indicated that the department intends to revise the CMIC Matrix to ensure that it aligns with the property damage standards that are articulated in 14.090 POL 8 (significant or substantial damage). SPD has also indicated that although the four or more persons standard is the threshold legally, the department's CMIC favors direct interdiction of individuals committing violent acts rather than a blanket dispersal due to a "riot."

2. Which SPD officers are authorized to disperse a crowd

SPD's Interim Policy provides an Incident Commander with the authority to use LLWs, other than CS Gas (Tear Gas), to disperse a crowd when there exists an immediate life safety emergency, which is an "unplanned, dynamic situation where immediate police action is necessary to protect the officers' and/or the public's safety." The Interim Policy currently specifies that an Incident Commander will be the rank of sergeant or above, and then indicates that higher ranked officers may take control as they arrive on scene.¹⁰ This practice stands in contrast to SPD's current requirement that officers ranked Lieutenant and higher receive training in crowd control.

⁸ [Proposed changes to SPD Use of Force and Crowd Management policies](#), 2021, Community Police Commission; and [Response to City Council Crowd Control Weapons Ordinance Ban](#), 2020 Office of Police Accountability.

⁹ Criminal Mischief is a felony when a person is armed with a deadly weapon.

¹⁰ Summarized for simplicity. See SPD Manual 14.090-POL-3

Nearly all best practice guides recommend that crowd dispersal orders be given by higher ranked individuals, and presumably, officers that are ranked Lieutenant and above. SPD agrees with these recommendations and plans to align its crowd management policy.

3. Deployment of Mutual Aid partners

At times, SPD must request the aid of neighboring law enforcement agencies to augment staffing during a demonstration or other major event. SPD's Interim Policy requires that neighboring agencies take instructions from SPD, but do not require mutual aid officers to adhere to SPD's specific less lethal weapons policies. This stands in contrast to recommendations by CPE and PERF:

"When multiple agencies work together, however, there must be clear written understandings that officers from the assisting agencies will take direction from, and abide by the policies of, the lead agency." (PERF)

Additionally, the OIG made a mutual aid recommendation to SPD as part of its Wave 2 Sentinel Event Review:

"SPD should review its policy and training for using less-lethal munitions in crowd management situations, including the use of less-lethal munitions by mutual aid agencies. OPA noted in 2015 its concern that projectiles may strike and injure people lawfully exercising their constitutional rights. OPA also recommended that if SPD were to use officers from other agencies they should be in roles where they would be very unlikely to use force (such as prisoner transport and processing) or have officers for mutual aid only carry force options SPD authorizes and be trained on SPD policies."

SPD's Mutual Aid policy (SPD 16.240) requires the Seattle Police Operations Center (SPOC) to evaluate and coordinate any mutual aid request. The policy further requires that any request for mutual aid must include:

- The nature of the event or situation
- Available and appropriate planning document such as an Incident Action Plan (IAP) or Briefing Sheet
- Specific tasks the responding agency is being asked to perform
- Estimated number of personnel requested
- List of other equipment, uniforms, vehicles, or resources requested
- Estimated duration the personnel and/or resources will be needed
- An agreement that the responding agency will notify the requesting agency of any enforcement activity and uses of force during the event and provide any relevant paperwork related to the event

When SPD requests mutual aid, these terms are discussed as part of the overall IAP planning and as the requesting agency, SPD has operational control over mutual aid partners. However, SPD is hesitant to specifically require mutual aid partners adhere to SPD LLW policies because the department does not authorize SPD officers to work under any other department's policy.

To bring SPD's policies into closer alignment with the OIG recommendation, SPD could consider amending its crowd control policies to prioritize, when practical and feasible, mutual aid officer deployment into non-force situations (e.g., answering 911 calls). This is a practice that the department has employed in the past but is not currently part of the mutual aid policy. SPD has taken this under advisement.

4. Use of blast balls and flash bangs for crowd control purposes

A blast ball is a device designed to create diversionary light and sound. The principal difference between a blast ball and a traditional noise flash diversionary device (NFDD or "flashbang") is that a blast ball is round and made of rubber, while a NFDD is metal and cylindrical. SPD has asserted that it only uses blast balls that are "inert" (i.e. only produce light and sound), or that contain a small amount of OC gas (pepper spray).¹¹ SPD does not use Flash bangs for crowd control purposes because of the lack of ability to deploy them in a controlled manner.

The department's policies on the use of blast balls says that **"When feasible, sworn employees will direct blast balls toward an open space near the person(s) engaged in the threats of harm or acts of violence or property destruction."** The policy provides additional specific detail on the deployment of blast balls:

"Sworn employees will avoid directing blast balls towards persons who are not posing a risk to public safety or property.

Absent a threat of serious imminent physical harm, sworn employees will avoid deploying a blast ball in a manner that would have significant likelihood of striking a person directly.

The preferred method of blast ball deployment is low deployment ("bowling style"). Sworn employees may use a high deployment ("overhand throw") when the need for a farther deployment or the need to get around an obstruction outweighs the risk created by the separating munition."¹²

All three accountability agencies, as well as external experts, have issued recommendations to SPD on the use of blast balls, which have the potential to inflict serious injury or even death if detonated too close to a person.¹³ Additionally, OPA has noted in prior Management Action Recommendations that a blast ball's two-stage detonation can send the device in an unintended direction.¹⁴ While not specifically mentioning "Blast balls," PERF recommends that "Flash bangs" and grenade-type devices should not be used in demonstrations:

"[these devices] were developed for hostage-rescue incidents, not demonstrations. Their intent is to disorient people by temporarily blinding or deafening them, which is not consistent with the goal of encouraging demonstrators to disperse or otherwise comply with police orders. A person who is stunned and disoriented is unable to follow directions and comply with police directions."

¹¹ OIG June and Aug 2020 Reports: [Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons](#)

¹² SPD Police Manual Policy 8.300

¹³ and ¹⁴ OIG 2020 Aug Report Pg. 8, [April 2021 OPA MAR](#), and OIG June 2020 Report, Pg. 45

The AGO has published non-binding guidelines on LLWs to be used in crowd control, which are noted in a 2021 Best Practices report.¹⁵ The AGO policy does not specifically mention the term “Blast ball.” It says, however, that “Noise-flash diversionary devices, or “flashbangs,” and grenade-type devices shall not be used for crowd management purposes, except as a last resort.”

SPD staff have indicated that blast balls are tools designed to deny access to an area or to move crowds after a dispersal order has been given and is one of the few tools that are effective when a crowd needs to be dispersed. Tear gas is a viable alternative, but SPD strongly disfavors tear gas, and Mayoral authorization is required before it can be used. Pepper spray can work but has the unfortunate effect of blinding those the department is trying to disperse.

Additionally, SPD fully recognizes that issuing a dispersal order is a significant intrusion into the First Amendment rights of all present and something that should not be undertaken lightly. SPD policy requires several steps to disperse:

- Issue an order to disperse.
- Identify dispersal routes.
- Identify appropriate area for media and legal observers.
- Any force used should be reasonable, necessary, and proportional to disperse or move a crowd. And finally,
- Continue to assess and modulate response as behavior changes.

SPD uses a Long-Range Acoustical Device (LRAD) to ensure that orders can be heard in dynamic crowds and frequently will narrate what is happening (e.g., “we are coming to arrest an individual in a red hat; please make way for officers and we will be out of your way quickly”). This sort of communication is a hallmark of dialogue policing, which SPD has embraced in the post-2020 era.

SPD SWAT officers have acknowledged that a blast ball’s two-stage combustion may create some degree of inaccuracy during deployment, potentially disrupting the blast ball’s trajectory between three and six feet from the intended target.¹⁶ Consistent with this observation, and others above, SPD could consider clarifying its blast ball deployment policy language to ensure that, absent a life-safety threat, and when used for crowd control/dispersal, officers deploy blast balls in empty spaces away from people.

Put succinctly, SPD policies could better differentiate between crowd control/ dispersal uses and deployment of blast balls to address imminent threats of harm or threats to life safety caused by individuals within a crowd.

SPD is working on refining its crowd management policies to ensure that the intended use of blast balls is wholly clear.

¹⁵ [Use of Physical Force in Crowd Management Incidents](#), WA State Attorney General’s Office Best Practices July 2022

¹⁶ Demonstration of Blast balls and other LLWs before the Seattle CPC on 12/4/2024

Options for Council Action

CB 120916 is structured to provide SPD the flexibility to modify its crowd control policies without Council review, as long as they are consistent with the principles set in out the proposed legislation, and the specific restrictions set out in Section 2. This would allow SPD to address changes in both available crowd-control technologies and emerging best practices without the delay associated with the legislative process, and without drawing the Council into technical, rather than policy-level, judgements about appropriate tools and methods.

Should the Council wish to Amend CB 120916, it could follow the existing structure and add uncodified discretionary or mandatory language into Section 2 of the bill, or take a more prescriptive approach and add codified language creating a new section in the Seattle Municipal Code. Under either approach, if not of a discretionary nature, any Council changes would likely require that SPD revise its Interim Policy before submitting it to the Court.

The department has indicated that it intends to make modifications to address some of the four policy considerations noted above. It is possible that additional or complex modifications, or codification of specific guidelines, could delay SPD's submittal to the Court and thereby delay the City's release from the Consent Decree. Executive staff have stated a strong preference against codified bans of LLWs or legislatively mandated use conditions because they believe they may prohibit the department from adopting new technologies.

Attachments:

1. Mayor Return of Ordinances 126102 (CB 119805) and 126422 (CB 120105)
2. ORD 126422 and SPD policies on LLWs and Crowd Management, Central Staff 12/10/24.
3. SPD Interim Policy Crowd Control and Crowd Management, Intervention, and Control (CMIC) Strategies Matrix
4. Sentinel Event Review – Comprehensive Response
5. Crowd Management, 2019, International Association of Chiefs of Police (IACP)

cc: Ben Noble, Director
Yolanda Ho, Deputy Director



City of Seattle
Mayor Jenny A. Durkan

June 29, 2020

Monica Martinez Simmons
Seattle City Clerk
600 4th Avenue, 3rd Floor
Seattle, WA 98124

Dear Ms. Martinez Simmons,

I have returned Council Bill 119805, passed unanimously by the council, unsigned, understanding it will become law 30 days upon my return of the legislation pursuant to SMC 1.04.020. While I share the Council's concerns about the Seattle Police Department's ("SPD") crowd management tactics to respond to recent protests, the Council's actions:

1) undermined the authority of the three SPD civilian accountability oversight bodies, the Office of Police Accountability ("OPA"), Office of the Inspector General ("OIG"), and Community Police Commission ("CPC"). In part on my request made on June 5th, those entities are reviewing SPD's crowd control practices, policies and actions and were asked to make recommendations in 30 days, which would be July 5th. Unfortunately, Council set a date of August 15th to receive the accountability partners report, which is after this legislation goes into effect. While I understand the issue is significant, I am hopeful that the accountability partners are able to return recommendations under the original timeframe and certainly before the legislation goes into effect and that Council should amend the legislation consistent with the recommendations. This review is critical to ensure we have crowd management policies and practices that enhance public safety and reduce use of force by officers;

2) the law directly impacts and possibly contravenes SPD policies developed and approved by federal court judge James Robart in the consent decree litigation. These policies were subject to review by Council, the previous Mayor, the accountability partners, U.S. Department of Justice and the federal Court Monitor. If the ordinance is found in conflict with court orders under the consent decree, it could bring the city out of compliance with the court orders;

3) the legislation effectively attempts to expand or overrule an order entered by federal court Judge Richard Jones, entered on June 12, 2020. This order was entered in litigation against the city for the actions taken by SPD during the protests and unrest. U.S. District Judge Jones, has entered a temporary order regarding crowd control measures, including the use of less than lethal options like tear gas, flash bangs and pepper spray. Until the city adopts a permanent crowd control policy, I support the Court's ruling and the preliminary injunction that is in place and extending it. Notably, there were extensive arguments urging an outright ban of the less than lethal options. Yet, Judge Jones instead struck a balance and his order allows specified uses where there is an imminent identifiable threat to life safety

and property. The Council's legislation has no such exemption for the imminent threat and risk of life; therefore is inconsistent with Judge Jones's federal court order; and

4) could result in significant financial and legal liability for the city, because the legislation allows anyone, including bystanders, who participated in a mass demonstration to seek compensation from the City for emotional or physical injuries regardless of whether they actually sustained an injury directly caused by a crowd control device. It also provides that even when police are using pepper spray as lawfully allowed by policy, the City is liable.

The ordinance states:

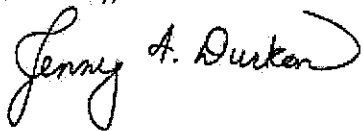
"When used to subdue an individual in the process of committing a criminal act or presenting an imminent danger to others, it lands on anyone other than that individual.

E. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of crowd control weapons for crowd dispersal that occur after this ordinance takes effect.

F. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this Section 3.28.146 shall be \$10,000, added to attorney fees and court fees."

Given these concerns and that we are waiting for the accountability partners to give their recommendations, I am returning this legislation unsigned. It is my hope that Council will review the accountability recommendations and amend the bill before its effective date a month from now. I have stated the crowd control actions by SPD during the protests failed appropriately to de-escalate conflicts and used a disproportional response that impacted people lawfully exercising First Amendment rights. However, I share the concerns of accountability partners and the Chief that the removal of all less than lethal crowd control measures could result in more direct use of force being used.

Sincerely,



Jenny A. Durkan
Mayor of Seattle



City of Seattle
Mayor Jenny A. Durkan

August 27, 2021

Monica Martinez Simmons
Seattle City Clerk
600 4th Avenue, 3rd Floor
Seattle, WA 98124

Dear Ms. Martinez Simmons,

I am returning, unsigned, Council Bill 120105, which is the Council's second attempt to dictate by ordinance the operational methods and tactics for crowd management by the Seattle Police Department. Chief Diaz and I have consistently stated that systemic improvements are needed in Seattle Police Department's crowd management policies and practices following the civil unrest and unprecedented tactics and challenges of the protests last summer and fall. SPD has adapted and has made significant changes to its crowd management tactics and I agree with Council that these are important issues, where SPD must continue to improve, and I do appreciate Committee Chair Herbold reaching out to the U.S. Department of Justice and the Monitoring team. I also appreciate the work she and other Council members did with me (and independently) to support important changes on policing at the state level. In addition to these state efforts, the Chief and I are working hard to help lead changes at the national level.

Still, this ordinance undermines reform efforts and constitutional policing as it conflicts with the process for policy changes as required under the Consent Decree. It is counter to the ongoing work to ensure changes in this critical area are based on broad community input, a systematic review of events, the actual dynamics of policing and the best national experts. The ordinance also improperly impinges on the Charter authority of the Chief of Police to manage the SPD and the obligation to provide public safety in every part of the city. Finally, parts of the ordinance conflict with recently passed state laws, that I, Council, and the city supported.

Council has made the law "conditional" on Court approval. This is of doubtful legality. But as important, Council knows that significant parts of the bill will never go into effect for the reasons cited in this letter. Thus, the law unfairly sets community expectations that all provisions will be enacted when they will not. This will undermine public trust, create confusion, and could hasten more departures from SPD.

In contrast, SPD has worked to get this right. Reflecting the commitment to critical review and iterative reform cemented by the Consent Decree, SPD itself recognized this point, made tactical adjustments in the field, consulted with national and international experts, and with guidance from the Office of Police

Letter re Council Bill 120105 – Less Lethal Weapons
Monica Martinez Simmons
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Accountability, the Office of the Inspector General, and the Community Police Commission, put forth new policies and training, now court-approved, that have resulted in marked changes to crowd management practices. And, over the next few months, SPD will continue to evaluate its policies and training through the lens of the recommendations in place and forthcoming from the Sentinel Event Review and, where revisions are needed, will follow that practice.

In summary, this legislation is misguided for a myriad of reasons.

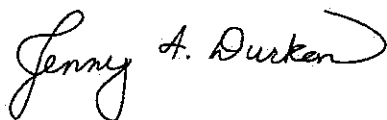
1. Enshrining operational policy in the city code undermines a core purpose and requirement of the Consent Decree – to cement in place within the department systems for ongoing critical analysis that can inform iterative, agile, and reflective policy changes on an ongoing basis. Codifying provisions such as these essentially paralyzes this process.
2. Council's action undercuts and interrupts the processes envisioned under the Accountability Ordinance for working collaboratively with the department to ensure ongoing development of policy. It is particularly notable that this ordinance continues to be rushed through without allowing for the OIG to finish the Sentinel Event Review and evaluate the recommendations that may be forthcoming out of that process. (The very type of "kneejerk reaction" Judge Robart has warned against.)
3. The Council's policy as written contravenes the current SPD policies that were developed by nationally renowned experts and approved by the U.S. Department of Justice and Federal Judge overseeing the Consent Decree.
4. The ordinance is a gift to plaintiff lawyers and needlessly expands the city's legal and financial liability in a manner that will have untold consequences, is ripe for abuse, and significantly hampers our ability to receive mutual aid from neighboring jurisdictions.
5. The ordinance does not appear to take into consideration potential inconsistencies with recent state legislation (HBs 1310 and 1054), thus exacerbating the potential that the DOJ/Court noted in enjoining the first bill that, by eliminating a swath of tools at intermediate points along the force spectrum, the bill creates greater opportunity for situations to escalate to the point where, by the time force may be authorized, the level of force reasonable, necessary, and proportional under the circumstances may be higher.
6. The mandate that SPD incorporate into policy the bill's provisions, in order for the bill to achieve DOJ, Monitoring Team, and Court approval, places SPD in the unfair and untenable position of proposing, and defending, to the DOJ and the Court, now-codified provisions of City law that it cannot support as best practice.
7. It will be impractical, and a poor use of resources to even attempt to rewrite policy to conform with this flawed legislation within 60 days, it likely could invite unfair labor practice.

Letter re Council Bill 120105 – Less Lethal Weapons
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claims, does not comport with best practices, and will be indefensible in court. This is to say nothing of the resource issues and near impossibility of responsibly re-training officers on what is likely an ill-fated policy within the subsequent 30-day limit proscribed.

For the above reasons, and consistent with provisions of the Consent Decree relating to technical assistance, I will be directing SPD to outline its concerns and formally request technical assistance from the DOJ and the Monitor to ensure the next steps of implementation will improve policing and reform efforts and to ensure any revisions remain consistent with both state law and the city's commitments under the Consent Decree.

Sincerely,

A handwritten signature in black ink that reads "Jenny A. Durkan". The signature is written in a cursive, flowing style.

Jenny A. Durkan
Mayor of Seattle

Ordinance 126422 and SPD policies on LLWs and Crowd Management

The Council’s updated LLW Ordinance (ORD 126422) and SPD’s Interim Policy are similar in many ways. Both policies provide guidance on when LLWs may be used against individuals inside or outside of a crowd setting, as opposed to times when LLWs may be used for crowd control purposes (moving or dispersing a crowd).

At a high level, the Ordinance and SPD’s Interim Policy both establish intent that LLWs are used only when: (1) circumstances are occurring or about to occur that create an imminent risk of physical injury; (2) the risk of serious injury from violent actions outweighs the risk of injury to bystanders; and (3) properly trained personnel are deploying the LLWs.

While the specific language may vary, it is clear that both policies articulate a need to use LLWs only when absolutely necessary and only when the risk of using LLWs is lower than the risks posed by violent individuals or an unlawful crowd.

Council Ordinance 126422: Unlike the SPD Interim Policy, the Ordinance does not provide the same kind of comprehensive, holistic policy guidance for officers to use during a First Amendment event (e.g., demonstration) or other crowd situations. Rather, the Ordinance simply sets limits on the kinds of LLW that may be deployed against individuals or crowds, which officers may deploy them and under what specific circumstances they may be deployed. If the Ordinance were in legal effect, it would limit SPD’s use of LLWs against individuals or crowds as follows:

- 1. SPD could not use LLWs to move or disperse a crowd that is causing property damage alone.** The Ordinance would not, however, prohibit SPD officers from using some LLWs against individuals within a crowd, should such individuals be engaged in unlawful behavior that puts other people at risk.
- 2. SPD could not use LLWs to move or disperse a crowd until 12 or more individuals are creating a “Violent public disturbance.”**¹ Such a disturbance happens when unlawful violence is occurring or may occur against persons. The SPD Interim Policy allows for crowd dispersion when at least four individuals are involved in activities – against property or persons – and such activities can be construed as Criminal Mischief under [RCW 9A.84.010\[1\]](#).
- 3. Not all officers can deploy LLWs.** With the exception of OC spray (or “pepper spray”), the Ordinance restricts the use of nearly all LLWs to specially trained Special Weapons and Tactics (SWAT) team members. The SPD LLW and Interim Policy require officers to be trained in any LLW that they use, and would allow use by the CRG (Community Response Group) which is currently deployed to crowd management situations.

¹ “Violent public disturbance” means any gathering where 12 or more persons who are present together use or threaten to use unlawful violence towards another person or group of people and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his or her safety.

4. Certain LLWs are banned, others are banned for crowd control purposes:

Use of LLWs against individuals in non-crowd settings	Use of LLWs against individuals within a crowd ²	Use of LLW for crowd movement or dispersal
<p><u>Allowed by Ordinance:</u> OC Spray (pepper spray) NFDDs (flash-bangs), but not blast balls 40mm launchers (pepper ball and chemical irritants only) CS Gas (Tear Gas)</p> <p><u>Allowed by SPD Interim Policy:</u> OC Spray, 40mm Launchers (any, including “Blue Nose” projectiles)</p>	<p><u>Allowed by Ordinance:</u> OC Spray 40mm (any)</p> <p><u>Allowed by SPD Interim Policy:</u> OC Spray, 40mm Launchers (any)</p>	<p><u>Allowed by Ordinance:</u> OC Spray CS Gas 40mm (not pepper balls and chemical irritants)</p> <p><u>Allowed by SPD Interim Policy:</u> Blast balls, OC Spray, 40 mm Less Lethal Launchers (OC and CS gas only), CS Gas</p>

5. Legal issues

The most recently passed Council Ordinance (126422) created a private right of action, for recovery of \$10,000 and attorney and court fees, for physical or emotional injuries proximately caused by the use of less lethal weapons when they are used *in violation of* the Ordinance’s restrictions. The Ordinance makes exceptions for persons who commit criminal offenses.

Summary

The Ordinance would allow for use of some LLWs against individuals, including individuals within a crowd, but significantly limits the LLWs that may be used for crowd control purposes (movement or dispersal). It sets a higher standard that must be met before a crowd may be dispersed, and crowd management tactics may not be used to protect property alone. While the Ordinance would allow use of CS gas (Tear Gas), its provisions are not consistent with state law. Finally, the Ordinance requires that most LLWs be deployed by SWAT officers. This requirement is not consistent with current SPD practices that rely on CRG officers for crowd management purposes.

² CS Gas does not appear in this column because it cannot be used in an indiscriminate manner against individuals.



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Interim Policy

14.090 – Crowd Management, Intervention, and Control

Effective Date: 04/24/2023

Crowd Management, Intervention, and Control (CMIC) Strategies

The CMIC is intended to be read as a continuum. Any police responses available at a lower phase remain available as a response at higher phases.

	Crowd Actions	Police Response
Phase 1 (Lawful Assembly Standoff)	Events that are typically static or smaller in scale and do not require police assistance. <ul style="list-style-type: none"> • Speeches • Marches • Demonstrations • Rallies • Picketing • Public assemblies • Protests • Celebratory events 	<ul style="list-style-type: none"> • Determine the history and risk of the group. • Engender facilitation, not confrontation. • Monitor and assess crowd behavior. • Assess and modulate response as behavior changes. • Develop Incident Action Plan (IAP) and objectives. • Minimize police presence observable by crowd.
Phase 2 (Lawful Assembly Police Interaction)	Likely larger and/or preplanned events with designated groups or organizers. <ul style="list-style-type: none"> • Speeches • Marches • Demonstrations • Rallies • Picketing • Public assemblies • Protests • Celebratory events 	<ul style="list-style-type: none"> • Utilize POET Officers for communication with event organizers and stakeholders. • Engender facilitation, not confrontation. • Monitor and assess crowd behavior. • Minimize police presence observable by crowd. • Assess and modulate response as behavior changes. • Develop IAP and objectives. • Determine appropriate level of police presence required by the totality of the circumstances.

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<p>Phase 3 (Escalating Behavior)</p>	<p>Crowd or individuals within the crowd showing low level signs of disorder.</p> <ul style="list-style-type: none"> • Minor acts of disorder such as knocking down sandwich boards or throwing garbage in the road. • Individual sit-down demonstrators. • March deviating from pre-planned route. • Elements of crowd splintering or deviating from original organizer intentions. • Crowd becoming verbally aggressive with officers or other bystanders on scene. • Crowd directing negative attention towards officers or other elements of the community. 	<ul style="list-style-type: none"> • Attempt to use organizers and monitors to gain voluntary compliance. • Utilize POET Officers for communication with event organizers and stakeholders. • Use amplified sound to communicate intent or to gain compliance. • Use low profile tactics when possible. • Continue to assess and modulate response as behavior changes.
<p>Phase 4 (Isolated Unlawful Behavior)</p>	<p>Individual violent acts within the crowd, property damage, unpermitted traffic disruption, and defacement are not protected activities. However, isolated unlawful activity by individuals or small groups within a crowd should not automatically form the basis for declaring an assembly unlawful.</p> <ul style="list-style-type: none"> • Isolated destruction of property • Isolated acts of violence • Isolated rock or bottle throwers • Individual sit-down demonstrators blocking traffic 	<ul style="list-style-type: none"> • Attempt to use organizers and monitors to gain voluntary compliance. • Isolate, arrest, and remove law violators as quickly as possible. • Video action of officers and law violators. • Use amplified sound to communicate intent or to gain compliance. • Use low profile tactics when possible. • Effect necessary arrests. • Any force used should be reasonable, necessary, and proportional to effect necessary arrests. • When it is not possible to make an immediate arrest, identify and track subjects for later arrest. • Continue to assess and modulate response as behavior changes.
<p>Phase 5 (Unlawful Assembly (Riot))</p>	<p>Where unlawful behavior within or of a crowd cannot be controlled through intervention strategies, assemblies may be dispersed.</p> <ul style="list-style-type: none"> • Violent acts by four or more persons or acts that pose an imminent threat of violence against persons or property (RCW 9A.84.010[1]). • Significant unpermitted traffic disruption that poses an imminent threat of harm to members of the assembly or the traveling public. 	<ul style="list-style-type: none"> • When safe and feasible and considering the risk to officer safety and members of the crowd, force may be used to disperse the crowd or address the acts of violence. • Issue an order to disperse. • Identify dispersal routes. • Identify appropriate area for media and legal observers. • Any force used should be reasonable, necessary, and proportional to disperse or move a crowd.

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	<ul style="list-style-type: none"> • Other criminal acts in the crowd that cannot be addressed through crowd intervention strategies, due to size, intent, or nature of the acts by members of the crowd. 	<ul style="list-style-type: none"> • Continue to assess and modulate response as behavior changes.
<p>Phase 6</p> <p>(Immediate Life Safety)</p>	<p>In certain circumstances crowd management events may escalate to immediate threats to life safety that require immediate police action.</p> <ul style="list-style-type: none"> • Crowd members throwing Molotov Cocktails. • Vehicle ramming attack. 	<ul style="list-style-type: none"> • Issue an order to disperse. • Identify dispersal routes. • CS gas, if authorized by the Mayor. • Any force used should be reasonable, necessary, and proportional to disperse or move a crowd. • Continue to assess and modulate response as behavior changes.

14.090-POL-1 Purpose

The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the United States Constitution and Article 1, § 4 and 5 of the Washington State Constitution. The Seattle Police Department (SPD) takes seriously its responsibility and commitment to support and facilitate the exercise of these rights in a fair and equitable manner, without consideration as to content or political affiliation, with as minimal a footprint as is reasonably necessary to preserve public safety and order.

This policy recognizes that assemblies in Seattle may range from small gatherings that require no police support, to permitted celebratory and/or protest marches, to large-scale, unpermitted demonstrations where activities outside of First Amendment protections, including significant traffic disruption, property destruction, and/or threats of violence may require a greater police presence.

This policy is intended to provide clear guidance to officers, supervisors, and commanders in employing appropriate crowd management, intervention, and control strategies in a manner to facilitate, to the extent safe and feasible, the right to free expression and peaceable assembly. This policy is also intended to provide guidance by which officers and supervisors may objectively determine at what juncture a demonstration or assembly leaves the realm of legal protest and becomes an abridgement on the life-safety and property rights of others. At all times, SPD's response will be based upon the conduct of those assembled, not the content of their speech or affiliation. See [RCW 9A.84.010](#).

The department recognizes that the visible appearance and/or actions of law enforcement may affect the demeanor and behavior of a crowd. It is the department's mission to de-escalate whenever safe and feasible to do so, without compromising public order and safety.

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The department also recognizes that the unlawful acts of some members of a crowd do not automatically turn an assembly from peaceable to unpeaceable. It is the department's commitment to provide officers and supervisors with crowd management and intervention strategies that allow for the peaceable expression of federal and state rights while at the same time removing individuals whose illegal behavior jeopardize the safety of lawful activity.

This policy is intended solely to guide the decisions, actions, and operations of department personnel in planning for and responding to crowd management situations within the City of Seattle. It is not intended to expand or abridge constitutional analyses with respect to the parameters of First Amendment protections and restrictions more appropriate for a court of law.

This policy is to be read in conjunction with manual sections [14.100 – Special Events](#) and Title 8 – Use of Force.

14.090-POL-2 Definitions

For terms not defined in this policy see manual section [8.050 - Use of Force Definitions](#). The following definitions apply throughout this policy:

Crowd Management: strategies and tactics that employ communication and dialogue with event leaders to obtain voluntary compliance with lawful orders and allow for minimal enforcement action.

Crowd Intervention: strategies and tactics that are designed to facilitate continued exercise of constitutional rights by isolating and arresting law violators within an otherwise lawful assembly.

Crowd Control: strategies and tactics, including dispersal, that are employed in the event a crowd or portion of a crowd becomes involved in violent or otherwise destructive behavior and which are intended to protect life, restore, and maintain order, allow for the arrest of law violators, and the protection of vital facilities and property.

CMIC Matrix: crowd management, intervention, and control concepts and strategies.

De-Escalation: strategies and tactics used by officers and commanders, when safe and feasible without compromising law enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of gaining voluntary compliance from a subject.

Incident Commander (IC): the sworn employee in charge of the department's on-scene response to an event.

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Legal Observers: individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests, and other activities where there is a potential for conflict between those assembled and law enforcement or security.

- The following may be indicia of a legal observer: wearing a green National Lawyers' Guild (NLG) issued or authorized Legal Observer hat and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.

Media: consistent with [RCW 5.68.010](#), "media" means any person who is an employee, agent, or independent contractor of any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite station or network, or audio or audiovisual production company, or any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution.

- For purposes of this policy, the following are indicia of being a member of the media: visual identification as a member of the press, such as by displaying a professional or authorized press pass or wearing a professional or authorized press badge or some distinctive clothing that identifies the wearer as a member of the press.

Police Outreach and Engagement Team (POET): officers integrated in the day-to-day operations of the Community Outreach and Community Response units. During critical incidents, POET officers are tasked with advising ICs and liaising with community elements involved in the event.

Tactical Advisor: an officer experienced and trained in special event and demonstration management who is assigned to provide tactical options to ICs during crowd management situations.

14.090-POL-3 The Department Uses the Incident Command System (ICS) for Crowd Management Events

1. When Assigned, an Incident Commander Will Plan and Oversee the Department's Response Before, During, and After an Event

The IC may delegate authority and assignments. The IC will utilize POET officers to attempt to interact with organizers and gain cooperation, when feasible.

2. The Incident Commander Retains Ultimate Responsibility for the Actions of Subordinates

To fulfill this obligation, the IC will be available for consultation.

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A tactical advisor is assigned to the IC, when feasible. Tactical advisors are strictly advisory, and the IC maintains ultimate responsibility for actions of subordinates.

3.The Incident Commander Will be the Rank of Sergeant or Above

Exception: An officer can serve as IC until a sergeant responds.

If feasible, a lieutenant will assume command when there are two sergeants and/or two squads involved in the event.

If feasible, a captain will assume command when there are two lieutenants involved in the event.

(See manual section [1.020 - Chain of Command](#))

14.090-POL-4 Incident Commander Documentation

The IC will follow manual sections [14.100 – Special Event Planning](#) and [8.400 – Use of Force Reporting and Investigation](#) for planning, staffing, and documenting a crowd management response.

14.090-POL-5 The Incident Commander Will Use the Crowd Management, Intervention, and Control Concepts Strategies (CMIC) Matrix

Any public assembly of individuals or groups, lawful or unlawful, may require support and/or intervention by law enforcement. Depending upon the situation, the law enforcement response can range from observation and/or crowd management strategies, to crowd intervention and control strategies, as outlined in the CMIC Matrix.

The CMIC Matrix is a guide for the IC and allows for agility in police action in response to dynamic crowd events. Such considerations may include the overall positioning of a crowd, and whether it is static or mobile. The IC will document their considerations in their statement.

14.090-POL-6 The Incident Commander Will Employ Crowd Management Strategies Prior to and During an Event, Whenever Feasible

The IC will consider strategies in the CMIC Matrix when planning and managing an event.

14.090-POL-7 Officers May Use Crowd Intervention Strategies When Safe and Feasible

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Whenever isolated unlawful activity by individuals or small groups in an otherwise peaceable assembly can be addressed through targeted enforcement, commanders and sergeants directing a law enforcement response may use crowd intervention strategies, as provided in the CMIC Matrix, to intervene and remove law violators such that a peaceable assembly may proceed.

The effect of the crowd intervention strategies upon the demeanor of the crowd should be considered.

14.090-POL-8 Crowd Control and Dispersal

1. The Incident Commander May Order that a Public Safety Order be Issued

The IC may order that a public safety order be issued to move, disperse, or refrain from specified activities in the immediate vicinity upon determining that there are acts or conduct within a crowd that create a substantial risk of causing injury to persons or substantial harm to property.

The IC will not order a public safety order to be issued unless the IC has determined that the risk observed cannot be contained through crowd management or crowd intervention strategies.

2. Upon Determining That a Public Safety Order to Disperse is Necessary, the Incident Commander Will Ensure That There is an Avenue of Egress Sufficient to Allow the Crowd to Depart

3. Where Available, Sound Amplification Equipment Will Be Used to Issue the Public Safety Order

The IC will make reasonable effort to ensure that the order is heard or received. The IC may direct the Public Affairs unit to broadcast the public safety order on social media.

4. After Making a Public Safety Order, the Incident Commander Will Modulate Tactics and Strategies as Circumstances Permit

The goal of a public safety order to disperse is to restore and maintain public order. If the IC determines that a crowd no longer poses a substantial risk of injury to persons or harm to property, the IC will re-evaluate tactics and strategies and will adjust the response as time and circumstances permit, consistent with the CMIC Matrix.

(See 14.090-TSK-3 Issuing the Order to Disperse)

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5. The Incident Commander Will Document the Circumstances Upon Which a Public Safety Order was Issued, Including any Considerations as to Less Restrictive Means to Restore Public Order

14.090-POL-9 Use of CS Gas

1. CS Gas May Only Be Used When Necessary to Alleviate a Present Risk of Serious Harm During an Unlawful Assembly

2. Only the Mayor of Seattle May Authorize an Incident Commander to Deploy CS Gas

Before the use of CS gas, the IC must exhaust alternatives to the use of CS gas that are available and appropriate under the circumstances (for CS gas deployment see [8.300-POL-13 CS Gas](#)).

Upon the authorization by the mayor (or next highest elected official in the mayor's absence), the IC may approve the use of CS gas to alleviate a present risk of serious harm.

Per [RCW 10.116.030](#), in the case of a riot or incident outside of the City of Seattle city limits where CS gas may be used, a sworn employee may only use CS gas after receiving authorization from the highest elected official of the jurisdiction where the CS gas is to be used.

3. Upon Determining That the Use of CS Gas is Necessary, the Incident Commander Will Ensure That There is an Avenue of Egress Sufficient to Allow the Crowd to Depart

4. The IC will Issue an Announcement of Their Intent to Deploy CS Gas

The IC will make reasonable efforts to ensure that the warning is heard or received.

The IC will allow sufficient time and space for the crowd to comply with the warning.

Where available, sound amplification equipment will be used to issue a CS gas warning.

The IC may direct the Public Affairs Unit to broadcast a CS gas warning on social media to the public.

5. After Ordering the Use of CS Gas, the Incident Commander Will Modulate Tactics and Strategies as Circumstances Permit

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The goal of the use of CS gas is to prevent serious harm and to restore and maintain public order. If the IC determines that a crowd no longer poses a risk of serious harm, the IC will re-evaluate tactics and strategies and will adjust the response as time and circumstances permit, consistent with the CMIC Matrix.

6. The Incident Commander Will Document the Circumstances Upon Which CS Gas Was Deployed, Including any Considerations as to Less Restrictive Means to Restore Public Order

14.090–POL-10 Media and Legal Observers

1. It is the Department’s Goal to Provide the Media and Legal Observers as Much Access as is Safely Possible to Assist them in their Duties and Responsibilities

2. The Incident Commander Will Consider Identifying an Area for Members of the Media and Legal Observers Outside of the Anticipated Impacted Area

Except for spontaneously occurring events, and when practicable, the IC will consider identifying an area outside of the anticipated impacted area, but within viewing distance and audible range of the event, for members of the media or legal observers to assemble.

Nothing about this policy restricts any member of the media or legal observer to such identified areas and officers shall not take enforcement action solely because members of the media or legal observers do not remain within the identified area.

3. Officers Will Not Arrest Members of the Media or Legal Observers for Failure to Disperse, Unless they are Physically Obstructing Lawful Efforts to Disperse the Crowd

Nothing about this policy authorizes members of the media or legal observers from otherwise complying with lawful commands, nor prohibits arrests based on probable cause on other offenses.

14.090-POL-11 Use of Force

It is the department’s mission to facilitate crowd management events with as minimal force as is reasonably necessary to protect life and property. In both crowd intervention and crowd control situations, officers may be required to physically engage individuals who exhibit conduct ranging from obstructive to violent behavior. In these situations, officers may have to utilize force to move crowd members who do not respond to verbal orders, control violent individuals,

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or to effect an arrest. In considering strategies and tactics, officers should weigh the risk of harm resulting from officer action against the risk of harm that may otherwise continue.

This policy is to be read and applied in conjunction with Title 8 of this manual. While the department recognizes that officers will face unique and challenging circumstances that cannot be exhaustively addressed in policy, officers and commanders are expected to apply core principles of de-escalation and modulation of force when safe and feasible to do so. Nothing about this policy creates an exception to the requirement that officers may use only force, which is objectively reasonable, necessary, and proportional to bring an incident or person under control, while protecting the life and safety of all persons.

1. Officers May Make Individual Decisions to Use Force Consistent with Title 8

Officers will take reasonable, necessary, and proportional actions to protect against specific imminent threats of physical harm to themselves or identifiable others or to respond to specific acts of violence or substantial destruction of property.

Officers will employ de-escalation strategies and tactics within all crowd management contexts, whenever safe and feasible under the circumstances, to reduce or eliminate the necessity to use physical force (see manual section [8.100 – De-Escalation](#)).

Where feasible, officers will consult with a supervisor prior taking action to protect against destruction of property.

2. The Incident Commander Has Authority to Direct the Use of Less Lethal Weapons Other Than CS Gas to Disperse the Crowd

An immediate life safety emergency is an unplanned, dynamic situation where immediate police action is necessary to protect the officers' and/or the public's safety.

Exception: A supervisor may authorize the use of less lethal weapons to move or disperse a crowd if an immediate life safety emergency exists that requires this action be taken and there is insufficient time to obtain incident command approval.

(See manual section [8.300 – Use of Force Tools](#))

3. Only Personnel Trained to Deploy Less Lethal Weapons (Blast Balls, OC Spray, 40 mm Less Lethal Launchers, CS Gas, and Pepperballs) are Authorized to Carry and Use These Weapons Under the Supervision of the Incident Commander or Their Designee

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Training will include information about the less lethal weapons, how to effectively deploy them, safety considerations, the specific effects on people and the environment, and how to decontaminate persons.

Only SWAT and 40mm trained CRG officers are authorized to carry and deploy 40 mm less-lethal impact rounds during crowd control operations.

4. Officers Will Not Deploy Less-Lethal Weapons (Blast Balls, OC Spray, 40 mm, CS Gas, and Pepperballs) to Move a Crowd Until an Incident Commander Instructs Officers to Deploy Them

The IC will give the crowd a dispersal order and a reasonable amount of time to comply, under the circumstances.

5. As the Level of Violence Within a Crowd that Justified the Dispersal Order Diminishes, the Incident Commander Will Affirmatively Direct Sworn Employees to Modulate their Force

6. Uses of Force that Occur During the Course of Crowd Management Are Reported, Investigated, and Reviewed in Accordance with Manual Section [8.400-POL-5](#)

14.090-POL-12 Providing Medical Aid

1. Officers Will Provide Aid to Subjects Exposed to OC, Blast Balls, 40 mm, Pepperballs, if Feasible, and Within Their Training

Medical aid may include summoning medical assistance, if more appropriate.

2. Officers Will Request Medical Response or Assistance, When Safe and Feasible

Officers will request medical response or assistance for subjects exposed to CS gas, OC, or pepperballs when any of the following occur:

- Subjects complain of continued effects after having been decontaminated, or
- Subjects indicate that they have a pre-existing medical condition (e.g., lung or heart ailments) that may be aggravated by OC or pepperballs, or
- Subjects who appear to have been injured by a less-lethal weapon or who complain of pain or injury from a less-lethal weapon.

14.090-POL-13 Debrief of Crowd Management Events of Short Duration

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1. Following the Event, Sergeants and Incident Commanders Will Conduct a Day-of-Event Debrief

Sergeants will conduct a debriefing of their assigned officers and document any observations or suggestions on an Event Debrief Form (form 23.5).

Sergeants and the Incident Command staff will then have a separate debrief to discuss the following subjects:

- Event staffing
- Deployment
- Command issues
- Communication issues
- Logistical issues
- Use of less-lethal weapons
- Areas of success
- Areas for improvement

2. The Incident Commander Will Complete an After-Action Report

(See manual section [14.010 – After-Action Reports](#))

14.090-POL-14 Debrief of Large Scale and/or Prolonged Events

1. For Incidents Which are Large in Scale, or Whose Duration Is Multiple Days or Weeks, the Day-of-Event Debrief Will Consist of the Post-Event Briefing Form

The IC, or their designee will complete the Post-Event Briefing Form.

2. The After-Action Report Will be Written by the Chief of Police's Designee

The completion date will be determined by the Chief depending upon the length of the on-going incident.

14.090-TSK-1 Incident Commander Responsibilities

Incident Commander

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1. If feasible, **contacts** the event organizer to discuss department facilitation.
2. **Develops** contingency plan regarding staffing and tactics.
 - SPD task force callout criteria.
3. **Considers** utilizing specialty units.
4. **Reviews** mutual aid callout criteria and which tools mutual aid may bring into the City of Seattle and how they will document their use of force.
5. **Provides** a staffing plan to the SPD Budget Section based on the Staffing Matrix, if feasible.
6. **Communicates** each unit's mission to the relevant supervisor or commander.
 - **Instructs** the supervisor or commander to develop and provide plans.
 - **Approves** unit plans.
 - **Ensures** the event plans are detailed in the Incident Action Plan, to include the goals, objectives, rules of engagement, and the CMIC Matrix.
7. **Briefs** officers and supervisors using the SPD ICS briefing format.
8. **Remains** available for on-scene consultation.
9. For short duration events:
 - **Debriefs** supervisors and commanders.
 - **Collects** Event Debrief Forms from the supervisors.
 - **Considers** including the Wellness Unit.
10. For prolonged events:
 - **Coordinates** with the Chief of Police regarding the After-Action Report and **ensures** the IC or designee completes the Post Event Briefing form.
11. **Completes** an After-Action Report consistent with the requirements of manual section [14.010 – After-Action Reports](#).

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- **Routes** the After-Action Report and Event Debrief Forms to the Patrol Operations Bureau Commander, via the chain of command.

14.090-TSK-2 Operations Section Chief Responsibilities

Operations Section Chief

1. **Develops** methods or tactics that will be used to accomplish the mission, as directed by the IC.
 - **Submits** plans to the IC.
2. **Debriefs** assigned officers after the incident.
3. **Documents** observations and suggestions on an Event Debrief Form (form 23.5).
 - **Submits** Event Debrief Forms to IC.
4. **Attends** separate debrief with IC.

14.090-TSK-3 Issuing the Order to Disperse

Incident Commander (or designee)

Upon determining that the crowd presents an imminent risk to public safety, or that large-scale property destruction appears likely, the IC or designee, when feasible:

1. Where available, **utilizes** sound amplification equipment so the crowd can hear the dispersal order.
2. **Considers** using the Public Affairs Unit to broadcast dispersal orders on social media.
3. **Places** officers at the rear of the crowd to verify that the order to disperse will be heard by all.
4. The IC (or their designee) will **issue** the following order:

"I am (rank and name) of the Seattle Police Department. For safety reasons and to prevent further crimes in the crowd, I am now issuing a public safety order to disperse, and I command all those assembled at (specific location) to immediately disperse, which means leave this area. If you do not leave the area, you may be arrested or subject to other police action. Other police action could include the use of chemical agents or less-lethal weapons, which may inflict significant pain or result in serious injury. If you remain in the area just

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described, regardless of your purpose, you will be in violation of city and state law. The following routes of dispersal are available: (routes). You have (reasonable amount of time) minutes to disperse.

(Repeat) The following routes of dispersal are available: (routes). You have (reasonable amount of time) minutes to disperse.

(Repeat) The following routes of dispersal are available: (routes). You have (reasonable amount of time) minutes to disperse.”

5. **Provides** direction to media.
6. **Allows** a reasonable amount of time for the crowd to disperse.
7. **Repeats** the order to disperse, if feasible.
8. **Considers** issuing the order in multiple languages, where feasible, and depending upon the situation.
9. Continually **assesses** the balance of dispersal time and the goal of retaining control of the situation.

Where the IC has determined it is not safe or feasible to accomplish any of the above, the IC will document that reasoning in their statement.



City of Seattle

Seattle Police Department

MEMORANDUM

To: Antonio Oftelie, Monitor
Tim Mygatt, United States Department of Justice
Matt Waldrop, United States Attorney's Office
Lisa Judge, Inspector General for Public Safety

Cc: Tim Burgess, Deputy Mayor
Kerala Cowart, City Attorney's Office
Gino Betts, Director, Office of Police Accountability
Cali Ellis, Interim Director, Community Police Commission
Rev. Harriet Walden, Co-Chair, Community Police Commission
Rev. Patricia Hunter, Co-Chair, Community Police Commission
Joel Merkel, Co-Chair, Community Police Commission
Lisa Herbold, Council Public Safety Chair

From: Adrian Diaz, Chief, Seattle Police Department
Eric Barden, Deputy Chief, Seattle Police Department
Brian Maxey, Chief Operating Officer, Seattle Police Department
Rebecca Boatright, General Counsel, Seattle Police Department

Date: July 28, 2023

Re: Sentinel Event Review – Comprehensive Response

Preface

With the Inspector General's four waves of the Sentinel Event Review (SER) to examine significant events over the summer of 2020 now complete, the Seattle Police Department is pleased to have this opportunity to update the federal monitor, the Department of Justice, City partners, and the people of Seattle about actions taken over the past two and a half years to address the concerns and suggestions reflected in each of the SER wave reports and to respond comprehensively to the recommendations offered by the SER panels.

We begin by noting again the extraordinary work of the OIG in bringing together these panels and the panels' willingness to dig beyond surface assumptions and into facts, circumstances, and perspectives that drove action and reaction over those painful months of 2020. We appreciate the honesty, vulnerability, and move towards healing evident in the SER reports, both within the community and among the members of SPD who participated.

The approximately 140 SER recommendations generally fall within eight categories, as grouped by the OIG: accountability, communication, crowd management generally, officer wellness, procedures, situational awareness, training and use of force/crowd control. Because many recommendations overlap or are repeated between waves, we respond to the recommendations comprehensively by category, but with each specific category's recommendations listed.

Before turning to the recommendations specifically, however, we also want to take this opportunity to discuss a topic that hovers around the periphery of these recommendations, ties into the ongoing work SPD is doing to foster healing externally and internally, and which continues, for some, to be inextricably clouded through the lens of 2020. We address this topic – “SPD culture” – in the spirit of honest dialogue and on a foundation based in research, while also recognizing how flat this may land with some. We take this opportunity because just as the SER sought to humanize all involved in the process, and because so many of the SER recommendations land in this space, if we – as a department and as a City – are truly to move forward to make Seattle a safer, healthier place for all, an honest discussion must move beyond surface headlines when discussing our department and our officers. We approach this topic fully mindful of the sensitivity inherent in the discussion, cognizant of self-inflicted wounds, and with the sincere hope of driving productive conversation.

This conversation is necessary because the word “culture” is often pejoratively referenced, but without definition, foundation, or metric for assessment. To level set, accordingly, we address culture in the context of organizational governance, in which “culture” – across any field or organization – is studied as a paramount indicator of organizational health and a corollary marker of success.

In policing, “culture” is typically defined by two distinct concepts: “occupational culture,” or traits similar across police organizations, and “organizational culture,” or traits unique to a particular organization. At a macro level, both occupational and organizational culture comprise a set of shared beliefs, attitudes, and values driven in large part by the nature of police work and the environments in which officers serve and are commonly understood as a foreseeable response to conflicts between roles and expectations inherent in the work. This has been described as follows:

[P]olicing can be understood to have *instrumental* and *symbolic* roles. The former has to do with issues such as crime reduction, public safety, and prosecution of offenders; the latter is concerned with public perception of safe communities, as well as trust and confidence in, and the legitimacy of, the police profession. These roles, and public perceptions of how successful police are in performing them, are increasingly in conflict because of social change. One such change is reflected in “non-crime demands” on police, which are estimated to account for about 80% of police calls for services. These calls result mainly from failures in other social service delivery and criminal justice systems, such as mental health, drug, and alcohol treatment; housing; public schools; the courts and correctional institutions. As the instrumental police role broadens, the number of non-crime contacts with citizens increases. But when responding to non-crime calls for service involving the mentally ill, the homeless, and parties in dispute, the

potential for violent escalation also increases, which undermines public assessment of police officers in their symbolic role.¹

The impact of this duality, in turns, can play out in predictable form:

The occupational environment of criminal justice includes exposure to human misery, exposure to great situational uncertainty, and exposure to intrinsic danger, all coupled with high levels of coercive authority and ‘invisible discretion’ granted to these officers which enable them to carry out their mandates. Moreover, most criminal justice employees work in unique organizational environments which expose them to rigid, militaristic authority structures with fixed lines of command and communication that are coupled with often vague and conflicting guidelines for policing and procedures. As a result, these employees are faced with tremendous job-related stressors. In an effort to cope with these working conditions, these employees are said to adopt a unique subcultural response ... presumed to be made manifest in the manner by which officers perceive their role as police and the scope of this role; their beliefs regarding how the role should and should not be performed; and their attitudes toward the criminal law, criminal procedures including department policies, the police and other criminal justice practitioners, [and] criminal offenders[.].²

In other words, simply put, police “culture” can and should be understood as a predictable sociological and psychological response to the unique constellation of stressors under which police operate. For this reason – and as many of the SER recommendations reflect – if we (collectively, in City government) are serious about sustaining a healthy ecosystem that encourages true community engagement in fostering public safety, we must also take seriously our responsibility to provide a working environment that mitigates to the extent we can against the stressors that so often are at the root cause of an unhealthy culture.

To assume or to infer from this discussion, however, a *negative* culture inherent to SPD would not only be unfounded, but it would also be inaccurate. We know from the extensive backgrounding, screening, and overall hiring process that officer candidates ultimately selected to join our department seek these positions in large part from a desire to give back to the community and advance the common good – traits consistent with research showing that desire to be a core motivation for most individuals entering a career of public service. We also know, from studies and surveys conducted over the past ten years and, more recently, through ongoing near real-time feedback from individuals receiving police service, that Seattle citizens hold overwhelmingly positive views of those SPD officers with whom they engage – reflective of the integrity, compassion, and professionalism with which officers routinely perform their duties. And we know, because we see every day in those events that don’t make headlines, the acts of compassion and dedication that officers exhibit every day – acts that yes, are usual, ordinary, and expected, that we offer up not for praise, but for context.

¹ Corey, D.M. and Zelig, M. (2020). *Evaluations of Police Suitability and Fitness for Duty*. New York: Oxford University Press (citing Hales, G. and Higgins, A. (2016). Prioritisation in a changing world: seven challenges for policing. *The Police Effectiveness Project in a Changing World*, Paper 2. London: Police Foundation.)

² Cochran, J.K. and Bromley, M.L. (2003). The myth (?) of the police subculture. *Policing: An International Journal of Police Strategies and Management*. 26(1): 88-117 (pp. 88-89).

But we also acknowledge how easily in-group isolation – in any occupation – can form and, as the events of 2020 laid bare, we are acutely aware of the fragility of community trust and cohesion. Over the past two and a half years, as we work to rebuild the department, a central focus has been on efforts to foster an organizational culture of service and community through programs that strengthen the foundational commitments that brought employees to SPD. SPD's outward mindset initiative, pre-academy training for police and community service officer recruits (SPD 360: Before the Badge), expanded programs around officer wellness, and an evolved system to support employee performance (Proactive Integrated Support Model, or PrISM) are all evidence of the department's commitment to mitigate against the professional strain that is well understood to drive the insularity of the occupational culture. Because we reference back to these programs throughout this response, we describe these briefly below.

Outward Mindset. SPD implemented this program in 2022 to address a theme common to both community members and officers that became amplified during 2020 – a deep desire (demand) to be treated as people who matter rather than as objects. Community members feel objectified by the police; police officers feel objectified when they are viewed only as a badge number. This feeling of objectification can lead to low trust and poor relationships with the community and low employee engagement within the department, which can further degrade employee morale and performance. Appreciating this as an area that needed to be addressed, SPD engaged with organizational change management experts (the Arbinger Institute) to conduct training that focuses the department on understanding those factors at the root cause of organizational dysfunction. Starting from the premise that the reason that most organizational change efforts fail is because they focus too heavily on behavior, rather than the cognitive drivers (mindset) underlying behavior, the focus of this training is to enable participants to make the shift from an inward mindset to an outward mindset, where intentional consideration of the unique needs, challenges, and goals in each interaction can lead to more equitable interactions, internally and externally. As participants increasingly shift from inward to outward, it creates a positive reciprocal effect that leads to greater trust, engagement, and results. Some milestones relating to this initiative include:

- All members of Command Staff participated in the Outward Mindset program in 2022 with a senior facilitator from the Arbinger Institute in anticipation of a broader implementation.
- Five SPD employees became certified to facilitate the Outward Mindset program.
- The Outward Mindset program was incorporated into the core of the new Before-the-Badge program for all new recruits prior to attending the academy.
- All Community Service Officers (CSOs) went through the Outward Mindset program to enhance teamwork and improve their ability to help community members with their unique needs.
- All civilian and sworn supervisors, including sergeants, lieutenants, and captains, have now completed the program.
- All OPA supervisors including the director have participated in the Outward Mindset program.

- Starting in the fall of 2023, 50 SPD leaders (including Command Staff) will participate in a one-year intensive Outward Mindset Leadership program which includes the application of the Outward Mindset concepts throughout the department as well as small cohorts for discussion and individual coaching for support.

Before the Badge (BTB). This multi-week program is designed to provide pre-academy recruits with foundational knowledge, skills, and relationships to succeed as partners in the community and leaders in our department. The program includes several distinct modules that include:

- **Community Centered Dialogue and Learning** is built on the central tenets of relational policing: transparency, honesty, acknowledging mistakes and challenges, and collaboratively identifying areas for improvement and opportunities for growth. Recruits learn that every encounter is an opportunity to build trust and develop skills to engage respectfully in difficult conversations. In addition to topics relating to the history of policing in America and Seattle, recruits engage and learn directly from communities most impacted by policing, including currently and formerly incarcerated persons, personal who have experienced violence, immigrant and refugee communities, local business communities, and students. Recruits walk beats in each of the precincts, meets with demographic and precinct advisory councils, participate in volunteer opportunities, and learn about expectations, priorities, and challenges that may be unique to each precinct. This module also includes learning about brain development and the impact of childhood trauma, poverty, addiction, and other societal stressors on many with whom officers will come into contact.
- **Wellness and Professional Development** includes training on the neurophysiology of stress, identifying early warning signs, and tools to build resilience. Recruits are introduced to existing training around wellness and peer intervention, including Active Bystander for Law Enforcement training, to give them the skills to intervene with themselves and others before their behavior may take them down a negative path. A central objective of this module is to counter any stigma around the utilization of wellness services and to emphasize the importance of self-care. Active Bystander for Law Enforcement (ABLE) training – a training that all sworn members of SPD have received and that empowers colleagues to intervene with each other when they see a colleague going down a negative path – is introduced as a measure to be welcomed as a supportive tool.
- **Public Safety 360** introduces recruits to the administration and structure of SPD and others in the public safety system. Recruits interact with both sworn and civilian command staff members, learn about the different units within the department, and ride along with officers in each precinct. Recruits hear from public safety partners, including prosecutors, defenders, social services, and outreach programs. Particularly as public safety is re-examined locally and nationally, this module aims to provide a welcome to the department and a baseline understanding of their roles in a more holistic model of public safety.

More information about this program, which is now routinely studied for replication by departments around the country, can be found on our website at <https://www.seattle.gov/police/community-policing/before-the-badge>.

Officer Wellness. Occupational safety has long been an unquestioned priority for law enforcement generally. Recognizing the physical demands of the job, many agencies equally prioritize the physical health of their officers through either mandatory physical fitness requirements or incentive packages to maintain a level of physical well-being. Yet despite the overwhelming body of research showing the psychological damage caused, acutely and cumulatively, by the vicarious trauma to which officers are routinely exposed, the undeniable interplay between mental health and physical well-being, and the impact of both on officer performance, it has only been relatively recently that the urgency of prioritizing first responder mental health has been advanced as an integral and equally critical component of comprehensive police reform.

The integrity of officer wellness to comprehensive reform efforts is evidenced through the evolution of DOJ investigations and actions since the Final Report of President Obama’s Task Force on 21st Century Policing was published in 2015 (three years after Seattle’s Consent Decree was negotiated). This report, which sets standards on which many DOJ actions and Consent Decrees are based, calls out Officer Wellness as a key pillar of reform, on equal footing with other core pillars (such as those that are reflected in Seattle’s Consent Decree). Of note, whereas Seattle’s Consent Decree focuses almost exclusively on issues concerning transparency and accountability in police/community interactions and operations, Consent Decrees implemented in the years following show the increasing awareness at the federal level of holding jurisdictions and agencies equally accountable to their officers – of ensuring that officers are receiving not just the training they need to provide the community the safe and Constitutional policing it deserves, but the support they need to mitigate against the daily trauma they are expected to bear. The DOJ’s 2017 Findings Letter into the practices of the Chicago Police Department, for example, emphasized this point:

Policing is a high-stress profession. Law enforcement officers often are called upon to deal with violence or crises as problem solvers, and they often are witness to human tragedy. ... The President’s Task Force on 21st Century Policing put it well, noting that “the ‘bulletproof cop’ does not exist. The officers who protect us must also be protected – against incapacitating physical mental, and emotional health problems as well as against the hazards of their job. Their wellness and safety are crucial for them, their colleagues, and their agencies, as well as the well-being of the communities they serve.”

A report from DOJ to the Congress in support of the Law Enforcement Mental Health and Wellness Act of 2017, signed into law in January 2018 with broad bipartisan support, likewise urged:

Good mental and psychological health is just as essential as good physical health for law enforcement personnel to be effective in keeping our country and our communities safe from crime and violence. An officer’s mental state affects his or her behavior in a variety of situations and can influence decision-making and judgment. However, the current state of support for officer wellness nationally is disjointed and faces both cultural and logistical obstacles.

The daily realities of the job can affect officers' health and wellness. They face a constant need to be vigilant, long hours and shift work, exposure to the daily tragedies of life, and regular interaction with people who are in crisis or hostile toward them. Patrol officers face a national undercurrent of heightened public scrutiny of the profession that overshadows the legitimacy of their individual efforts. ... All of these things added to the ordinary hassles of the workplace and their personal lives can lead to cumulative stress and burnout.

Officers anticipate and accept the unique dangers and pressures of their chosen profession. However, people under stress find it harder than people not experiencing stress to connect with others and regulate their own emotions. They experience narrowed perception, increased anxiety and fearfulness, and degraded cognitive abilities. This can be part of a healthy fight-or-flight response, but it can also lead to significantly greater probabilities of errors in judgment, compromised performance, and injuries. Failing to address the mental health and wellness of officers can ultimately undermine community support for law enforcement and result in officers being less safe on the job.

While SPD has long had an established and robust peer support program, SPD has historically lagged far behind other similarly situated jurisdictions in providing and prioritizing comprehensive, proactive in-house wellness-based services. Over the past few years, recognizing the fundamental risk management value of providing employees the supports they need to be at their best when meeting the demands of their duties, SPD has pivoted to elevate in-house wellness as a central pillar of its core priorities and commitments. SPD's Wellness Unit, comprising both sworn and civilian members, now provides critical in-service support services, including critical incident stress debriefing, roll call check-ins, advisory work, mentorship programs, multi-faith chaplaincy referrals, enhanced peer support, referrals for outside services where appropriate, and training. SPD is in the process of recruiting an executive level, licensed clinical psychologist with experience in first responder trauma to further grow this unit.

Proactive Integrated Support Model (PrISM). As part of its obligations under the Consent Decree, SPD established an Early Intervention System (EIS), intended to provide supervisors insight into employees at risk of "problematic behavior." Consistent with empirical study of other similar systems in other agencies that called into question the efficacy of the model, external review of SPD's system found the methodology to be rife with false positives, weak at identifying true positives, viewed as punitive and ineffective, and with disparate impact on female officers. With support from the DOJ and the Monitor, SPD is nearing implementation of a new system that, consistent with the social science view that problematic performance can be to some extent a behavioral manifestation of the cognitive and emotional strain inherent in the policing environment. The new system is rooted in examining factors far upstream of performance indicators that are empirically predictive of a future negative outcome if left unmitigated. Based in principles of wellness, mentorship, and positive supervision, this approach has gained national attention as an innovative model of proactive support.

Through this lens of root cause remediation and mitigation and against the backdrop of this work over the past two and a half years, we now turn to the recommendations offered by the SER panels. As one final caveat, we ask that readers remain mindful of two important points: (1) These recommendations are, consistent with protocols of a sentinel event review generally, those of lay citizens selected to

serve on the panels. They are not necessarily OIG recommendations that have been vetted against best practice, deconflicted with others in the City’s accountability structure, or socialized with stakeholders who may feel differently. And (2), in several instances, recommendations reach into matters that are directed by other City departments or programs; where collaboration is required, we pledge our engagement in any discussions that may follow.

1. Accountability

Recommendations

- Ensure that officers are held accountable for securing their weapons at all times and that violations of SPD policies on these matters are investigated and enforced.
- In the event of an evacuation of a government building or other emergency, strategic decision-making should be done at the highest level of government with accountability and transparency.
- SPD should ensure processes for transparency and accountability are in place in case of evacuation or another emergency.
- SPD should ensure appropriate recordkeeping and documentation during significant planning and decisions during large-scale protests.
- SPD should conduct and publish an After-Action Review of actions taken during a large-scale protest response within 60 days of the incident, including all non-confidential materials used in the review.
- Evaluate current Use of Force reporting during protests and large-scale events to ensure accuracy and sufficient level of detail, including requiring explicit justification for each instance of force used and prohibiting the use of “boilerplate” justifications, and ensuring officers complete reports in a timely fashion.
- Acknowledge the importance of discipline and corrective action for accountability as well as community’s perception of legitimacy of disciplinary processes and evaluate current disciplinary policies and procedures to ensure consistency and appropriate levels of discipline.
- Acknowledge the harm to BIPOC community caused by SPD actions over time and issue a public apology for the actions of SPD during the 2020 protests.

Response

Like “culture,” “accountability” is a word often referenced but without clear definition. In some circles, “accountability” seems inextricably conflated with discipline, with little room for mistakes, and remediation that can only be achieved if punitive measures are meted out. In others, “accountability” means reaching deep into root cause analysis, understanding the circumstances that led to an action, identifying failures (whether systemic or individual) along the way, and implementing measures to address deficiencies, whether in policy, training, supervision, governance, and/or – where

warranted – discipline. As designed under the Consent Decree, internal systems of accountability are directed towards that iterative improvement – identifying negative (or positive) outcomes through a critical review of events to drive continual refinement of policies and training. Although policy requires SPD to refer to the Office of Police Accountability any policy violations identified, investigations into such violations, and recommendations as to discipline, are handled by that office, subject to oversight by the Office of the Inspector General (as designed under the City’s Accountability Ordinance, SMC Chapter 3.29).

The legitimacy of any accountability process is inherently riddled with nuance between perception and the reality. For example, of the estimated 19,000 contacts OPA received relating to the 2020 protests, it is estimated that more than half (around 13,000) were specific to one incident, reviewed by the SER panel, in which it was alleged that a seven-year-old boy was pepper sprayed by a named officer (with cell phone video of the aftermath and the officer’s personally identifying information subsequently going viral). Breaking down the incident, OPA identified that (1) the seven-year-old was not pepper sprayed; instead, pepper spray was transferred onto him by his father, who in turn received a transfer of pepper spray from the original subject to whom pepper spray was applied (in an incident in which the force was found consistent with policy) and (2) the officer whose information was published on social media worldwide was, in fact, not the officer applying the force. This incident illustrates the complexity: while fully understanding how optics often drive perceptions of an event, accountability measures must be both grounded in factual accuracy *and* appropriately directed, if the system is to have legitimacy. This, of course, takes time.

At a systemic level, requirements and timelines inherent in the ordinance-created accountability processes that – while understandable for purposes of thoroughness, fairness, and completeness – also impact supervisors’ ability, particularly in the case of minor policy violations, to timely address errors. For SPD employees, any policy violation, however minor, is referred to OPA, and employees are prohibited from discussing the substance of the allegation. This can be contrasted with other agencies and businesses, where supervisors are expected to address minor issues in a timely manner, often through training or mentoring. This means, in the case of SPD employees, that complaints are typically subject to a six-month investigation process, sometimes longer. While SPD appreciates the work of OPA to streamline complaints to the extent it can, SPD also strongly supports a model that empowers supervisors to take firmer action in managing their squads.

At a procedural level, as many of the SER recommendations reflect, it is the stark reality that, however refined and comprehensive existing policies and practices (all previously court-approved) were, usual protocols were quickly overwhelmed by the magnitude, duration, intensity, and distribution of the protests, in addition to added complications imposed by the strain of the still-early weeks of the pandemic. Policies and protocols, particularly around planning, use of force reporting, and after-action review that easily apply in the ordinary circumstances for which they are drafted were impractical, if not impossible, to comply with under the rapidly evolving, escalating, and ongoing circumstances at hand. Recognizing this, SPD engaged with OPA, the OIG, the CPC, DOJ, and the Monitor to establish an alternative procedure – leveraging the accountability roles of OPA and the OIG – for ensuring that force was reported, thoroughly reviewed, and evaluated, and that appropriate channels were identified for capturing the lessons learned that would typically fall within an after-action report. This protocol, which contemplates agility and recognizes that the extraordinary nature of such events is often

incompatible with prescriptive and precise directives, are now captured in policy revisions to Manual Section 14.090 (Crowd Management, Intervention, and Control) and Manual Section 8.500 (Reviewing Force), which provides (POL-6):

This policy recognizes that there may be long periods of civil unrest or other large-scale events where the investigation and review processes set forth in this policy are not feasible in a reasonably timely manner. In such instances, the Chief of Police will consult with the Director of the Office of Police Accountability, the Inspector General for Public Safety, and the Director of the Community Police Commission, to determine whether department goals of critical review, transparency, and accountability are better and/or more timely achieved through alternative process(es), within SPD or in coordination with the OIG.

Other policy revisions related to SER recommendations in this category have also been implemented. SPD Manual Section 9.060 (Firearms) requires employees to take reasonable precautions to assure that any department-authorized firearms are safely stored and “in such a manner as to prevent loss or access by unauthorized persons. Revisions to 14.090 (Crowd Management), discussed more fully below, provide clearer guidance for documentation and assessment.

One specific recommendation in this category warrants individual attention. While much of the work SPD has done over the past two and a half years towards reconciliation and healing with the community has been through personal interactions and engagement, from officers up to the Chief, in June 2021, Chief Diaz issued this public statement, which bears reiterating here:

To say that the last 18 months have been challenging is an understatement. The global pandemic brought sharply into focus disparities and service gaps at the complex intersection of public safety, public health, and public welfare. The virus and resultant but necessary restrictions further stretched capacity within the safety net of social services that provide basic food, shelter, and health resources. The deaths of George Floyd in Minneapolis, Breonna Taylor in Louisville, and so many others around the country at the hands of police created long-overdue urgency to address the systemic racism that pervades institutions far upstream of police – in housing, healthcare, education – and that are perpetuated throughout the criminal justice system. Amidst often hostile rhetoric, SPD experienced an unprecedented exodus of officers to other jurisdictions, including many from SPD’s newest, best trained, and most diverse recruit classes, that dropped SPD to its lowest deployable patrol staffing levels since the 1980s. These converging challenges, each complex, are hallmarks of what is unquestionably a pivotal point for policing.

At the same time, from these challenges emerge unique opportunities. The unprecedented events of this past summer were in many respects a “stress test” in extreme conditions of those systems established through the Consent Decree for self-assessment, review, and iterative reform. A Consent Decree cannot cure all injustice that may result in the next crisis, but it can ensure that when crises arise, the department has in place structures, processes, and capacity to ensure that lessons learned continue to inform tactics, policies, and training as they evolve. Without in any way seeking to minimize the real harm that many experienced this past summer, SPD believes these systems have shown themselves to be intact and strong. Within weeks of

the death of George Floyd, SPD reviewed its policies to ensure alignment with calls for change. Reflection in the midst of protests gave rise to tactical adaptations, since incorporated into new policies and training, that led to a marked shift in how we manage events such as those that overwhelmed us, as they did cities across the nation, at the time. Collaboration with the Office of Police Accountability, the Office of the Inspector General, and the Community Police Commission ensures that continuing analysis will inform yet further iterations of policy, in the spirit of the on-going reform the Consent Decree sought to ingrain. Of particular note, SPD is grateful for the partnership of the OIG in bringing together SPD commanders and experts based throughout Europe to share knowledge on communications and understanding crowd dynamics, as well as for the invitation to engage in the OIG's community-based Sentinel Event Review, which represents, for Seattle, a first-of-its-kind opportunity for reform grounded in reconciliation and healing.

...

We also know that paramount to the success of these efforts, and overarching all that we do, is our ability to restore the community trust that we know was shattered over the events of this past summer. We know that trust, especially in times of crisis, is a sacred promise that can be easily broken, and that restoring this trust requires not simply difficult conversations along the way, but true action. I pledge, for as long as I am privileged to hold the position of Chief of this department, that building community trust, grounded in principles of relational policing, equity, transparency, and accountability, will remain my highest priority. To those who have demanded of us no less, to those who have challenged us, and to those many city and community stakeholders who are partnering to re-envision how public safety services in this city are delivered, I extend my deepest gratitude and respect. Your vision, your experience, and your perspective are and will always be critical to driving change for the better. And to all with whom trust has been broken, to members of the community and the department alike who bear the physical and emotional scars from this past summer, and to all who are hurting: I am deeply sorry. Reform means that we accept the responsibility that is ours to bear, we learn from our experience, and we consistently strive to do better. We have, we can, and we will continue to do better. We will never stop listening.

It is in that vein and with this spirit of reconciliation, healing, and resolve that we offer this summary as to the work ongoing and upcoming within SPD to ensure that even as challenges and set-backs arise, we correct course, and we hold true to our commitment to be the department that our city, our communities, and our employees deserve.

Apologies may be easily said; living up to a promise is more difficult. SPD genuinely hopes that the sincerity of its apology and its commitments to promises – both to the community and the officers who have given so much to this department – are manifest in the work it has done over the past two and a half years, including in the initiatives described in the preface to this response.

2. Communication

Recommendations

- Enable better interaction with demonstration organizers in advance of protests, SPD should build legitimacy through expanded community policing initiatives, including the expansion of foot patrols, and build deeper personal relationships between officers and individuals throughout the communities of Seattle.
- Engage in direct and ongoing community dialogue to understand and adapt to the diverse community perspectives about the institution of police.
- Evaluate whether an encrypted standardized alert messaging system (e.g., WhatsApp, Yammer, or other technology) could replace radio communication during crowd facilitation events.
- Establish the Incident Command Post and communication lines to officers facilitating protests or demonstrations so that the Incident Commander can observe multiple events in different locations simultaneously and receive real-time updates about each event, from officers trained in supervision of crowd events who are physically present at each protest or demonstration.
- If short term closures of street or blockages of specific intersections are necessary for the safety of the crowd, SPD should ensure that its officers can adequately inform individuals in the crowd of the reasons for the blockages and provide them with adequate alternative options to continue moving.
- In addition to the use of the LRAD, which has proven effective in ensuring that communications are heard, exploring feasibility of leveraging the "Alert Seattle" and communications network within the Emergency Operations Center to provide real-time information to the community.
- Ensure that all limitations on crowd behavior or conduct are designed to maximize the safety of individuals in the crowd, and that any communications about such limitations articulate that safety rationale in ways that emphasize LEED principles. Specific messages should be conveyed in simple, layperson terms that are accessible to all, and should be focused on explaining the public safety necessity of motivating the message.
- Improve SPD's capability to inform and communicate with demonstrators during group events in the following ways: 1. Multiple modes of communication should be considered, including audio, video, other visual media (e.g., posters, banners, etc.), social media, and others; 2. The modes of communication and specific messages should be included in the Incident Action Plan created by SPD prior to events and updated throughout the pre-event planning phase; 3. The communications should be documented and recorded during the event, including by having officers certify their use on police radio that is retained by SPD; and 4. Their impact should be evaluated and specifically assessed in post-event review by SPD.

- Procure a suitable audio device to ensure that the crowd can hear messages relevant to the event.
- Communicate in advance when it plans to create barricades or restrictions to protesters or marches. The reason for the creation of such zones should be clearly articulated and driven by a public safety rationale.
- SPD and City should coordinate and jointly create designated officers/staff in both SPD and the City who are responsible for engaging with residents and businesses affected by civil unrest or large-scale incidents causing similar disruption. (Emergency Community Communications Officers (ECCO)).
- As set forth in OIG’s Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons Report in August 2020, SPD and the City should “[p]rovide public education concerning crowd dispersal policies, procedures and overall SPD crowd management tactics.” These materials should be easily accessible and provide information that can assist residents and bystanders who may be affected by nearby deployments of crowd dispersal devices (e.g., CS gas, OC spray, or “blast balls”).
- SPD should conduct a public education campaign alerting the public to the specific harm that lasers can cause when shined into the eyes of others, and to the state laws surrounding their usage.
- SPD should develop a public education program regarding tactics when arresting someone. The program should include education about the number of officers used to conduct the arrest, the rationale for arrest procedures and an openness to discussion with community about ways to improve these tactics.
- SPD should research and enhance policy requirements for increased communication with crowds, especially during large or stationary protests, to manage expectations and provide greater credibility for police action.
- SPD and SFD should attempt to coordinate with civilian medics participating in crowd events prior to the protests and establish a plan for care of injured or incapacitated persons during the event. In situations where coordination before an event is not possible, SPD and SFD should ensure civilian medics within crowd events have an established and continuous communication method with SPD and SFD to coordinate the efficient and safe removal of anyone who has been injured or incapacitated during a protest or crowd event.
- SPD and the City of Seattle should ensure Seattle neighborhoods are not left without public safety and other essential services. If City government is prevented from accessing an area, it should make every effort to provide city services and emergency response. The City should assign a City liaison to facilitate communications with impacted community members about service provision or interruption.
- SPD should improve internal channels of communication to increase efficient and timely collaborative decision making amongst command and with officers.
- SPD should ensure coordinated communication of goals so the public has a clear understanding of SPD actions.

- SPD and the Mayor’s Office should publicly communicate rationale for decision-making during large-scale protest response to decrease mistrust on the part of the public and officers.
- An SPD Public Information Officer should accompany the Incident commander to important or large-scale events.
- SPD should amend SPD Communications policy (12.010) to require all SPD radio transmissions to be recorded and stored for a specified period to allow for appropriate after-event review. SPD officers should not use unrecorded radio channels to transmit information, whether such lines are public (unencrypted) or secure (encrypted).
- SPD should implement a system for daily debriefs with reports at the officer, supervisor, and command levels during emergencies. These debriefs should be sent to the SPOC and EOC to assist senior officers in managing the emergency, as well as to assist senior officers in communicating important information back to those squads.
- SPD should evaluate the utility of a circular organization chart, where information flows internally from one bureau to another.
- SPD should develop a policy framework to guide public communications to ensure assertions are credible and supported by reliable information before dissemination.
- SPD and the City of Seattle should establish a reliable and effective communication strategy to address the provision of public safety and other City services during “occupy” style protests.
- SPD and the City of Seattle should ensure a strategy for events that may impact neighborhoods, including appropriate contact information and identification of appropriate stakeholders.
- SPD should use POET (Public Outreach and Engagement Team) officers to work with protestors to establish systems and procedures for providing other emergency safety and medical assistance.
- Ensure that SFD and SPD operational staff have real-time, direct lines of communication during emergencies.
- Implement a unified radio channel for dispatchers that responding officers from both SPD and SFD use for direct communication and rapid coordination when responding to a potentially dangerous scene.
- SPD and the City of Seattle should ensure public statements by SPD and City government are accurate.
- Implement a staging area for media where possible.
- Develop a process to identify a visual signal for media to obtain from SPD and wear as identification.
- Explore other policies and practices from other jurisdictions regarding media presence at protests and events to incorporate best practices.

- Work with a diverse range of local media outlets to identify best practices for facilitating observation.
- Develop a process for POET officers to communicate with media during crowd events.

Response

The fact that so many of the SER recommendations focus on matters of communication underscores the critical point that – let alone whether crowd members can hear police direction – when the purpose of police action is not communicated or understood, crowds tend to coalesce around a unifying belief that it is their simple act of assembly, and the purpose of their assembly, to which the police were reacting.

While the principles of outreach, engagement, and transparency have long been fundamental to managing large crowds, over the past two years a growing number of agencies in the United States, borrowing from structures common in the United Kingdom and Europe, have begun to formalize units dedicated to open channels for communication and information flow. With appreciation to the Inspector General, who introduced crowd psychology expert Professor Clifford Stott to SPD, SPD has leaned into this approach, formally establishing its Police Outreach and Engagement Team (POET). Serving in khakis and polo shirts, rather than regular uniform, unit members serve as liaisons between crowd organizers, members, and operational commanders, checking on crowd members' well-being, and offering aid and guidance as requested. While always difficult to measure outcomes avoided, the success of this approach can be argued from the fact that, since this unit was stood up, it has deployed to approximately 20 large scale city-wide events, all of which have proceeded without incident.

- Measures to facilitate communication are now baked into policy and practice. Building on initial post-2020 revisions to SPD's Crowd Management policy (Manual Section 14.090, approved by the federal court in 2021 and which incorporated early lessons learned from the field and from SER), SPD's current policy contains clear direction on communicating during large scale events. Such direction includes:
 - Formalizing ongoing POET engagement with event organizers, participants, and stakeholders in facilitating lawful assemblies (speeches, marches, demonstrations, rallies, picketing, public assemblies, protests, celebratory events);
 - Using sound amplification equipment to ensure that directions to crowds are heard/received;
 - Utilizing social media and Alert Seattle applications to disseminate information;
 - Documenting any issues with communication in event debrief forms;
 - Repeating directions as feasible and necessary;
 - Providing, where practical, an area for media and legal observers to assemble outside of an anticipated impacted area, but within viewing distances and audible range of the event (without restricting any member of the media or legal observers to such area).

SPD also continues to work with City partners, including Emergency Operations, Fire, SDOT, SPU, and Parks to identify further opportunities to improve communication and cooperation. Additionally, during large-scale events, SPD embeds a public information officer at the scene to (a) liaise with the media as appropriate and (b) assure that information is accurate and current.

Finally, SPD supports panel recommendations aimed at fostering greater transparency and understanding outside the immediate context of a crowd management event. SPD's Before the Badge initiative, described earlier in this report, is aimed directly at this goal. SPD has, since 2020, also hosted events to familiarize community groups with certain tools that SPD uses, including discussions about policies and training around the use of such tools. Consistent with one recommendation, SPD has adopted a circular organization chart specifically to embed a culture of information exchange and collaboration between bureaus.

SPD stands ready to continue discussions on better and more collaborative ways to foster communication in regard to recommendations that extent beyond SPD and welcomes continued OIG and CPC collaboration.

3. Crowd Management

Recommendations

- Alter SPD's strategy for policing protests to focus more explicitly and comprehensively on the facilitation of peaceful assembly and ensuring the safety of protestors. The focus and mindset of SPD officers deployed to assist in crowd events should move away from "crowd management" "crowd control" and Law enforcement" to "facilitation of speech" and "crowd protection and safety."
- Embrace procedures that visibly signal SPD's commitment to ensuring the safe and peaceful gathering with the minimum necessary engagement of SPD officers and limit that engagement to: promoting the ability of individuals and groups to express First Amendment freedoms; protecting the physical safety of individuals within as well as beyond the crowd and preventing the destruction of public or private property.
- Modify SPD's tactics of crowd facilitation to prioritize communication, de-escalation, and carefully conducted removal of those who are creating an immediate danger to others or causing destruction or to property, allowing the rest of the event to continue undisturbed.
- Provide officers with clear direction about SPD's priorities in facilitating demonstrations, particularly when the institution of policing is the focus of the protest. SPD's focus should be on facilitating access and safety for all. SPD should enhance the ability to address dangerous situations with minimal impact on peaceful demonstrators while minimizing the use of munitions or indiscriminate force.
- Use mobile response units (e.g., bicycle or other vehicles) that are distinct from crowd facilitation officers or "dialogue officers" to address agitators or instigators of violence in the crowd. Mobile response units should remain out of sight and in reserve unless and until

they are needed and engage in ways that permit individualized attention and minimize the impact on peaceful protestors and on the event in general.

- Avoid the deployment of officers in ways that prevent pedestrian/crowd movement or that separate individuals from other areas of protest without a clearly articulated safety rationale.
- Seattle City Council should consider whether CCTV camera footage could be kept by a third party for a limited time, and accessible to SPD or other appropriate parties upon request for suitable public safety purposes, including the ability to track stolen police weapons that would pose an imminent danger to the community.
- The Mayor's Office and SPD leadership should critically examine the utility of a curfew and should exhaust other messaging options before declaring one. If a curfew is announced it should be limited in scope and clearly focused on public safety, rather than the deterrence of public protest.
- Establish protocols to guide officer responses to property crimes occurring during significant public disorder events. These protocols would, among other things, establish clear guidance for officers on: a. when to disperse and when to arrest individuals who may be committing property crimes during civil unrest; b. how to conduct arrests of individuals who require prone handcuffing; and c. how to arrest individuals committing property crimes without escalating tensions between SPD and observers of the arrest.
- SPD incident commanders should maximize the buffer space between officers and the crowd whenever possible.
- On-site incident commanders should carefully evaluate the context and threat from a crowd, with assistance from "dialogue officers" in the crowd.
- Consider the creation of dialogue officers to ensure effective, real-time, de-escalatory communication between SPD and Protestors.
- In keeping with SPD's commissioned report after May Day 2015, SPD leadership, including the Chief, should be fluent in all SPD rules of engagement and understand specific "if/then" scenarios contained in the rules.
- SPD should embrace and maintain principles of procedural justice in all of its communications and tactics relative to the facilitation of crowd events.
- During protests, SPD should ensure that protesters are protected from vehicular traffic and ensure a constant ability to visually monitor those barriers.
- As set forth in OIG's Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons Report in August 2020, SPD should research and enhance policy requirements for increased communication with crowds, especially during large or stationary protests, to manage expectations and provide greater credibility for police action. SPD should prioritize "normative compliance," that is, crowd agreement with SPD requests due to their legitimacy, over "instrumental compliance," or the use of tools (e.g., less lethal weapons) to force compliance.

- SPD should prohibit the use of ruses for crowd management or control purposes. If a ruse is justified during a crowd event or other emergency, any officer ordering a ruse should (a) be in the chain of operational command set forth in the daily briefing sheet; (b) document the circumstances Justifying the ruse, the substance of the ruse, and the outcome of the ruse; and (c) inform and document communication to others in the chain of command on the existence, timing and content of planned ruse transmissions. SPD should specifically task appropriate members of the chain of command to coordinate the ruse if these conditions are met.
- SPD should ensure all officers at the rank of Lieutenant and above receive thorough training on all aspects of crowd management and emergency response, so any officer in SPD leadership can capably staff the EOC, the SPOC, or other crowd event response structures.
- Task POET officers with identifying certain protestors as point-people and coordinating direct communication.
- Station POET officers strategically within crowds of protestors to communicate with officers on the front lines and to provide information about the crowd’s ability to move back, and to safely facilitate such movement.
- Station POET officers in police vehicles equipped with LRAD to effectively communicate with the crowd.
- Develop an ongoing assessment of the feasibility of crowd movement to increase on-the-ground awareness.
- SPD should ensure a diverse set of officers with relevant operational authority are permitted to observe and/or participate in strategic and tactical discussions during emergencies to allow for differing perspectives and critical evaluation in decision making.
- SPD should consider implementing a departmental culture evaluation to identify and address barriers for officer of color being promoted to leadership roles within the department and encourage attention to identifying and reducing bias across the department.
- SPD should provide increased health and wellness services to 911 call-takers and other emergency services employees.
- Establish a staffing model for crowd events such that protests of the size and scale of the Westlake protests can be suitably staffed with mobile officers and other facilitation while minimizing SPD intrusion into the protest.
- The Mayor’s Office, SPD, SFD, the Department of Transportation and other departments should conduct appropriate scenario planning for disruptive protests. In particular the scenario planning should ensure that sufficient resources are deployed so that other SPD locations can protect and serve the people of Seattle in the event that public service from one or more of its buildings are disrupted by protest and ensure that sufficient public transportation exists to help protestors leave a protest where an unlawful assembly or curfew has been declared or a legal order to disperse has been issued.

- Develop an arrest policy for each event and convey this to officers beforehand. Flexibility should exist in the tolerance of lower-level misdemeanors balanced against the priority for ensuring the strategic goals of the operation.
- Conduct appropriate scenario planning and provide enough resources so that other SPD locations can protect and serve the people of Seattle in the event that public service from one or more of its buildings are disrupted by protests.
- Prior to planned demonstrations, SPD should coordinate with the City of Seattle and residents to remove barriers to visibility that might reduce safety to protesters during protest events, including, for example dumpsters.
- SPD and the City of Seattle should include OIG in planning meetings to offer recommendations and to stay informed.
- SPD should establish consistent staging points during large-scale protests or in areas where there is no public safety presence. If necessary, establish agreements with nearby businesses or other entities to establish closer staging areas to respond quickly to emergency situations.
- SPD and the City of Seattle should establish consistent rendezvous points for connecting injured people to emergency medical staff.

Response

Several recommendations in this category overlap with those in others, and in such cases, we refer back to those initiatives earlier discussed, including Before the Badge, and the discussion in response to recommendations relating to communication (including POET). And, where recommendations relate to broader City policy and engagement, we reiterate the department's commitment to working with City partners to advance greater alignment. In this section, we focus on two specific points: (1) evolved philosophy around crowd management that better informs policy and training, and (2) the inherent friction that may emerge between community stakeholders that policy and training must seek to reconcile.

This latter point is reflected, for example, in those recommendations that relate to the response to property crimes. We wholly acknowledge the perception of some that “property is just property” – that “it is insurable,” and that damage to property may pale in comparison to the broader message of the protests. We acknowledge that arrests in such instances may serve to escalate tensions within a crowd. At the same time, we also understand that to those who own or lease the property – including small business owners struggling to remain viable – such damage may reflect a significant threat to their livelihood and thus carries more significance than merely the brick and mortar. We also emphasize that to dismiss damage to property as “just property” ignores the reality that what may, on its face, be merely a broken window becomes very much a life safety threat when it becomes a portal for flammable material – such as a thrown Molotov cocktail – in a densely populated area. These are the types of policy considerations that incident commanders are expected to balance, often in rapidly evolving situations where the circumstances limit their immediately available options to a “bad

choice” versus a “worse choice,” and without the lens of 20/20 hindsight and known outcomes to guide their assessment.³

We offer that consideration as a way of daylighting in the spirit of honest dialogue the conundrum that arises – not as an excuse, and not to suggest that there is no way to untangle that knot. To the contrary, it is precisely this type of tension that evolved approaches to crowd management – implementing precisely the lessons that can be learned around crowd psychology – can mitigate to some extent. Consistent with recommendations relating to policy and training rooted in the social science literature in this area, SPD’s current Crowd Management Policy (Interim Manual Section 14.090, building off previously approved revisions in 2021) and its 2023 Crowd Management training⁴ are rooted in the following principles:

- Grounding the police approach in an understanding of social identity theory – understanding the impact of a police response in fostering separation and conflict; noting that while individuals may join a protest for myriad reasons, a police response that fails to differentiate among individuals or segments within the crowd and modulate their approach accordingly may foreseeably serve to unite the crowd in competition against the common “other” of the police, thus fomenting the very conflict the police are seeking to avoid.⁵

³ Consider, for example, the use of tear gas to disperse a crowd. While we wholly acknowledge the negative impact on the community (a lesson learned from the WTO protests and carried forward), it is more difficult to consider that decision objectively in the context of potential outcomes avoided (the “but for” consequences that may have resulted had SPD *not* dispersed the crowd at that time). With the real fear of buildings catching fire because of actual or threatened arson attempts, the floors of residential housing above businesses and the population density of the area, and the limited access for emergency vehicles to reach the scene, it is not an exaggeration to suggest that an alternative outcome – deaths, serious injuries, widespread damage – may have been avoided through that decision. While events and the nature of events will vary, consider, for example, the Mardi Gras riots of 2001, following which SPD was roundly criticized for not using available options to disperse the crowd as it had (to great criticism) the night before; consider as well the events on Capitol Hill only a week before this writing (<https://spdblotter.seattle.gov/2023/07/26/crowd-obstructs-police-response-on-broadway/>).

⁴ Two SPD commanders, both of whom have been nationally recognized as experts in crowd management training and tactics, visited Europe following 2020 to learn from the practices of other jurisdictions, including Sweden and England, regarding both the use of dialogue units (POET) and implementation of a response more rooted in understanding how crowd perception can drive crowd behavior.

⁵ A paper presented by the Swedish National Police, in discussing the formation of their dialogue units, explains this dynamic well:

If the police carry out a collective intervention against demonstrators, it creates an “us versus them” situation which may lead to [the result] that a group which started out as heterogenous will unite through the perception of the police as an assailant. This leads to a considerable risk that the conflict may escalate and that the police may be obliged to resort to increasingly robust methods. This may have the effect of increasing group solidarity still further in the group.

Swedish National Police Board (2010). *Dialogue Police: Experiences, Observations and Opportunities*. https://static1.squarespace.com/static/5437a800e4b0137bd4ed4b13/t/594750011b10e3c4c96e684c/1497845774724/Dialogue_bok100630Webb.pdf.

- More robust emphasis on crowd intervention tactics that focus on isolating and arresting law violators within an otherwise peaceable assembly;
- Reducing the SPD visible footprint around these events in order to avoid escalation that may result from an SPD presence;
- Emphasizing de-escalation and force modulation responsive to changes in crowd behavior following an order to disperse.
- A more robust statement of purpose that embraces Seattle’s approach to facilitating public assembly, over and beyond what would be required under a strict First Amendment analysis;
- Emphasis on de-escalation and acknowledging the potential for escalating tension through officer appearance;
- Emphasis on crowd intervention strategies where safe and feasible;
- Use social media to communicate expectations and dispersal orders;
- Revising the dispersal order/requirements for announcement to better inform of conditions and reflect expectations;
- Providing consistency in required warnings around the use of less-lethal tools;
- Additional documentation around pre-event planning and tactical considerations (incorporated in revisions to 14.100, incorporated by reference in 14.090).

While again difficult to measure outcomes that did not occur, it should be noted that, since these approaches were implemented, while SPD has continued to respond to and facilitate numerous assemblies, including some potentially volatile, *all* have remained peaceful.

4. Officer Wellness

Recommendations

- Implement staffing schedules, and provide officers with breaks, food and water, and pre- and post-event wellness initiative to help officers at crowd events - and especially at crowd events that are critical of SPD and policing - deal with exhaustion, stress, and primary or secondary trauma that might result from their participation at such events.
- SPD should provide safety eyewear and noise protection equipment to protect officers from lasers and sound devices that may be deployed in a protest/demonstration setting.
- SPD should pursue opportunities for officers to express their tensions and frustrations in an appropriate setting and provide guidance on productive ways to channel those emotions to help avoid scenarios in which officers use sarcasm, obscenities, or other displays of disrespect to community members.

- SPD should provide increased health and wellness services to 911 call-takers and other emergency services employees.

Response

SPD very much appreciates the panels' recognition of the impact on its officers staffing these events. This acknowledgment is in line with similar reports issued reflecting on the strain of 2020, overall, on law enforcement. A comprehensive guidebook published by one think_tank, for example, noted generally:

The last few years have presented unprecedented challenges, both to our communities and to public safety officers and first responders – especially law enforcement. Current events, including COVID-19, political rhetoric and chaos, societal conflict and division, and attacks on the policing institution, individual officers, and officers' families, have created a challenging environment where stress and trauma increased exponentially. High-stress police operations such as crowd management during periods of civil unrest are mentally and physically demanding. Crowd management often challenges officers to push their bodies beyond normal limits, leading to poor performance, fatigue, insomnia, and injury. In the summer of 2020, many officers repeatedly worked shifts that, at times, exceeded 12 hours, for 10 to 12 days straight, leaving little time for appropriate nutrition, rest, exercise, recovery, or sleep. Large numbers of arrests, long periods on bicycles, standing or moving in formations, or responding to threats are physically and mentally demanding.⁶

Indeed, acknowledging the physiological interplay between stress and demeanor, resilience, and performance – including the ability to employ de-escalation and communication strategies – almost all after-action reports driving best practices in crowd management following 2020 emphasize the importance of attending to the human needs of officers. As a department that in many respects is still struggling with organizational trauma, that is thrust back into those dark moments with every negative headline written (while fully acknowledging, in some instances, that is our own unforced error that may bring about the story), and that continues to stress its officers to compensate for the significant loss of personnel following 2020, SPD is grateful for the grace reflected in these recommendations.

With respect to recommendations relating specifically to industrial safety, SPD has supplemented its equipment for officers with better eye and ear protection. Concerning stress mitigation, in addition to the ongoing services provided by the Wellness Unit (described earlier in this report), measures emphasized in incident planning now include, consistent with these recommendations, ensuring that pre-event planning includes regular rotation of officers, that respite stations where officers can rest, with food and water, are provided, that officers are reminded to lean into principles of active bystander training and intervene when they see fellow officers exhibiting indicators of stress, and regular debriefings for officers following events with mental health practitioners, peer support, and chaplains.

⁶ National Policing Institute (2021). *Staying healthy in the fray: The impact of crowd management on officers in the context of civil unrest*. Arlington, VA. <https://www.policinginstitute.org/publication/staying-healthy-in-the-fray-the-impact-of-crowd-management-on-officers-in-the-context-of-civil-unrest/>.

We also feel compelled to respond specifically to one important recommendation from the panel – that “SPD should pursue opportunities for officers to express their tensions and frustrations in an appropriate setting and provide guidance on productive ways to channel those emotions to help avoid scenarios in which officers use sarcasm, obscenities, or other displays of disrespect to community members.” ***Without in any way attempting to normalize, minimize, or otherwise downplay the inappropriateness of such actions***, two considerations bear on this recommendation.

First, because so much of what officers do and say is captured on video and audio – a working condition that is critical for transparency and accountability but unique to law enforcement – the “safe spaces” that many would take for granted to vent and decompress (offices, vehicles, away from the public) are often not available to police officers. Thus, despite the objectively higher level of occupational stress under which officers operate, any opportunity outside a formal wellness setting to seek respite comes with the inherent risk that statements will be overheard and taken in context that does not account for the strain under which they were made. This point is, again, not to excuse conduct that is unquestionably unprofessional and organizationally embarrassing, but to note that the freedom to decompress that may be taken in other professions is less so in law enforcement.

A second point relates to conduct and statements that may be captured in a setting presumed to be private. There is no question that officers carry tremendous authority, are granted extraordinary privileges, and are appropriately held to an incredibly high standard of conduct on *and off* duty. At the same time, they are human – and coping mechanisms of dark humor are – as they are in any high-stress occupation – not abnormal from the perspective of human psychology. Consider, for example, the prevalence of dark humor in teaching⁷ (as a means of coping with increasingly hostile accountability measures directed towards teachers), in the medical field⁸ (as a means of coping with the inherent tragedy of sickness and death), and other high-stress environments.⁹

We reiterate: we offer these points not to downplay the impact on public trust when statements and conduct recorded outside the public space, outside of interaction with community, are daylighted.

We note these because, if an honest conversation is to be had in this space, we must also acknowledge that statements and conduct that some will understandably view as shocking, that when published understandably serve to diminish the public trust, and that will lead many to broadly view the culture of an organization through the lens of that perception, are neither unique to law enforcement nor an

⁷ Bullough, R.V. (2012) Cultures of (un)happiness: teaching, schooling, and light and dark humor. *Teachers and Teaching*, 18:3, 281-295).

⁸ Duenas, A.N., Kirkness, K., and Finn, G.M. (2020) Uncovering hidden curricula: use of dark humor in anatomy labs and its implications for basic sciences education. *Med.Sci.Educ.* 30, 345-354 (noting the use of dark humor as a coping mechanism for the surreal and morbid acts of dissection); Nunes, R.I., Jose, H., and Capelas, M.L. (2018) Grieving with humor: a correlational study on sense of humor and professional grief in palliative care nurses. *Hol.Nurs.Pract.* 32(2): 98-106 (noting the use of humor to cope with end of life); Hardy, C. (2020) Humor and sympathy in medical practice. *Med Health Care Philos.* 23(2): 179-190 (noting the prevalence of dark humor often directed at patients). See also Segal, J. (2019) Physicians and Gallows Humor. Is it Unprofessional? *Medical Justice*, <https://medicaljustice.com/physicians-and-gallows-humor-is-it-unprofessional/> (identifying gallows humor as “grim and ironic humor in a desperate and hopeless situation” and arguing that dark banter between colleagues, outside the presence of patients, is not unexpected, not inappropriate, and not unprofessional).

⁹ Potter, ZR (2023) *Laughing through the pain: an analysis of dark humor in trauma-and-crisis centered occupations*. <https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=2550&context=honorsthesis>

unforeseeable response to professional strain. It is precisely for purposes of mitigating this stress, breaking down siloes with communities, and providing officers with productive means of identifying and productively channeling their stress that Before the Badge was developed and the Wellness Unit expanded.

5. Procedures

Recommendations

- Identify a specific area for officers reporting for crowd facilitation duty to convene and leave their vehicles, providing a shuttle system for officers to and from the areas where they are deployed and supervision for the vehicles.
- If exigent circumstances prevent an officer from parking a vehicle at the designated area, officers should notify the SPOC of the location of the vehicle(s), and a designated officer should move the vehicle(s) to a designated safe area.
- Implement a GPS system through the SPOC that allows incident Command to know the precise location of every officer, vehicle, and lethal munition deployed during a crowd event.
- When an emergency creates a public safety need that limits access to buildings, SPD should create a standard, unbiased procedure for ensuring maximum access for building residents and guests.
- SPD should coordinate more effectively with the City of Seattle and relevant agencies to ensure the continued provision of city services (e.g., power, water, waste management, etc.) throughout periods of emergency, including civil unrest.
- SPD Incident Action Plans (IAPs) should follow a standardized approval process that includes review at the appropriate command level to allow for accountability of decision-making. SPD should communicate IAPs to all officers prior to the implementation of the acts set forth in the IAP.
- SPD Incident Command Plans during crowd events or emergency events should include officers with day-to-day operational authority over the resources necessary to address the emergency in question.
- SPD and the City of Seattle should assess which department 911 call-taking and dispatch services should be housed under (note: Seattle City Council voted to move 911 call-taking moved to the new Community Safety and Communications Center [CSCC] on May 24, 2021).
- SPD and the City of Seattle should recognize the role of SPD as public servants in delivering public safety and should develop procedures to ensure continued provision of public safety and essential services in the case of large-scale protests or other instances where regular service delivery is interrupted.

Response

SPD has incorporated several of these recommendations into deployment protocols around crowd management events. Specifically:

- SPD has re-evaluated the way it mobilizes patrol task force resources and has procured two retired King County Metro vans for each precinct, which are used to facilitate the ingress and egress of additional SPD resources from dynamic events. When a request for task force mobilization occurs, all precinct officers assigned to the event muster at their precincts; one officer is the designated driver who drives to a pre-determined location, drops off the squad, and leaves the area – staying in close enough proximity to be able to immediately respond to pick up the squad as needed.
- Major deployments of SPD resources are managed by the Seattle Police Operations Center (SPOC), which leverages these vans and other large conveyance vehicles to move resources in and out of deployment areas; only department vehicles which are required to facilitate other operational priorities (road closures, area denials, escorts, etc.) are deployed into the field to support operations.
- Gaps in location data have been addressed by way of a transition to Motorola PSERN (Puget Sound Radio Network) radios, which can “geolocate” all SPD officers during large-scale deployments. Vehicles are viewable through their mobile data terminals, as all are equipped with GPS beacons.
- All deployments of less-lethal munitions are documented on the SPOC log, including the deployment location, and all entries into the SPOC log are timestamped for easy post-incident reconciliation.
- Concerning coordination with other City departments, SPD provides liaisons to the Emergency Operations Center during large-scale events and demonstrations when the EOC is activated. These liaisons work to ensure the smooth flow of information to and from SPD.
- SPD follows a standardized process for incident action plans that – in ordinary circumstances – are pushed out by 5:00 pm the evening before the anticipated event. While this process – like others discussed in the section above – was impacted by the scale and duration of the protests, SPD is satisfied that it is achieving its goals, both for assuring chain of command responsibilities and, learning from each incident, continual iterative improvement.

6. Situational Awareness

Recommendations

- Modify SPD's policy on content neutrality to permit officers staffing a public event focused on issues of policing to demonstrate solidarity with the crowd participants' rights to protest if they chose.
- Eliminate disrespectful statements or actions from SPD officers to individuals or groups protesting.
- Pursue a differentiated approach toward individuals within the crowd.
- Limit arrests during protests targeted at the police to individuals committing immediate or imminent harm to people or property, and do not arrest individuals for offenses committed at an earlier time unless they can be accomplished in a way that will not escalate emotions in the crowd.
- Train bicycle officers not to arrest individuals for passive resistance techniques like "shoulder-checking" unless the officer(s) determine that the acts are clear, deliberate, and intended to substantially interfere with the ability of the officer(s) to perform his or her immediate public safety responsibilities.
- SPD officers should improve their situational awareness, considering the relationship of their actions to the overall strategy and tactics of the event, and the support available to the officer(s) relative to the size of the event.
- SPD officers should be trained to realize that the existence of Personal Protective Equipment (PPE) or other defensive measures in a crowd of demonstrators, is not itself an aggressive measure requiring an escalating police response.
- SPD officers should eliminate their use of sarcasm or confrontational dialogue with protesters in accordance with 5.001 - Standards and Duties Sec. 10. While the SPD section in question states that "employees will strive to be professional," (emphasis added), SPD should strike "strive to" from the policy and require professionalism.
- Wherever practicable, officers should inform non-compliant persons of their intention to physically touch/move them when necessary to achieve a public safety goal prior to initiating the physical contact.
- Develop policies to address and minimize officer fatigue during long-term protests.
- Consider reducing length of shifts.
- Provide officers with mental and physical support to help reduce stress and exhaustion, including counseling and mental health services and offering sufficient opportunities for breaks, food, and water during shifts.
- Use live CCTV footage and mobile SPD officers, whether on bicycles or in other vehicles, to rapidly intervene with and address groups destroying property.

- Avoid the creation of immovable lines of officers at demonstrations and provide a mobilization plan for the deployment of bicycle or other mobile officers to ensure appropriate and rapid responsiveness to unplanned crowd events.
- Modify the policy and training for prone handcuffing to eliminate body weight pressure being applied above the shoulders of a subject being restrained.
- Monitor crowd activities from a sufficient distance that physical contact between SPD and protesters is not required or likely to unless an individual is an immediate physical danger to others.
- When "leap-frogging" a protest, SPD officers should select alternative routes that minimize the likelihood of exposing officers or crowd participants to unnecessary risks.
- When a crowd prevents safe movement of bikes without contacting individuals in the crowd, SPD bicycle officers should consider dismounting and walking with bikes physically placed between officers and crowd members to minimize agitation and physical contact.
- Construct barricades between protesters and critical pieces of the public safety infrastructure (e.g., the East Precinct) rather than using lines of officers. Such barriers should strike a balance between protecting the integrity of the facility and preserving its accessibility to the public.
- SPD should strive to ensure it has visibility to all parts of a crowd during a protest event or demonstration to ensure the real-time ability to prevent or minimize a mass casualty incident. This may include appropriate rooftop access (with proper consent), or other solutions developed with community input.
- Particularly when police are the subject of a protest, SPD should avoid the creation of immovable lines of officers at demonstrations and ensure that the crowd can move in directions it wants without undue danger from cars or other risks.
- SPD should implement policies limiting deception and ruses to instances in which (a) the ruse seeks to avoid an imminent personal injury or death or significant property damage; (b) the ruse will not itself cause an escalation in tension with members of the community potentially leading to a personal injury, death or significant property damage; (c) the ruse is clearly documented by an authorized command officer or supervisor and communicated to other SPD individuals as appropriate to ensure compliance with the Incident Command System and stated SPD tactical objectives.
- SPD should prohibit broadcasted ruses.

Response

We divide this response into three subcategories: professionalism, tactics, and presentation.¹⁰

Professionalism. First and foremost, acts of unprofessionalism violate SPD policy, are unacceptable, and in situations such as protest management serve only to exacerbate existing tension. As with any policy violation, such acts are appropriately reviewed by OPA and, where warranted, subject to discipline. Emphasizing again that two truths, however competing, can each be valid, the fact that in some cases acts of unprofessionalism can be explained as a manifestation of underlying stress and fatigue does not make it excusable.

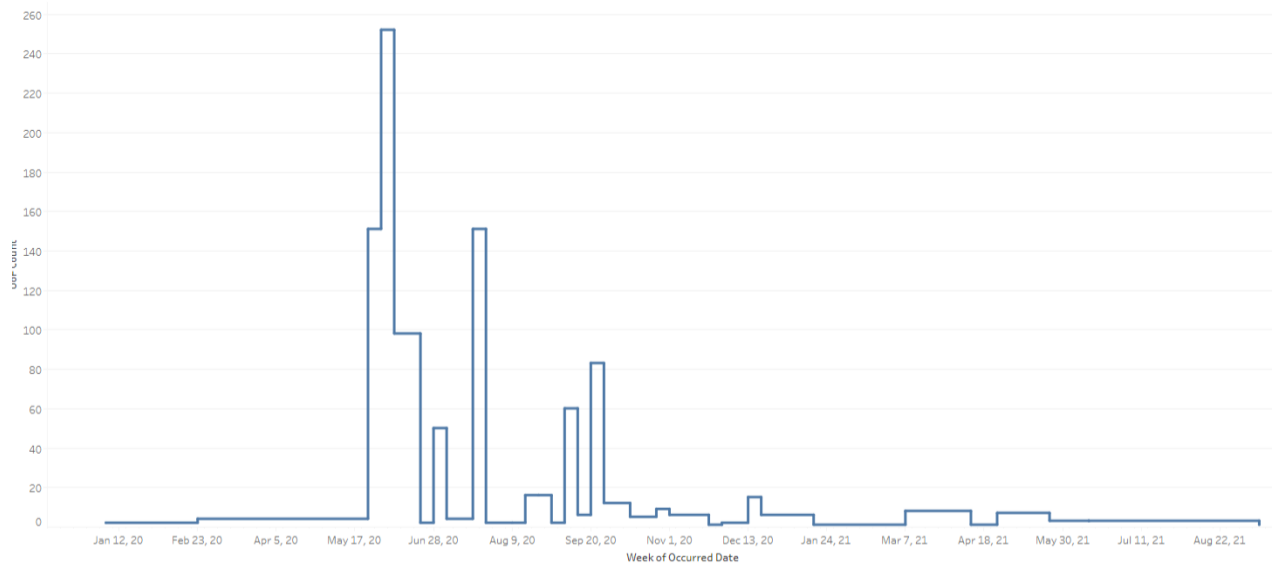
At a root cause level, the work SPD is doing around wellness, and its adoption of measures to address issues called out in the SER (shift length, respite, availability of food and water), are aimed in part at mitigating the impact of inherently stressful situations on officer physiology – allowing time for cortisol levels to retreat, assuring adequate nutrition, etc. – and to foster resilience.

Understanding the tremendous impact of the “ruse” incident specifically, we take this opportunity to address this incident and related recommendations. As Chief Diaz articulated in the Disciplinary Action Report, agreeing with OPA’s finding that what amounted to a deliberate disinformation campaign violated SPD’s policies on standards of conduct, while ruses, in and of themselves, are recognized as an accepted tactic by government agents when they fall within the scope bounded by law, ruses that “shock the conscience” can not only lead to legal risk but fundamentally risk undermining the public’s trust in law enforcement, as was the case here. This ruse was found to be squarely outside the bounds of reasonableness; both the scope and content were found to be unprecedented.

SPD is presently working on a revised policy that is intended to provide clearer guidance around the use of ruses to ensure they are limited to circumstances where they serve a legitimate, law enforcement interest; inure to the benefit of the subject to whom they are directed; and do not negatively impact public perception. Explicit in this policy is a prohibition, in any circumstance, on broadcasting ruses over radio – an act that SPD, in this incident, agreed was unprecedented and unacceptable.

¹⁰ We note that two recommendations included in this category relate as well to officer wellness; we refer back to the discussion in an earlier section of this report.

Tactics. Many of the SER recommendations reflect considerations that SPD also identified as the protests wore on, which commanders tactically adjusted to address, and which adjustments are now embodied in both the policy revisions that were court-approved in 2021 and interim revisions currently in place. These include integrating the lessons of crowd psychology into policy, training, and practice; avoiding the use of static lines; and – importantly – increased communication with crowd members (whether via POET or by amplified sound) to relay intent and foster cooperation around, for example, creating safe egress, isolating individual actors who demonstrate an intent to cause damage or harm, and explaining SPD actions. Of note and validating both the recommendations of the panels and the adjustments in the field, data around the use of force (see below graphic) show the dramatic impact of this change in tactics – specifically, after peaks of conflict throughout the end of May and into June, and following another peak around July 25th, the use of force dropped off considerably – reflecting a deliberate change in approach.



The department's expectations as to the lens through which officers and commanders are expected to form their tactical response is also cemented in policy (Manual Section 14.090-POL-1 Purpose:

The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the United States Constitution and Article 1, § 4 and 5 of the Washington State Constitution. The Seattle Police Department (SPD) takes seriously its responsibility and commitment to support and facilitate the exercise of these rights in a fair and equitable manner, without consideration as to content or political affiliation, with as minimal a footprint as is reasonably necessary to preserve public safety and order.

This policy recognizes that assemblies in Seattle may range from small gatherings that require no police support, to permitted celebratory and/or protest marches, to large-scale, unpermitted demonstrations where activities outside of First Amendment protections, including significant traffic disruption, property destruction, and/or threats of violence may require a greater police presence.

This policy is intended to provide clear guidance to officers, supervisors, and commanders in employing appropriate crowd management, intervention, and control strategies in a manner to facilitate, to the extent safe and feasible, the right to free expression and peaceable assembly. This policy is also intended to provide guidance by which officers and supervisors may objectively determine at what juncture a demonstration or assembly leaves the realm of legal protest and becomes an abridgement on the life-safety and property rights of others. At all times, SPD's response will be based upon the conduct of those assembled, not the content of their speech or affiliation. See RCW 9A.84.010.

The department recognizes that the visible appearance and/or actions of law enforcement may affect the demeanor and behavior of a crowd. It is the department's mission to de-escalate whenever safe and feasible to do so, without compromising public order and safety. The department also recognizes that the unlawful acts of some members of a crowd do not automatically turn an assembly from peaceable to unpeaceable. It is the department's commitment to provide officers and supervisors with crowd management and intervention strategies that allow for the peaceable expression of federal and state rights while at the same time removing individuals whose illegal behavior jeopardize the safety of lawful activity.

Presentation. We consider presentation in terms of both individual officer appearance and the SPD footprint, overall, in First Amendment events. Regarding the former, SPD understands the community concern that officers in "hard gear" may signify an expectation that events will turn violent, thus in itself serving as an escalatory element. At the same time, SPD must balance its obligations with respect to occupational health and safety regulations and its duty to provide its employees with adequate protection against foreseeably hazardous circumstances. Considering acts of arson, potentially blinding lasers being directed into officers' eyes (discussed in a prior SER recommendation), projectiles routinely directed at officers, and a direct attack on an officer that, but for his helmet, might have proved deadly,¹¹ orders with respect to how officers were equipped necessarily involved a balancing of several factors. That said, SPD's crowd management policy now specifically contemplates (as referenced above) acknowledgement the negative impact that the appearance of officers in hard gear may have on crowds; for that reason, in nearly all events that SPD staffs, SPD's preferred approach is to deploy officers in their standard duty uniform and gear.

Several recommendations relating to SPD's visible footprint at crowd events urge SPD to develop tactics to be able to monitor crowds from a distance to minimize their visible presence (e.g., via CCTV or other such technological solutions). To be clear: SPD would strongly support the ability to be able to meet these recommendations by expanded use of technology; other cities, for example, rely heavily on the availability of cameras in the public space, drones, and other means of providing situational awareness for exactly the reasons that are called out in the SER reports. Not only does the use of such equipment allow departments to use their human resources more efficiently (critical, in this era of depleted staffing nationwide), it enhances the ability to target situations calling for a police response more precisely. In situations such as crowd management, it would allow officers to identify and isolate individuals who are causing harm more accurately. Two pieces of City legislation limits SPD's ability in this area: SMC Chapter 14.12, which restricts SPD from collecting certain information relating to

¹¹ KIRO News, Man sentenced for attack on Seattle officer during 2020 demonstration, March 11, 2022. <https://www.kiro7.com/news/local/man-sentenced-attack-seattle-officer-during-2020-demonstration/MS6TJKZ7LBAQ5NZACH77ZAQJ7M/>

political activity, and SMC Chapter 14.18, which relates to the acquisition of technology meeting the definition of “surveillance” equipment. SPD would welcome discussions with the OIG, CPC, elected leaders, and community stakeholders to identify *and develop appropriate policies around the use of* technology solutions that not only meet these SER recommendations, but that also would serve to promote the overall peace and wellbeing of the city and the people of Seattle.

One additional recommendation that warrants further discussion relates to adjusting SPD’s policy requiring a “content-neutral” approach to First Amendment events to allow officers who sympathize with the crowd’s message to overtly convey their solidarity. In the context of the George Floyd protests, for example, there were SPD officers who took a knee – as there were in jurisdictions nationwide. To be clear - SPD applauds these officers for doing so in these circumstances but is also mindful of legal landmines around a policy that would allow officers to sympathize with one group but not another, depending on the content. This becomes particularly challenging in protest/counter-protest events, where the responsibility of the police is to allow both groups equal rights of speech and assembly, without appearing to be aligned with either.¹²

This is not to discount the recommendation at all, but to point out the difficulty in drafting a policy that would allow for such expression by government actors without running up against First Amendment requirements around content neutrality.

7. Training

Recommendations

- Ensure that all SPD officers, not just those officers assigned to crowd facilitation teams are trained in crowd psychology, crowd facilitation, public safety procedures and tactics, and the mobilization techniques likely to be used at future crowd events.
- Provide specific training, including scenario-based training on the management of large crowd events, and on the supervision of officers, for all SPD supervisors and above, including Incident Commanders and officers in the SPOC.
- To reduce perceptions of racial bias in SPD actions, SPD should incorporate the scenario of a white man shooting a Black protester, then walking unchallenged through a police barricade and surrendering to SPD officers into antiracism training for reflection and discussion by SPD officers to encourage equal treatment.
- SPD should use deployments of blast balls during the 2020 protest response as case studies when training new officers on blast ball use in high pressure scenarios.

¹² In the spirit of learning from the experience of other jurisdictions, consider the experience of the police in Northern Ireland, where sectarian violence routinely erupted following the Good Friday Accord, as Protestant “Orangemen” paraded through Catholic neighborhoods, challenging police to develop approaches to managing these inherently volatile events in a manner that would allay the perspective that the police, “in attempting to maintain public order, only placate one community at the expense of the other.” See White, B.P. (2000) *Walking the Queen’s highway: peace, politics, and parades in Northern Ireland*. *San Diego Int’l. L.J.* 1 (175). We reference this because it is the Northern Ireland experience that in large part informs best practice around crowd psychology and the police response to crowds.

- SPD should require consistent cultural competency and emotional intelligence trainings for supervisors and command staff to encourage deeper understanding of the impact of individual decisions on officers and community.

Response

SPD's current crowd management training, which follows revisions to the crowd management and use of force policies (as described earlier in this report and in the following section), is rooted in the lessons from 2020, including input from diverse community stakeholders, City partners (including CPC, OPA, and the OIG), and consultation with international experts. SPD contracted with one international expert, widely recognized as the foremost leader in the field of crowd psychology,¹³ to craft training that focuses on crowd dynamics, how police engagement can impact behavior, communication, and measures to both minimize the potential for escalation and de-escalate tensions that arise. This training recalls and incorporates other modules of SPD training, including Active Bystander for Law Enforcement (encouraging officers to intervene when they see colleagues at risk of conflict), Outward Mindset (described in the preface to this response), Bias-Free Policing, and others. Concepts around emotional intelligence (inherent in all of the above trainings) are discussed.

Components of revised policies around crowd management and the use of force, as discussed below, are also included.

8. Use of Force/Crowd Control

Recommendations

- Review SPD protocols related to the presence of batons and their use during crowd facilitation events, potentially eliminating their presence at such events unless justified by a specific and compelling public safety purpose.
- In considering whether to use force during a crowd event, SPD officers must evaluate whether the use of force can be limited to those against whom the force is justified, and that the potential for collateral impact is minimized.
- Ensure that any weapons or munitions brought to protests are securely stored and cannot be taken or used by anyone other than the officer to whom they were issued or other authorized SPD Personnel.
- SPD officers attending protests should not leave rifles unlocked in unattended police vehicles.
- SPD should invest in rifle cabinets with locks that cannot be easily breached by others.

¹³ Dr. Clifford Stott (<https://www.keele.ac.uk/psychology/people/cliffordstott/>) also guided some discussions throughout the SER, and SPD appreciates the OIG's partnership in facilitating this connection.

- SPD should consider the utility of "bio locks" on all rifles to ensure that only the officer who is issued the rifle can fire it.
- Ensure access to adequate supplies of OC spray to ensure that CS gas is never deployed due to a lack of access to other preferable or appropriate options.
- Implement OIG's guidance on the use of CS gas set forth in Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons in response to Ordinance 126102.
- Given the highly indiscriminate nature of CS gas, SPD and City Council should restrict use of this weapon to full-scale riot situations involving violence. SPD should also consider prohibiting the use of weapons such as CS solely in defense of property.
- Acoustic and light devices used during extended SPD operations should be placed in ways that minimize their impact on neighborhood residents.
- Firearms with telescoping capabilities should not be used for surveillance when lethal force is not authorized, even if the firearm is disabled.
- As set forth in OIG's Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons Report in August 2020, SPD should review and, if necessary, modify policy language for all less lethal weapons to ensure the policy has consistent warning requirements prior to the use of any less lethal weapon.
- SPD should review its policy and training for using less-lethal munitions in crowd management situations, including the use of less-lethal munitions by mutual aid agencies.
- Clarify current Use of Force policies to require an imminent life-safety threat to justify over-hand blast ball throws and other uses of force deviating from general policy.
- Evaluate the effectiveness of bicycle tactics for crowd control, especially during extended periods of sustained protest activity.
- Clarify SPD policy 8.300-POL-3 to define "bicycle pushes" as opposed to "bicycle strikes," and the proper reporting policy for each.
- Require reporting of all bicycle tactics resulting in contact with a member of the public.
- Log blast ball usage using tag numbers to evaluate reporting, including intent, justification, and outcome.
- Evaluate the use of armored vehicles during crowd events and the impact on community perceptions.
- Increase diversity of officers trained and selected as "linebackers."

Response

Since 2021, when SPD's first revisions to the use of force and crowd management policies were approved by the federal court, SPD has continued to iteratively refine and revise both to account for continued evolutions in the law and best practice. SPD's 2021 policies, for example, were informed in part by a comprehensive review of after action and independent assessments of 2020 protest events

from 22 other departments and from professional organizations, including the Police Executive Research Forum, Major Cities Chiefs Association, and the Center for Policing Equity. SPD also surveyed laws in other states addressing the use of less lethal tools, best practices in crowd management, and other considerations. These policies also incorporated all substantive provisions of a temporary restraining order regarding the use of certain force that had been entered by a federal judge over the summer of 2020. Additionally, SPD reviewed and incorporated into those policies numerous recommendations from both OPA and the OIG.

On May 18, 2021, the Governor signed into law ESSB2 1310, creating new provisions around the use of force by law enforcement, and directing the Washington State Attorney General to promulgate, by July 1, 2022, a model policy incorporating these provisions. Pursuant to RCW 10.120.030(2), all law enforcement agencies across the state were required to adopt, by December 1, 2022, policies consistent with the model policies or, if the agency does not adopt the model policies, provide notice to the attorney general as to any departures, and an explanation of how they are nonetheless consistent with the statutory requirements.

On July 1, 2022, the Attorney General released two documents: its model use of force policy and a best practice guide for the use of physical force in crowd management events. These documents were, in turn, included in the materials SPD considered in 2022 and 2023 as it reviewed and drafted revisions to its 2021 iterations of policy, now in effect as interim policies (pending additional revisions that may follow).¹⁴

These policies (on which crowd management training, as described above, is largely based) address recommendations in this category to a substantial degree. As with any iteration of policy, as is contemplated by the City's Accountability Ordinance and as is consistent with the collaborative process by which SPD, OPA, the OIG, and the CPC engage around the development of policy and practice, SPD is open to continuing to discuss any of these points that the OIG may put forth.

Conclusion

In keeping with the spirit of reconciliation and healing offered through the SER process, we offer this comprehensive response as one step in an ongoing dialogue in a partnership to truly advance collaboration and help to make Seattle a safer, equitable space for all, where the humanity of all is honored and where there can be room for grace. We do not pretend to have all the answers. Still, we can promise that we are doing all we can to live up to the expectations of our community and City partners, to promote public safety as an ideal measured not merely by the absence of crime but by the presence of well-being, and to remain steadfast to the principles of continuing self-reflection and reform that are at the core of the Consent Decree. While ugly reminders of the anger and strain from 2020 may continue to surface, we also hope that our work is measured at least in part by the strides taken since 2020 to learn from our mistakes and those missteps that impacted not only the community, but so many of our officers, who likewise still bear physical and emotional scars.

Let's keep talking.

¹⁴ These policies have been submitted to the state as required.

Theme	Recommendation	Wave	Status
Accountability	Ensure that officers are held accountable for securing their weapons at all times, and that violations of SPD policies on these matters are investigated and enforced.	1	Accepted/ Complete
	In the event of an evacuation of a government building or other emergency, strategic decision-making should be done at the highest level of government with accountability and transparency.	3	Defer to City Collaboration
	SPD should ensure processes for transparency and accountability are in place in case of evacuation or other emergency. Ensure accurate logs are kept at the Seattle Police Operations Center (SPOC).	3	Accepted/ Complete
	SPD should ensure appropriate recordkeeping and documentation during significant planning and decisions during large-scale protests.	3	Accepted/ Complete
	SPD should conduct and publish an After-Action Review of actions taken during a large-scale protest response within 60 days of implementation, including all non-confidential materials used in the review.	3	Accepted
	Evaluate current Use of Force reporting during protests and large-scale events to ensure accuracy and sufficient level of detail, including requiring explicit justification for each instance of force used and prohibiting the use of "boilerplate" justifications, and ensuring officers complete reports in a timely fashion.	4	Accepted/ Complete
	Acknowledge the importance of discipline and corrective action for accountability as well as community's perception of legitimacy of disciplinary processes, and evaluate current disciplinary policies and procedures to ensure consistency and appropriate levels of discipline.	4	Accepted in Part; Defer in Part to Labor/City Processes
	Acknowledge the harm to BIPOC community caused by SPD actions over time, and issue a public apology for the actions of SPD during the 2020 protests.	4	Accepted/ Complete
	Enable better interaction with demonstration organizers in advance of protests, SPD should build legitimacy through expanded community Policing initiatives, including the expansion of foot patrols, and build deeper personal relationships between officers and individuals throughout the communities of Seattle.	1	Accepted/ Ongoing
	Engage in direct and ongoing community dialogue to understand and adapt to the diverse community perspectives about the institution of police.	1	Accepted/ Ongoing
	Evaluate whether an encrypted standardized alert messaging system (e.g., WhatsApp, Yammer, or other technology) could replace radio communication during crowd facilitation events.	1	Defer to Seattle IT
	Establish the Incident Command Post and communication lines to officers facilitating protests or demonstrations so that the Incident Commander can observe multiple events in different locations simultaneously and receive real-time updates about each event, from officers trained in supervision of crowd events who are physically present at each protest or demonstration.	1	Accepted
	If short term closures of street or blockages of specific intersections are necessary for the safety of the crowd, SPD should ensure that its officers can adequately inform individuals in the crowd of the reasons for the blockages and provide them with adequate alternative options to continue moving.	1	Accepted/ Complete
	Ensure that all limitations on crowd behavior or conduct are designed to maximize the safety of individuals in the crowd, and that any communications about such limitations articulate that safety rationale in ways that emphasize LEED principles. Specific messages should be conveyed in simple, layperson terms that are accessible to all, and should be focused on explaining the public safety necessity of motivating the message.	1	Accepted/ Complete

	<p>Improve SPD's capability to inform and communicate with demonstrators during group events in the following ways: 1. Multiple modes of communication should be considered, including audio, video, other visual media (e.g., posters, banners, etc.), social media, and others; 2. The modes of communication and specific messages should be included in the Incident Action Plan created by SPD prior to events and updated throughout the pre-event planning phase; 3. The communications should be documented and recorded during the event, including by having officers certify their use on police radio that is retained by SPD; and 4. Their impact should be evaluated and specifically assessed in post-event review by SPD.</p>	1	Accepted/ Complete
	<p>Procure a suitable audio devise to ensure that the crowd can hear messages relevant to the event.</p>	1	Accepted/ Complete
	<p>Communicate in advance when it plans to create barricades or restrictions to protesters or marches. The reason for the creation of such zones should be clearly articulated and driven by a public safety rationale.</p>	1	Accepted/ Complete
	<p>SPD and City should coordinate and jointly create designated officers/staff in both SPD and the City who are responsible for engaging with residents and businesses affected by civil unrest or large-scale incidents causing similar disruption. (Emergency Community Communications Officers (ECCO)).</p>	2	Accepted/ Complete
	<p>As set forth in OIG's Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons Report in August 2020, SPD and the City should "[p]rovide public education concerning crowd dispersal policies, procedures and overall SPD crowd management tactics." These materials should be easily accessible and provide information that can assist residents and bystanders who may be affected by nearby deployments of crowd dispersal devices (e.g., CS gas, OC spray, or "blast balls").</p>	2	Accepted/ Defer to City/CPC Collaboration
	<p>SPD should conduct a public education campaign alerting the public to the specific harm that lasers can cause when shined into the eyes of others, and to the state laws surrounding their usage.</p>	2	Under Consideration/ Suggest CPC Collaboration
	<p>SPD should develop a public education program regarding tactics when arresting someone. The program should include education about the number of officers used to conduct the arrest, the rationale for arrest procedures and an openness to discussion with community about ways to improve these tactics.</p>	2	Under Consideration/ Suggest CPC Collaboration
	<p>SPD should research and enhance policy requirements for increased communication with crowds, especially during large or stationary protests, to manage expectations and provide greater credibility for police action.</p>	2	Accepted/ Complete
Communication	<p>SPD and SFD should attempt to coordinate with civilian medics participating in crowd events prior to the protests and establish a plan for care of injured or incapacitated persons during the event. In situations where coordination before an event is not possible, SPD and SFD should ensure civilian medics within crowd events have an established and continuous communication method with SPD and SFD to coordinate the efficient and safe removal of anyone who has been injured or incapacitated during a protest or crowd event.</p>	2	Accepted/ In Coordination With SFD/EOC
	<p>SPD and the City of Seattle should ensure Seattle neighborhoods are not left without public safety and other essential services. If City government is prevented from accessing an area, it should make every effort to provide city services and emergency response. The City should assign a City liaison to facilitate communications with impacted community members about service provision or interruption.</p>	3	Accepted/ Defer to City Collaboration
	<p>SPD should improve internal channels of communication to increase efficient and timely collaborative decision making amongst command and with officers.</p>	3	Accepted/ Ongoing
	<p>SPD should ensure coordinated communication of goals so the public has a clear understanding of SPD actions</p>	3	Accepted/ Complete

SPD and the Mayor's Office should publicly communicate rationale for decision-making during large-scale protest response to decrease mistrust on the part of the public and officers	3	Accepted
An SPD Public Information Officer should accompany the Incident commander to important or large-scale events.	3	Accepted in Part
SPD should amend SPD Communications policy (12.010) to require all SPD radio transmissions to be recorded and stored for a specified period to allow for appropriate after-event review. SPD officers should not use unrecorded radio channels to transmit information, whether such lines are public (unencrypted) or secure (encrypted).	3	Accepted in Part
SPD should implement a system for daily debriefs with reports at the officer, supervisor, and command levels during emergencies. These debriefs should be sent to the SPOC and EOC to assist senior officers in managing the emergency, as well as to assist senior officers in communicating important information back to those squads.	3	Accepted
SPD should evaluate the utility of a circular organization chart, where information flows internally from one bureau to another.	3	Accepted/ Complete
SPD should develop a policy framework to guide public communications to ensure assertions are credible and supported by reliable information before dissemination.	3	Accepted/ Complete
SPD and the City of Seattle should establish a reliable and effective communication strategy to address the provision of public safety and other City services during "occupy" style protests.	3	Accepted/ Defer to City Collaboration
SPD and the City of Seattle should ensure a strategy for events that may impact neighborhoods, including appropriate contact information and identification of appropriate stakeholders.	3	Accepted/ Defer to City Collaboration
SPD should use POET (Public Outreach and Engagement Team) officers to work with protestors to establish systems and procedures for providing other emergency safety and medical assistance.	3	Accepted/ Complete
Ensure that SFD and SPD operational staff have real-time, direct lines of communication during emergencies.	3	Under Consideration
Implement a unified radio channel for dispatchers that responding officers from both SPD and SFD use for direct communication and rapid coordination when responding to a potentially dangerous scene.	3	Under Consideration
SPD and the City of Seattle should ensure public statements by SPD and City government are accurate.	3	Accepted
Implement a staging area for media where possible.	4	Accepted/ Complete
Develop a process to identify a visual signal for media to obtain from SPD and wear as identification.	4	Under Consideration
Explore other policies and practices from other jurisdictions regarding media presence at protests and events to incorporate best practices.	4	Accepted/ Complete
Work with a diverse range of local media outlets to identify best practices for facilitating observation.	4	Accepted
Develop a process for POET officers to communicate with media during crowd events.	4	Accepted/ Complete
Alter SPD's strategy for policing protests to focus more explicitly and comprehensively on the facilitation of peaceful assembly and ensuring the safety of protestors. The focus and mindset of SPD officers deployed to assist in crowd events should move away from "crowd management" "crowd control" and Law enforcement" to "facilitation of speech" and "crowd protection and safety."	1	Accepted/ Complete

Embrace procedures that visibly signal SPD's commitment to ensuring the safe and peaceful gathering with the minimum necessary engagement of SPD officers, and limit that engagement to: promoting the ability of individuals and groups to express First Amendment freedoms; protecting the physical safety of individuals within as well as beyond the crowd and preventing the destruction of public or private property.	1	Accepted/ Complete
Modify SPD's tactics of crowd facilitation to prioritize communication, de-escalation, and carefully conducted removal of those who are creating an immediate danger to others or causing destruction or to property, allowing the rest of the event to continue undisturbed.	1	Accepted/ Ongoing
Provide officers with clear direction about SPD's priorities in facilitating demonstrations, particularly when the institution of policing is the focus of the protest. SPD's focus should be on facilitating access and safety for all. SPD should enhance the ability to address dangerous situations with minimal impact on peaceful demonstrators while minimizing the use of munitions or indiscriminate force.	1	Accepted/ Complete
Use mobile response units (e.g., bicycle or other vehicles) that are distinct from crowd facilitation officers or "dialogue officers" to address agitators or instigators of violence in the crowd. Mobile response units should remain out of sight and in reserve unless and until they are needed and engage in ways that permit individualized attention and minimize the impact on peaceful protestors and on the event in general.	1	Accepted/ Complete
Avoid the deployment of officers in ways that prevent pedestrian/crowd movement or that separate individuals from other areas of protest without a clearly articulated safety rationale.	1	Accepted/ Complete
Seattle City Council should consider whether CCTV camera footage could be kept by a third party for a limited time, and accessible to SPD or other appropriate parties upon request for suitable public safety purposes, including the ability to track stolen police weapons that would pose an imminent danger to the community.	1	Defer to Surveillance Ordinance Process
The Mayor's Office and SPD leadership should critically examine the utility of a curfew and should exhaust other messaging options before declaring one. If a curfew is announced it should be limited in scope and clearly focused on public safety, rather than the deterrence of public protest.	1	Accepted/ Defer to City Collaboration
Establish protocols to guide officer responses to property crimes occurring during significant public disorder events. These protocols would, among other things, establish clear guidance for officers on: a. When to disperse and when to arrest individuals who may be committing property crimes during civil unrest; b. How to conduct arrests of individuals who require prone handcuffing; and c. How to arrest individuals committing property crimes without escalating tensions between SPD and observers of the arrest.	1	Accepted/ Complete
SPD incident commanders should maximize the buffer space between officers and the crowd whenever possible.	1	Accepted/ Complete
On-site incident commanders should carefully evaluate the context and threat from a crowd, with assistance from "dialogue officers" in the crowd.	1	Accepted/ Complete
Consider the creation of dialogue officers to ensure effective, real-time, de-escalatory communication between SPD and Protestors.	1	Accepted/ Complete
In keeping with SPD's commissioned report after May Day 2015, SPD leadership, including the Chief, should be fluent in all SPD rules of engagement and understand specific "if/then" scenarios contained in the rules.	2	Accepted/ Complete
SPD should embrace and maintain principles of procedural justice in all of its communications and tactics relative to the facilitation of crowd events.	2	Accepted/ Complete
During protests, SPD should ensure that protesters are protected from vehicular traffic and ensure a constant ability to visually monitor those barriers.	2	Accepted/ Ongoing

Crowd Management

As set forth in OIG's Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons Report in August 2020, SPD should research and enhance policy requirements for increased communication with crowds, especially during large or stationary protests, to manage expectations and provide greater credibility for police action. SPD should prioritize "normative compliance," that is, crowd agreement with SPD requests due to their legitimacy, over "instrumental compliance," or the use of tools (e.g., less lethal weapons) to force compliance.	2	Accepted/ Ongoing
SPD should prohibit the use of ruses for crowd management or control purposes. If a ruse is justified during a crowd event or other emergency, any officer ordering a ruse should (a) be in the chain of operational command set forth in the daily briefing sheet; (b) document the circumstances justifying the ruse, the substance of the ruse, and the outcome of the ruse; and (c) inform and document communication to others in the chain of command on the existence, timing and content of planned ruse transmissions. SPD should specifically task appropriate members of the chain of command to coordinate the ruse if these conditions are met.	3	Accepted in Part/Ongoing
SPD should ensure all officers at the rank of Lieutenant and above receive thorough training on all aspects of crowd management and emergency response, so any officer in SPD leadership can capably staff the EOC, the SPOC, or other crowd event response structures.	3	Accepted/ Complete
Task POET officers with identifying certain protestors as point-people and coordinating direct communication.	4	Accepted/ Complete
Station POET officers strategically within crowds of protestors to communicate with officers on the front lines and to provide information about the crowd's ability to move back, and to safely facilitate such movement.	4	Accepted/ Complete
Station POET officers in police vehicles equipped with LRAD to effectively communicate with the crowd.	4	Accepted/ Complete
Develop an ongoing assessment of the feasibility of crowd movement to increase on-the-ground awareness.	4	Accepted/ Complete
SPD should ensure a diverse set of officers with relevant operational authority are permitted to observe and/or participate in strategic and tactical discussions during emergencies to allow for differing perspectives and critical evaluation in decision making.	3	Accepted/ Complete
SPD should consider implementing a departmental culture evaluation to identify and address barriers for officer of color being promoted to leadership roles within the department and encourage attention to identifying and reducing bias across the department.	3	Accepted/ Ongoing
Implement staffing schedules, and provide officers with breaks, food and water, and pre- and post-event wellness initiative to help officers at crowd events - and especially at crowd events that are critical of SPD and policing - deal with exhaustion, stress, and primary or secondary trauma that might result from their participation at such events.	1	Accepted/ Ongoing
SPD should provide safety eyewear and noise protection equipment to protect officers from lasers and sound devices that may be deployed in a protest/demonstration setting.	2	Accepted/ Complete
SPD should pursue opportunities for officers to express their tensions and frustrations in an appropriate setting and provide guidance on productive ways to channel those emotions to help avoid scenarios in which officers use sarcasm, obscenities, or other displays of disrespect to community members.	2	Accepted/ Ongoing
SPD should provide increased health and wellness services to 911 call-takers and other emergency services employees.	3	Defer to CSCC

Procedures	Establish a staffing model for crowd events such that protests of the size and scale of the Westlake protests can be suitably staffed with mobile officers and other facilitation while minimizing SPD intrusion into the protest.	1	Accepted/ Ongoing
	The Mayor's Office, SPD, SFD, the Department of Transportation and other departments should conduct appropriate scenario planning for disruptive protests. In particular the scenario planning should ensure that sufficient resources are deployed so that other SPD locations can protect and serve the people of Seattle in the event that public service from one or more of its buildings are disrupted by protest and ensure that sufficient public transportation exists to help protesters leave a protest where an unlawful assembly or curfew has been declared or a legal order to disperse has been issued.	1	Defer to EOC
	Develop an arrest policy for each event and convey this to officers beforehand. Flexibility should exist in the tolerance of lower level misdemeanors balanced against the priority for ensuring the strategic goals of the operation.	1	Accepted/ Complete
	Conduct appropriate scenario planning and provide enough resources so that other SPD locations can protect and serve the people of Seattle in the event that public service from one or more of its buildings are disrupted by protests.	1	Accepted/ Defer to EOC
	Prior to planned demonstrations, SPD should coordinate with the City of Seattle and residents to remove barriers to visibility that might reduce safety to protesters during protest events, including, for example dumpsters.	2	Accepted/ Defer to EOC
	SPD and the City of Seattle should include OIG in planning meetings to offer recommendations and to stay informed.	3	Accepted in Part
	SPD should establish consistent staging points during large-scale protests or in areas where there is no public safety presence. If necessary, establish agreements with nearby businesses or other entities to establish closer staging areas to respond quickly to emergency situations.	3	Accepted
	SPD and the City of Seattle should establish consistent rendezvous points for connecting injured people to emergency medical staff.	3	Defer to EOC
	Identify a specific area for officers reporting for crowd facilitation duty to convene and leave their vehicles, providing a shuttle system for officers to and from the areas where they are deployed and supervision for the vehicles.	1	Accepted/ Complete
	If exigent circumstances prevent an officer from parking a vehicle at the designated area, officers should notify the SPOC of the location of the vehicle(s), and a designated officer should move the vehicle(s) to a designated safe area.	1	Accepted/ Complete
	Implement a GPS system through the SPOC that allows incident Command to know the precise location of every officer, vehicle, and lethal munition deployed during a crowd event.	1	Accepted/ Complete
	When an emergency creates a public safety need that limits access to buildings, SPD should create a standard, unbiased procedure for ensuring maximum access for building residents and guests.	2	Accepted
	SPD should coordinate more effectively with the City of Seattle and relevant agencies to ensure the continued provision of city services (e.g., power, water, waste management, etc.) throughout periods of emergency, including civil unrest.	2	Defer to EOC
	SPD Incident Action Plans (IAPs) should follow a standardized approval process that includes review at the appropriate command level to allow for accountability of decision-making. SPD should communicate IAPs to all officers prior to the implementation of the acts set forth in the IAP.	3	Accepted/ Complete

SPD Incident Command Plans during crowd events or emergency events should include officers with day-to-day operational authority over the resources necessary to address the emergency in question.	3	Accepted/ Complete
SPD and the City of Seattle should assess which department 911 call-taking and dispatch services should be housed under (note: Seattle City Council voted to move 911 call-taking moved to the new Community Safety and Communications Center [CSCC] on May 24, 2021).	3	Complete
SPD and the City of Seattle should recognize the role of SPD as public servants in delivering public safety and should develop procedures to ensure continued provision of public safety and essential services in the case of large-scale protests or other instances where regular service delivery is interrupted.	3	Accepted
Modify SPD's policy on content neutrality to permit officers staffing a public event focused on issues of policing to demonstrate solidarity with the crowd participants' rights to protest if they chose.	1	Accepted in Part/Complete
Eliminate disrespectful statements or actions from SPD officers to individuals or groups protesting.	1	Already in Policy
Pursue a differentiated approach toward individuals within the crowd.	1	Accepted/ Complete
Limit arrests during protests targeted at the police to individuals committing immediate or imminent harm to people or property, and do not arrest individuals for offenses committed at an earlier time unless they can be accomplished in a way that will not escalate emotions in the crowd.	1	Declined as Written
Train bicycle officers not to arrest individuals for passive resistance techniques like "shoulder-checking" unless the officer(s) determine that the acts are clear, deliberate, and intended to substantially interfere with the ability of the officer(s) to perform his or her immediate public safety responsibilities.	1	Declined as Written
SPD officers should improve their situational awareness, considering the relationship of their actions to the overall strategy and tactics of the event, and the support available to the officer(s) relative to the size of the event.	1	Accepted/ Complete
SPD officers should be trained to realize that the existence of Personal Protective Equipment (PPE) or other defensive measures in a crowd of demonstrators, is not itself an aggressive measure requiring an escalating police response.	1	Accepted/ Complete
SPD officers should eliminate their use of sarcasm or confrontational dialogue with protesters in accordance with 5.001 - Standards and Duties Sec. 10. While the SPD section in question states that "employees will strive to be professional," (emphasis added), SPD should strike "strive to" from the policy and require professionalism.	2	Already in Policy
Wherever practicable, officers should inform non-compliant persons of their intention to physically touch/move them when necessary to achieve a public safety goal prior to initiating the physical contact.	2	Accepted/ Complete
Develop policies to address and minimize officer fatigue during long-term protests.	4	Accepted/ Ongoing
Consider reducing length of shifts.	4	Accepted in Principle; Subject to Staffing
Provide officers with mental and physical support to help reduce stress and exhaustion, including counseling and mental health services and offering sufficient opportunities for breaks, food, and water during shifts.	4	Accepted/ Ongoing
Use live CCTV footage and mobile SPD officers, whether on bicycles or in other vehicles, to rapidly intervene with and address groups destroying property.	1	Accepted in Part/ Defer to Surveillance Ordinance Process

Situational Awareness

	Avoid the creation of immovable lines of officers at demonstrations and provide a mobilization plan for the deployment of bicycle or other mobile officers to ensure appropriate and rapid responsiveness to unplanned crowd events.	1	Accepted in Part/ Completed
	Modify the policy and training for prone handcuffing to eliminate body weight pressure being applied above the shoulders of a subject being restrained.	1	Current Training Focuses Body Weight on Shoulders/Upper Back
	Monitor crowd activities from a sufficient distance that physical contact between SPD and protesters is not required or likely to unless an individual is an immediate physical danger to others.	1	Accepted in Part
	When "leap-frogging" a protest, SPD officers should select alternative routes that minimize the likelihood of exposing officers or crowd participants to unnecessary risks.	1	Accepted
	When a crowd prevents safe movement of bikes without contacting individuals in the crowd, SPD bicycle officers should consider dismounting and walking with bikes physically placed between officers and crowd members to minimize agitation and physical contact.	1	Accepted in Part
	Construct barricades between protesters and critical pieces of the public safety infrastructure (e.g., the East Precinct) rather than using lines of officers. Such barriers should strike a balance between protecting the integrity of the facility and preserving its accessibility to the public.	1	Accepted in Part
	SPD should strive to ensure it has visibility to all parts of a crowd during a protest event or demonstration to ensure the real-time ability to prevent or minimize a mass casualty incident. This may include appropriate rooftop access (with proper consent), or other solutions developed with community input.	2	Accepted/ Ongoing
	Particularly when police are the subject of a protest, SPD should avoid the creation of immovable lines of officers at demonstrations and ensure that the crowd can move in directions it wants without undue danger from cars or other risks.	2	Accepted in Part
	SPD should implement policies limiting deception and ruses to instances in which (a) the ruse seeks to avoid an imminent personal injury or death or significant property damage; (b) the ruse will not itself cause an escalation in tension with members of the community potentially leading to a personal injury, death or significant property damage; (c) the ruse is clearly documented by an authorized command officer or supervisor and communicated to other SPD individuals as appropriate to ensure compliance with the Incident Command System and stated SPD tactical objectives.	3	Accepted/Ongoing
	SPD should prohibit broadcasted ruses.	3	Accepted/Ongoing
	Ensure that all SPD officers, not just those officers assigned to crowd facilitation teams are trained in crowd psychology, crowd facilitation, public safety procedures and tactics, and the mobilization techniques likely to be used at future crowd events.	1	Accepted/ Complete
Training	Provide specific training, including scenario-based training on the management of large crowd events, and on the supervision of officers, for all SPD supervisors and above, including Incident Commanders and officers in the SPOC.	1	Accepted/ Complete
	To reduce perceptions of racial bias in SPD actions, SPD should incorporate the scenario of a white man shooting a Black protester, then walking unchallenged through a police barricade and surrendering to SPD officers into antiracism training for reflection and discussion by SPD officers to encourage equal treatment.	2	Under Consideration
	SPD should use deployments of blast balls during the 2020 protest response as case studies when training new officers on blast ball use in high pressure scenarios.	2	Accepted

	SPD should require consistent cultural competency and emotional intelligence trainings for supervisors and command staff to encourage deeper understanding of the impact of individual decisions on officers and community.	3	Accepted
	Review SPD protocols related to the presence of batons and their use during crowd facilitation events, potentially eliminating their presence at such events unless justified by a specific and compelling public safety purpose.	1	Under Consideration
	In considering whether to use force during a crowd event, SPD officers must evaluate whether the use of force can be limited to those against whom the force is justified, and that the potential for collateral impact is minimized.	1	Consistent with Title 8
	Ensure that any weapons or munitions brought to protests are securely stored and cannot be taken or used by anyone other than the officer to whom they were issued or other authorized SPD Personnel.	1	Accepted/ Complete
	SPD officers attending protests should not leave rifles unlocked in unattended police vehicles.	1	Accepted/ Complete
	SPD should invest in rifle cabinets with locks that cannot be easily breached by others.	1	
	SPD should consider the utility of "bio locks" on all rifles to ensure that only the officer who is issued the rifle can fire it.	1	Declined as Written
	Ensure access to adequate supplies of OC spray to ensure that CS gas is never deployed due to a lack of access to other preferable or appropriate options.	1	Accepted
	Implement OIG's guidance on the use of CS gas set forth in Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons in response to Ordinance 126102.	1	CS Now Governed by State Law
	Given the highly indiscriminate nature of CS gas, SPD and City Council should restrict use of this weapon to full-scale riot situations involving violence. SPD should also consider prohibiting the use of weapons such as CS solely in defense of property.	2	CS Now Governed by State Law
Use of Force/Crowd Control	Acoustic and light devices used during extended SPD operations should be placed in ways that minimize their impact on neighborhood residents.	2	Accepted
	Firearms with telescoping capabilities should not be used for surveillance when lethal force is not authorized, even if the firearm is disabled.	2	Under Consideration
	As set forth in OIG's Review of the SPD Crowd Dispersal Policy and Less Lethal Weapons Report in August 2020, SPD should review and, if necessary, modify policy language for all less lethal weapons to ensure the policy has consistent warning requirements prior to the use of any less lethal weapon.	2	Accepted/ Complete
	SPD should review its policy and training for using less-lethal munitions in crowd management situations, including the use of less-lethal munitions by mutual aid agencies.	2	Accepted/ Complete
	Clarify current Use of Force policies to require an imminent life-safety threat to justify over-hand blast ball throws and other uses of force deviating from general policy.	4	Addressed in Current Policy
	Evaluate the effectiveness of bicycle tactics for crowd control, especially during extended periods of sustained protest activity.	4	Accepted
	Clarify SPD policy 8.300-POL-3 to define "bicycle pushes" as opposed to "bicycle strikes," and the proper reporting policy for each.	4	Under Consideration
	Require reporting of all bicycle tactics resulting in contact with a member of the public.	4	Under Consideration
	Log blast ball usage using tag numbers to evaluate reporting, including intent, justification, and outcome.	4	Accepted in Part
	Evaluate the use of armored vehicles during crowd events and the impact on community perceptions.	4	Accepted

Increase diversity of officers trained and selected as "linebackers."	4	Dependent on Staffing
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Crowd Management

April 2019



The IACP Law Enforcement Policy Center creates four types of documents: Model Policies, Considerations Documents, Concepts & Issues Papers, and Need to Know one-page summaries. Typically, for each topic, either a Model Policy or a Considerations Document is created, supplemented with a Concepts & Issues Paper. This file contains the following documents:

- **Model Policy**: Provides police agencies with concrete guidance and directives by describing in sequential format the manner in which actions, tasks, and operations are to be performed.
- **Concepts & Issues Paper**: Designed to provide context and background information to support a Model Policy or Considerations Document for a deeper understanding of the topic.
- **Need to Know...**: Synthesizes the key points of the topic into a brief, one-page overview. This document is developed by Policy Center staff following the final approval of the policy and paper.

Model Policy

Updated: April 2019

Crowd Management

I. PURPOSE

The purpose of this policy is to establish guidelines for managing crowds, protecting individual rights, and preserving the peace during demonstrations and civil disturbances.

II. POLICY

It is the policy of this agency to protect individual rights related to assembly and free speech; effectively manage crowds to prevent loss of life, injury, or property damage; and minimize disruption to persons who are not involved.

III. DEFINITIONS

- *Civil Disturbance*: A gathering that constitutes a breach of the peace or any assembly of persons where there is a threat of collective violence, destruction of property, or other unlawful acts. Such a gathering may also be referred to as a riot or unlawful assembly.
- *Crowd Control*: Techniques used to address civil disturbances, to include a show of force, crowd containment, dispersal equipment and tactics, and preparations for multiple arrests.
- *Crowd Management*: Techniques used to manage lawful assemblies before, during, and after the event for the purpose of maintaining lawful status through event planning, pre-event contact with event organizers, issuance of permits when applicable, information gathering, personnel training, and other means.
- *Demonstration*: A lawful assembly of persons organized primarily to engage in free speech activity. These may be scheduled events that allow for law enforcement planning. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention. Lawful demonstrations can devolve into civil disturbances that necessitate enforcement action.
- *Impact Projectiles*: Projectiles designed and intended to deliver non-penetrating impact energy from safer than contact range. These may include direct fire or non-direct skip-fired rounds. The latter are projectiles that are discharged toward the ground in front of a target, theoretically delivering the energy to the subject following contact with the ground.

IV. PROCEDURES

A. Preparation and Planning¹

1. Every effort should be made to make advance contact with event organizers and to gather the following necessary information about the event to ensure accurate assignment of personnel and resources:
 - a. What type of event is involved?
 - b. When is it planned?
 - c. Will the event coincide with other routine, large-scale events (e.g., sporting events)?
 - d. Is opposition to the event expected?
 - e. How many participants are expected?
 - f. What are the assembly areas and movement routes?
 - g. What actions, activities, or tactics are anticipated, to include use of demonstrator devices designed to thwart arrest?
 - h. What critical infrastructures are in the proximity of the event?
 - i. Have permits been issued?
 - j. Have other agencies such as fire and EMS been notified?
 - k. Is there a need to request mutual aid?
 - l. Has the appropriate level of properly equipped personnel been allocated to ensure safety of bystanders, officers, and demonstrators?
 - m. Will off-duty personnel be required?
 - n. What is the history of conduct at such events?
 - o. Are event organizers cooperative?
 - p. Who are the potential counter-protest groups?
 - q. Is there a history of violence between the group demonstrating and potential counter-protest groups?
2. The incident commander (IC) or a designee, shall prepare a written plan subject to the approval of the chief executive officer or his or her designee. The plan should address the following and be distributed to all participating agencies.
 - a. Command assignments and responsibilities
 - b. Personnel, unit structure, and deployment considerations to include the need for special response teams (i.e., SWAT, emergency medical personnel, and plainclothes officers).
 - c. Regular communication with legal advisors
 - d. Liaison with event planners, to include their legal advisors, where applicable
 - e. Liaison with outside agencies
 - f. Communications plan, to include release of information to the media
 - g. Pre-event intelligence analysis
 - h. Weather and terrain at the event location
 - i. Transportation, support, and relief of personnel

¹ See the IACP Policy Center documents on Small-Scale Special Event Preparedness available at <https://www.theiacp.org/resources/policy-cen-ter-resource/special-event-preparedness> for a list of additional items to consider when planning such an event.

- j. Staging points for additional resources and equipment
- k. Traffic management, including perimeter security
- l. First aid stations established in coordination with emergency medical service providers
- m. Demonstrator devices, extrication teams, and equipment
- n. Transportation of prisoners
- o. Arrestee processing areas
- p. Any laws, ordinances, or administrative rules specific to the event

B. Management and Organization Principles

1. Government may impose reasonable restrictions on the time, place, and manner in which persons assemble and engage in free speech activity. This agency shall place only those limitations and restrictions on demonstrations necessary to maintain public safety and order and, to the degree possible, facilitate uninhibited speech, commerce, and freedom of movement.
2. An Incident Command System (ICS) shall be used in crowd management and civil disturbances to ensure control and unified command.²
3. Organization of responsibilities shall be as follows:
 - a. The chief executive officer shall designate an incident commander (IC) responsible for overall control of a demonstration or civil disturbance.³
 - b. The IC shall implement the written plan.
 - c. In the case of a widely dispersed demonstration or disturbance, or event with multiple locations, multiple ICs may be assigned at the discretion of the chief executive officer.
 - d. The IC shall be responsible for preparing operations plans and management details associated with planned demonstrations.
4. The primary objectives of the IC at a civil disturbance are to accomplish the following:
 - a. Protect persons, regardless of their participation in the disturbance.
 - b. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence.
 - c. Arrest law violators, including those responsible for property damage, and remove or isolate persons inciting violent behavior.
5. Officers shall be briefed on what to expect and appropriate responses. They shall be informed that the IC or their designee(s) shall be responsible for ordering any response deemed appropriate.

C. General Crowd Response

1. Officers shall be deployed to monitor crowd activity. Sufficient resources to handle multiple unruly persons should be available, depending on the fluidity of the situation and degree of actual or likely disruption.
2. Uniformed personnel shall wear their badges and nameplates or other identification in a visible location on their person at all times.

² For example, agencies may wish to follow the protocols outlined in the United States' National Incident Management System.

³ Note that, for the purposes of this discussion, the designation of ICs is included. However, agencies may choose to utilize a unified command (UC) function instead. For more discussion on UC, please refer to the IACP Policy Center documents on Special Event Preparedness available at <https://www.theiacp.org/resources/policy-center-resource/special-event-preparedness>.

3. Officers shall be positioned in such a manner as to minimize contact with the assembled crowds.
4. Officers should avoid engaging in conversations related to the demonstration with attendees, refrain from reacting in response to comments from demonstrators, and maintain a courteous and neutral demeanor.
5. Persons who reside, are employed, or have emergency business within the area marked off by a police line shall not be prevented from entering the area unless circumstances suggest that their safety would be in jeopardy or their entry would interfere with law enforcement operations.
6. Individuals designated by the IC should establish and maintain communication with event organizers and relay information on crowd mood to the IC.
7. Supervisors should maintain close contact with their assigned officers to ensure compliance with orders, monitor behavior and disposition, and ensure that they are aware of any changes in crowd behavior or intent.
8. Audio and video recording of agency crowd response should be considered for evidentiary purposes.
9. Mass arrests shall be avoided, unless necessary.
10. Officers shall ensure that a means of egress for all individuals is present at all times.

D. Response to Spontaneous Civil Disturbances

1. The first officer to arrive on the scene of a spontaneous civil disturbance should:
 - a. Observe the situation from a safe distance to determine if the gathering is currently or potentially violent;
 - b. Notify communications of the nature and seriousness of the disturbance, particularly the availability of improvised or deadly weapons, the location and estimated number of participants, current activities (e.g., blocking traffic), direction of movement, and ingress and egress routes for emergency vehicles;
 - c. Request the assistance of a supervisor and necessary backup;
 - d. Attempt to identify crowd leaders and agitators engaged in criminal acts; and
 - e. At the first available opportunity, request the crowd to voluntarily disperse.
2. The first officer or supervisor in charge at the scene should:
 - a. Deploy officers at vantage points to report on crowd actions;
 - b. Establish a perimeter sufficient to contain the disturbance and prohibit entrance into the affected area;
 - c. Ensure that, to the degree possible, uninvolved individuals are evacuated from the immediate area of the disturbance;
 - d. Establish a temporary command post;
 - e. Provide ongoing assessment to communications;
 - f. Move and reroute pedestrian and vehicular traffic around the disorder;
 - g. Control unauthorized ingress and egress by participants; and
 - h. Prevent outside attempts to assist or reinforce participants.
3. The IC should also ensure that:
 - a. Adequate security is provided to fire and EMS personnel in the performance of emergency tasks;
 - b. Support and relief for personnel are available;
 - c. A secure staging area for emergency responders and equipment is designated;

- d. Liaison and staging points for media representatives are established and available information is provided as appropriate;
- e. The IC event log is maintained to document activities and actions taken during the course of the incident;
- f. Photographic or video evidence is preserved, in accordance with applicable law and agency policy, of crowd actions and officer response;
- g. Photographs or videos are taken of any injuries sustained by law enforcement officers or the public; and
- h. The need for full mobilization of sworn officers and the recall of off-duty officers are determined.

E. Use of Force

1. Officers should follow their agency's policy on use of force.
2. Unless exigent circumstances justify immediate action, officers shall not independently make arrests or employ force without command authorization.
3. The following restrictions and limitations on the use of force should be observed during demonstrations and civil disturbances. In all cases, weapons should be carried and deployed only by trained and authorized officers.
 - a. Canine teams may respond as backup when appropriate but should not be deployed for crowd control (i.e., containment or dispersal). Canines should remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd. Canines may be deployed in appropriate circumstances related to bomb detection, pursuit of suspects in buildings, and related situations.
 - b. Horses may be used to contain, control, and direct groups in nonviolent demonstrations as appropriate. They should not be used against passively resistant demonstrators, including those who are sitting or lying down. Unless exigent circumstances exist, horses should not be utilized when the use of chemical agents is anticipated or deployed, or in icy or snowy conditions or when similar lack of footing may jeopardize the animal, rider, or others.
 - c. Motor vehicles may be used to contain, control, and direct persons as appropriate but shall not be intentionally brought into contact with them unless the use of deadly force is authorized.
 - d. Bicycles may be used to control and move persons as appropriate.
 - e. Impact projectiles shall not be fired indiscriminately into crowds.
 - i. Non-direct (skip-fired) projectiles and munitions may be used in civil disturbances where life is in immediate jeopardy or the need to use the devices outweighs the potential risks involved.
 - ii. Direct-fired impact munitions, to include beanbag and related projectiles, may be used during civil disturbances against specific individuals who are engaged in conduct that poses an immediate threat of death or serious injury.
 - iii. A verbal warning should be given prior to the use of impact projectiles, when reasonably possible.
 - f. Electronic control weapons (ECWs) should be used during civil disturbances only for purposes of restraint or arrest of actively resistant individuals when alternative less forceful means of control

are not available or are unsuitable and only when the individual can be accurately targeted. ECWs shall not be fired indiscriminately into crowds.⁴

- g. Aerosol restraint spray, known as oleoresin capsicum (OC), may be used against specific individuals engaged in unlawful conduct or actively resisting arrest, or as necessary in a defensive capacity when appropriate. OC spray shall not be used indiscriminately against groups of people where bystanders would be unreasonably affected, or against passively resistant individuals. High-volume OC delivery systems (such as MK-9 and MK-46) are designed for and may be used in civil disturbances against groups of people engaged in unlawful acts or endangering public safety and security when approved by the IC. Whenever reasonably possible, a verbal warning should be issued prior to the use of these systems.⁵
- h. CS (2-chlorobenzalmalononitrile) chemical agents are primarily offensive weapons that shall be used with the utmost caution. CS may be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective. Such munitions shall be deployed at the direction of the IC and only when avenues of egress are available to the crowd. When reasonably possible, their use shall be announced to the crowd in advance. CN (phenacyl chloride) shall not be used in any instance.
- i. A baton or similar device can be used as a defensive weapon; as a means of overcoming resistance (e.g., used in the two-hand horizontal thrust on a police line); to stop, control, or neutralize perceived threatening resistance; as a show of force; or as a means to contain or disperse a crowd.
- j. All uses of force shall be reported and investigated in accordance with agency policy.⁶

F. Crowd Dispersal

1. Before ordering forced dispersal of a civil disturbance, the IC should determine whether lesser alternatives may be effective. These alternatives include the use of containment and dialogue, as follows:
 - a. Establish contact with event organizers or crowd leaders to assess their intentions and motivations and develop a mutually acceptable plan for de-escalation and dispersal.
 - b. Communicate to the participants that their assembly is in violation of the law and that the agency wishes to resolve the incident peacefully, but that acts of violence will be dealt with swiftly and decisively.
 - c. Target specific violent or disruptive individuals for arrest.
2. Prior to issuing dispersal orders, the IC should ensure that all potentially necessary law enforcement, fire, and EMS equipment and personnel are on hand to successfully carry out tactical operations and that logistical needs for making mass arrests are in place.
3. When the IC has made a determination that crowd dispersal is required, he or she shall direct unit commanders, where time and circumstances permit, to issue warnings prior to taking action to disperse the crowd.

⁴ See the IACP Policy Center documents on Electronic Control Weapons available at <https://www.theiacp.org/resources/policy-center-resource/electron-ic-control-weapons>.

⁵ See the IACP Policy Center documents on Pepper Aerosol Restraint Spray available at <https://www.theiacp.org/resources/policy-center-resource/pepper-aerosol-restraint-spray>.

⁶ See the IACP Policy Center documents on Reporting Use of Force available at <https://www.theiacp.org/resources/policy-center-resource/reporting-use-of-force>.

- a. The warning shall consist of an announcement citing the offenses or violations being committed, an order to disperse, and designated dispersal routes.
 - b. A second and third warning should be issued at reasonable time intervals before designated actions are taken to disperse the crowd.
 - c. Where possible, the warnings should be audio or video recorded and the time and the names of the issuing officers recorded in the IC's event log.
4. Specific crowd dispersal tactics should be ordered as necessary where the crowd does not heed warnings. These include, but are not limited to, any one or combination of the following:
- a. Display of forceful presence to include police lines combined with motorcycles, law enforcement vehicles, mounted units, bicycle units, and mobile field forces
 - b. Multiple simultaneous arrests
 - c. Use of aerosol crowd control chemical agents
 - d. Law enforcement formations and the use of batons for forcing crowd movement

G. Mass Arrest

During a civil disturbance, it may be necessary to make arrests of numerous individuals over a relatively short period of time. For this process to be handled efficiently, safely, and legally, the following should be observed:

1. Mass arrests should be conducted by designated squads.
2. An adequate secure area should be designated for holding arrestees after processing and while awaiting transportation to a detention center.
3. Arrest teams should be advised of the basic offenses to be charged in all arrests, and all arrestees shall be advised of these charges.
4. Arrestees who are sitting or lying down but agree to walk shall be escorted to the transportation vehicle for processing. Two or more officers should carry those who refuse to walk.
5. Arrestees shall be searched incident to arrest for weapons, evidence of the crime of arrest, and contraband.
6. Photographs should be taken of the arrestee and any arrestee property, and a field arrest form shall be completed.
7. Transporting officers should not accept arrestees without a properly prepared field arrest form and photographs and shall ensure that all property is properly processed.
8. Anyone who is injured, to include arrestees, shall be provided medical attention. Photographs should be taken of all known injuries.

H. Deactivation

When the disturbance has been brought under control,

1. All personnel engaged in the incident shall be accounted for and an assessment and documentation made of personal injuries.
2. Witnesses, suspects, and others should be interviewed or questioned.
3. All necessary personnel should be debriefed as required.
4. Any equipment utilized by officers should be replaced.

5. All written reports shall be completed as soon as possible after the incident.⁷ Comprehensive documentation should include the basis for the incident and the agency's response to the incident, with a statement of impact to include the costs of equipment, personnel, and related items.

I. Training

1. Officers should receive both initial and ongoing training on appropriate response to crowd control and management. Joint training should also be conducted with all agencies who are involved in crowd management activities.

⁷ For more information, see the IACP Policy Center documents on Small-Scale Special Event Preparedness available at <https://www.theiacp.org/resources/policy-center-resource/special-event-preparedness>.

Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no model policy can meet all the needs of any given law enforcement agency. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives, and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes. Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered and should therefore consult their legal advisor before implementing any policy.

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Concepts & Issues

Updated: April 2019

Crowd Management

I. INTRODUCTION

A. Purpose of Document

This paper is designed to accompany the Model Policy on Crowd Management established by the IACP Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Officers responding to planned rallies, spontaneous crowds, and civil disturbances—and those called upon to assist in these incidents—must follow procedures best designed to protect life, the rights and safety of the persons involved, and property. Peaceful demonstrations can spawn protests and counter-protests that can lead to civil disorder. On a lesser scale, law enforcement agencies have been frequently called upon to manage crowds of political protestors arising from international or national summits and conferences and an array of discontented or angry persons with varying social or political agendas. Sports events, rock concerts, festivals, and celebratory gatherings can, and have, provided opportunities for large-scale disorders and disturbances.

Civil disturbances and demonstrations have changed over the years, as have the tactics and techniques of law enforcement agencies called upon to manage and control them. Demonstrations and public protests are not infrequent, but they have taken on a more systematic, organized nature and have invoked tools that were not available in past decades. Social media is now commonly used to mobilize and manage participants prior to and during demonstrations and civil disturbances. Group demonstration tactics that may serve a self-policing function have also been refined and are now disseminated through “how-to” manuals and field training by certain professional protest groups. In addition, a trend has emerged where out-of-town protestors are increasingly attending events. The anonymity of these participants adds a layer of uncertainty, as event organizers are often unaware of the identities or intent of these individuals, making pre-planning potentially ineffective.

At the same time, law enforcement practices and protocols have undergone transformations. Studies of crowd behavior and law enforcement after-action reports have led to the development of new strategies and tactics for protest policing. Agencies now utilize tactical teams that work within the crowd to identify agitators and provocateurs, protocols that call for arrests only when absolutely necessary, systematic event pre-planning, established command and control, and the use of a variety of non-deadly force options.

Understandably, crowd control and management policy, procedure, and tactics vary somewhat between jurisdictions. Tactics that must be used to protect vital assets, the ability to conduct essential business, and the free movement of critical personnel and equipment in one location will sometimes differ from practices used in other jurisdictions that are not similarly affected. The nature of crowd management and control also varies somewhat by the cultural differences between jurisdictions. It is not within the scope of this document to identify the many differences associated with managing and controlling all possible events. Rather, this document is intended to identify some of the common principles of crowd policing that have been shown to serve the best interest of law enforcement agencies, their communities, and those who participate in peaceful crowds or potentially volatile protests.

II. PROCEDURES

A. Civil Disturbances and Demonstrations

United States Considerations. All persons in the United States have the right to march, demonstrate, protest, or undertake similar activities protected under the First Amendment of the U.S. Constitution. Freedom of speech, association, assembly, and the right to petition the government are subject only to reasonable restrictions on the time, place, and manner of their expression. The content of the speech or message does not provide the basis for imposing limitations on these rights, which incorporate a wide variety of both verbal and non-verbal communication.¹ These protected activities include the use of vigils, distribution of literature, displaying banners and signs, street theatre, and other forms of expression, as long as they are conducted legally. While law enforcement must strive to maintain the peace during events such as those listed above, officers and their agencies must also protect the rights of assembly and free speech guaranteed by the U.S. Constitution. By law, jurisdictions can impose reasonable restrictions on the time, place, and manner of public assemblies for expression of First Amendment rights; this provides for some law enforcement discretion.

Definitions. A *civil disturbance* is an unlawful assembly and is usually defined by law. Normally, it is a gathering that constitutes a breach of the peace or any assembly of persons where there is a threat of collective violence, destruction of property, or other unlawful acts. Civil disturbances are often, but not always, spontaneous occurrences that require the emergency mobilization of law enforcement officers and related emergency services. Law enforcement may employ crowd control techniques and tactics to address unlawful public assemblies to include a show of force, crowd containment, dispersal equipment and strategies, and preparation for possible multiple arrests.

A *demonstration* is a legal assembly of persons who have organized primarily to express political or social doctrine or views. These types of events often allow for law enforcement preparation as they are generally planned activities that often involve the procurement of permits. They include, but are not limited to marches, protests, and other assemblies that are largely designed to attract the attention of the public and the media. However, without the control of organizers and the presence of law enforcement, or with the presence of agitators and/or counter-demonstrators, legal demonstrations can evolve into civil disturbances that necessitate law enforcement interaction.

B. Planning²

Management and control of crowds are dependent on many factors including the size and intent of the gathering; propensity for violence or property damage; probability of counter-demonstrations; capabilities of the law enforcement

¹ For instance, see *Snyder v. Phelps*, 526 U.S. 443 (2011).

² For more detailed guidance regarding planning, please refer to the IACP Policy Center document on Small-Scale Special Event Preparedness available at <https://www.theiacp.org/resources/policy-center-resource/special-event-preparedness>.

agency; availability of officers from contiguous jurisdictions under mutual aid; and other related factors. Agencies should follow established incident management protocols.³

Law enforcement agencies generally have advance notice of events that will draw significant crowds. The degree of advance notice will, to some extent, govern how much time a law enforcement agency can invest in planning in order to prepare a fully responsive operational plan.⁴ The following are a few of the principal areas of concern that should be addressed given reasonable advance notice.

Information Gathering. Gathering information on the group(s) sponsoring or otherwise participating in the event is the basic starting point for organizational planning and preparation. Law enforcement agencies that have previously dealt with the same groups or organizations can be helpful and can often identify agitators or counter-demonstrators who frequently become involved. Fusion centers should be contacted for assistance in providing information on crowd events, event organizers, social media and other information of value in planning and response.

An effort should be made to identify and make advance contact with event organizers in order to gather information and establish the ground rules for the event. In particular, non-negotiable matters should be specified by the responsible law enforcement agency, with the intention that a common understanding be reached by both parties. Law enforcement agencies may wish to negotiate tentative agreements on force responses to crowd conduct in order to help organizers perform some degree of crowd control and self-management.

The following types of information should be obtained to allow for more responsive planning.

- What type of event is involved?
- When is it planned?
- Will the event coincide with other routine, large-scale events (e.g., sporting events)?
- Is opposition to the event expected?
- How many participants are expected?
- What are the assembly areas and movement routes?
- What actions, activities, or tactics are anticipated, to include use of demonstrator devices designed to thwart arrest?
- What critical infrastructures are in the proximity of the event?
- Have permits been issued?
- Have other agencies such as fire and EMS been notified?
- Is there a need to request mutual aid?
- Has the appropriate level of properly equipped personnel been allocated to ensure safety of officers, demonstrators, and bystanders?
- Will off-duty personnel be required?
- What is the history of conduct at such events?
- Are event organizers cooperative?
- Who are the potential counter-protest groups?
- Is there a history of violence between the group demonstrating and potential counter-protest groups?

³ For example, agencies may wish to follow the protocols outlined in the United States' National Incident Management System. See the IACP Policy Center document on Incident Command available at <https://www.theiacp.org/resources/policy-center-resource/incident-command>.

⁴ See the IACP Policy Center document on Small-Scale Special Event Preparedness for a comprehensive discussion of items to be considered when planning an event. The document is available at <https://www.theiacp.org/resources/policy-center-resource/special-event-preparedness>.

Agencies should also consider monitoring social media in advance of the event to obtain intelligence regarding the event. This may include information regarding instructions provided by attendees by event organizers or intended participation by opposing groups.

Resources. Many law enforcement agencies are ill-equipped to manage or control large crowds unless their jurisdiction is one that hosts events on a recurring basis or is one of the preferred locations for demonstrations and protests. Whatever the case, nearly all law enforcement and fire services should be party to established multijurisdictional agreements or mutual aid plans that will help meet the material and personnel resources necessary. These resources must be available where and when needed to manage demonstrations and civil unrest. Multijurisdictional agreements provide the basis of individual agency responsibilities, cost reimbursement, and mobilization plans. Joint periodic training must be undertaken to ensure collective understanding of policies, procedures, and rules that must be followed by all officers during crowd management and control operations.⁵ In cases where mutual aid is activated, incoming personnel must understand that they are under the command of the requesting agency and are required to follow its policies and direction.

Information gathering can help provide insight on any crowd management measures that could require mutual aid. Discussions should be held as far in advance as possible with involved jurisdictions to determine their capacity to respond. Staging areas should be identified for resources that may be needed during the event. This should include provisions for food, water, and rest for officers who should be rotated off crowd control assignments on a routine basis.

Full civil disturbance gear and related equipment should be staged at key locations—but should not be issued initially in crowd management situations, as it may escalate tensions and anxiety. Other types of equipment may include but are not limited to the following:

- Mobile command post
- First aid/triage station
- Mass arrest and field booking supplies
- Property and evidence control materials
- Backup vehicles and fuel
- Individual communications equipment
- Barriers, fencing, cutting tools, and containment options
- Arrangements for vehicle removal/towing

Crowd Management Plan. Once information has been gathered regarding the event, a single written plan should be developed. This plan may be referred to as an incident action plan (IAP) or event action plan (EAP). A single plan should be used by all agencies participating in the crowd response. This plan should be developed, reviewed, and approved by representatives from the involved disciplines.

Initial decisions must be made with respect to assignment of incident, operations, and tactical commanders and identification of circumstances in which command and control responsibilities transfer to another level. It is important that supervisors and commanders at the incident scene understand who is authorized to make decisions on selective matters, such as traffic control, resources, and related matters. In general, the chief executive officer shall designate an incident commander (IC) who is responsible for overall control; however, a unified command (UC) approach may be selected instead. Using the UC approach, representatives from the appropriate disciplines, such as law enforcement, fire, EMS, field services, waste management, traffic signals, water, housing, and code enforcement, are involved in the decision-making process. Normally, all decisions related to the use of force should be approved by the IC or UC.

⁵ Criminal Intelligence Coordinating Council, *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies* (U.S. Department of Justice, 2011).

The plan should address:

- provisions for command assignments and responsibilities;
- manpower and potential call out requirements, to potentially include special response teams or plainclothes officers unit structure deployment;
- regular communications with agency legal advisors;
- liaison with event leaders, to include their legal advisors, where applicable;
- liaison with outside agencies, to include fire and EMS services;
- communications plan, to include release of information to the media;
- pre-event intelligence analysis;
- weather report and description of terrain at event location;
- transportation, feeding, and relief of personnel;
- traffic management, including perimeter security;
- demonstrator extrication teams and equipment;
- first aid/triage stations;
- transportation of prisoners;
- arrestee processing areas; and
- any laws, ordinances, or administrative rules specific to the event.

When sufficient advance notice is available, law enforcement can effectively leverage federal, state, and local resources to help address crowd management or, in other cases, give advance notice to agencies or departments that may be needed during or following the incident. These include such entities as jails, hospitals, parks and recreation, public works, public transportation, waste management, and utility companies.

The IC or similar authority must also ensure that the following actions are taken:

- Designate a location for and establishment of a single command post and assignment of command responsibilities. Multiple command posts are strongly discouraged.
- Determine the level of force and engagement tactics deemed reasonable to resolve unlawful actions (e.g., mobile field force, multiple simultaneous arrests, and embedded arrest teams).
- Identify egress routes in the event of forced crowd dispersal.
- Authorize arrest as a means of curtailing unlawful actions.
- Designate:
 - A liaison officer to coordinate with other local emergency service providers, as well as government offices, agencies, and departments, as appropriate
 - One individual, such as a public information officer (PIO), to manage information flow to the public through the media;
 - An officer(s) to monitor reports of officer uses of force and misconduct; and
 - A recorder for purposes of documenting crowd actions, responses and overall decision making.

Community Engagement. Officials should inform community members and business owners who are likely to be impacted by the event of the nature of the event and the planned response well in advance. This advance notice should include information regarding areas where access will be restricted. Agencies should also provide updates regarding the event to the public on the day of the event; social media is an excellent tool for distribution of this information.

C. Crowd Management and Control Considerations

Officers in squads or platoons should monitor crowd activity. Sufficient resources to make multiple simultaneous arrests should be available, irrespective of the purported peacefulness of the demonstration. Plans must be in place to deal with counter-demonstrators or hecklers who congregate, before they instigate a physical confrontation.

Officers assigned to duties at demonstrations and disturbances should wear their badges, nameplates, or other personal identification on the outside of their uniforms or on their helmets at all times. Officers should refrain from engaging in conversations related to the demonstration with, or reacting in response to comments from, demonstrators and should maintain a professional, neutral demeanor. Officers should focus on conveying the message that law enforcement is there to protect crowd participants and their right to demonstrate peacefully.⁶

Persons who reside, are employed, or have business of an emergency nature in the area marked off by a police line should not be barred from entering the demonstration area unless circumstances suggest that their safety would be in jeopardy or their entry would interfere with law enforcement operations. This issue can be a difficult one for law enforcement in its attempt to protect the rights of demonstrators and non-demonstrators alike. Non-demonstrators should, where reasonably possible, be given access to locations where demonstrations arise in order to conduct business and access their property. At the same time, such individuals can become caught up among demonstrators making them indistinguishable from those who may be creating disorder and those who are peaceful. Providing access and freedom of movement to and from businesses and residences should be included in the pre-planning stages with event organizers and appropriate law enforcement officials when possible.

Supervisors must maintain close contact with officers under their command to ensure their compliance with orders; monitor their behavior and disposition; and ensure that they are aware of any changes in crowd attitude or actions.

Whenever possible, mass arrests should be avoided. In addition, officers should ensure that a means of egress is available to individuals at all times.

D. Spontaneous Demonstrations and Civil Disturbances

There are instances in which law enforcement agencies have little or no warning to prepare for demonstrations or civil disturbances. Demonstrations or large gatherings of any kind that escalate into civil disturbances should be governed by the policies and regulations concerning crowd management, control, and dispersal identified here with respect to civil disturbances.

The first officer to arrive on the scene of a spontaneous demonstration or civil disturbance has a number of responsibilities, to include the following:

- Observe the situation from a safe distance to determine if the gathering is currently or potentially violent.
- Notify communications personnel of the nature and seriousness of the disturbance, particularly the availability of improvised or deadly weapons; crowd location and estimated number of participants; current activities (such as blocking traffic); direction of movement; and ingress and egress routes for emergency vehicles.
- Request the assistance of a supervisor and any necessary backup.
- Attempt to identify crowd leaders, potential agitators, and anyone engaged in criminal acts.
- At the first available opportunity, request the crowd to voluntarily disperse.

⁶ Criminal Intelligence Coordinating Council, *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies*.

The first supervisor in charge at the scene should assess the situation and request sufficient personnel and related resources necessary to perform the following tasks:

- Deploy officers to the best vantage points to observe and report on crowd actions.
- Establish a perimeter sufficient to contain the disturbance and prohibit entrance into the affected area.
- Ensure that, to the degree possible, uninvolved civilians are evacuated from the immediate area of the disturbance.
- Establish a temporary command post based on proximity to the scene, availability of communications, space, and security from crowd participants.
- Continually assess the situation and update communications on the status of the crowd, along with any additional needs.
- Establish surveillance points to identify potential agitators, leaders, and individuals who may be committing crimes.
- Document and report on events as they happen.

When civil disturbances cannot be controlled with available field personnel within a reasonable period of time, the chief executive officer or officer in charge should serve as or appoint an IC to direct operations. The primary objectives of the IC in such circumstances should be to (1) protect persons, including nonparticipants and participants alike; (2) disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence; and (3) arrest individual law violators, including those responsible for property damage, and remove or isolate those persons inciting violent behavior.

Outside the perimeter, efforts should be made to move and reroute pedestrian and vehicular traffic around the civil disturbance and to control ingress to and egress from the location. In addition, if the circumstances of the incident dictate a need,

- Adequate force security should be provided for fire and EMS personnel in the performance of emergency tasks.
- The feeding and relief requirements of personnel should be addressed.
- The adequacy and security of the incident command post should be ensured.
- A staging area for emergency responders and equipment should be designated.
- A liaison and staging point for media representatives should be established and, to the degree possible, available information should be provided.
- An event log should be created to document activities and actions taken during the course of the incident.
- Photographic or video evidence of crowd actions and officer response should be captured, in accordance with applicable law and agency policy.
- Photographs or videos of any injuries sustained by law enforcement officers or the public should be taken.
- The need for full mobilization of sworn officers; recall of off-duty officers; and/or activation of mutual aid agreements should be determined.

E. Use of Force

Officers should follow their agency's policy on use of force. Unity of action and command and control are key to the effective handling of demonstrations and civil disturbances. Therefore, unless exigent circumstances require immediate action, officers should not independently make arrests or employ force without command authorization.

Prior to deployment, all personnel engaged in crowd management or control should be made aware of the ground rules for the use of force as part of their briefing and any terms that may have been negotiated between law enforcement and demonstration organizers. Officers providing support from other agencies should always be briefed on policies

related to use of force and crowd control. The fact that some individuals in a crowd have engaged in unlawful conduct does not normally provide blanket grounds for use-of-force countermeasures, crowd dispersal, or declaration of an unlawful assembly. When lines of communication have been maintained between event organizers or leaders and a law enforcement liaison, it is sometimes possible to negotiate a resolution to the situation. Given such situations, many crowds tend to become self-enforcing to ensure that they can continue to assemble and convey their message.

Beyond the basic legal and operational requirements for the use of force, there are some restrictions that are generally recognized and are specific to crowd control and management. Individual law enforcement agencies must make independent decisions in this regard based on equipment and personnel availabilities, the severity of the situation, and other related matters. In general, the following are regarded as restrictions and limitations on the use of force that should be observed during demonstrations and civil disturbances. These measures should be addressed in training.

Canines should not normally be deployed for the purposes of crowd control. When their use as backup is deemed necessary and appropriate, canines should remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd. Canines should not be deployed for crowd control or management of peaceful demonstrations—but may be deployed in isolated circumstances related to bomb detection, pursuit of suspects in buildings, and related situations.

Horses can be a significant asset in controlling and managing crowds and can normally be used to contain, or direct groups in nonviolent demonstrations as appropriate. However, they should not be used against passively resistant demonstrators. This is especially true of individuals who are sitting or lying down. Unless exigent circumstances exist, horses should not be deployed when the use of chemical agents is anticipated or have been deployed or in ice or snow or other conditions where footing is problematic.

Fire hoses are not recommended for crowd containment or dispersal, due to the potential for negative connotations stemming from their inappropriate use in the past.

Motor vehicles under the control of law enforcement officers may be used to contain, control, and direct persons if required. Vehicles can be used to establish containment areas and barriers and to move persons if caution and coordination are employed. However, vehicles should not intentionally be brought into contact with persons unless deadly force is authorized.

Bicycles are an effective form of crowd control and barrier placement in certain situations when used in conjunction with additional ground personnel. Their mobility and ability to quickly deploy into areas accessible only by foot traffic can provide an additional resource to guide or direct a crowd into or away from certain areas. They may be perceived as less threatening than other force options, yet still provide a visible barrier for passage of foot traffic.

Impact projectiles are designed and intended to deliver non-penetrating impact energy from safer than contact range. These may include direct fire or non-direct skip-fired rounds. The latter are projectiles that are discharged toward the ground in front of a target, theoretically delivering the energy to the subject following contact with the ground. Impact projectiles can be used in crowd control situations when officers have had sufficient training and the projectiles are used appropriately based on the totality of circumstances presented.⁷

Skip-fired projectiles and munitions may be used in civil disturbances where life is or is likely to be in jeopardy, while recognizing that their lack of target specific accuracy increases the risk of accidental, unintended targets or body parts being contacted.

Direct-fired impact munitions, to include beanbag and similar munitions, should be deployed in a manner that recognizes the distinct factors involved, including the potential risk of hitting an unintended target due to officer-subject range and crowd density. Accordingly, direct-fire munitions are generally used against specific individuals who

⁷ See the IACP Policy Center documents on Impact Projectiles available at <https://www.theiacp.org/resources/policy-center-resource/impact-projectiles>.

are engaged in conduct that poses an immediate threat of death or serious injury or significant levels of property damage. A verbal warning should be given prior to the use of impact munitions when reasonably possible.

Electronic control weapons (ECWs) should be used during civil disturbances only for purposes of restraint or arrest of noncompliant and resistant individuals where proper target acquisition is possible and when alternative lesser means of control are not available.⁸

Aerosol restraint spray oleoresin capsicum (OC) is best used in crowd control situations against specific individuals who are engaged in unlawful acts or actively resisting arrest. OC may also be appropriate for defensive use when other alternatives are inadequate, unreasonable, or unavailable. OC should not be used indiscriminately against groups of people; in demonstrations or crowds where bystanders or other officers would be unreasonably affected; or against passively resistant individuals. High-volume OC delivery systems (such as MK-9 and MK-46) are designed for and can be used in civil disturbances against groups of people engaged in unlawful acts or endangering public safety and security, with approval of the IC. A warning should be issued prior to the use of these systems, whenever reasonably possible.⁹

CS (2-chlorobenzalmalononitrile) chemical agents in the “hot gas” configuration should be used with caution, as uncontrolled use can have negative consequences with respect to efforts to control, manage, or disperse crowds. In addition, they are subject to being thrown back and may escalate violence in some situations. Such munitions should be carried and deployed only by trained and authorized officers at the direction of the IC or his or her designee. The crowd should be warned prior to CS deployment and provided with avenues of egress. CN (phenacyl chloride) gas should never be used.

The *riot baton* can be used primarily as a defensive weapon or as a means of overcoming resistance when it is used in the two-hand horizontal thrust on a police line; to stop, control, or neutralize perceived threatening resistance; as a show of force; or as a means to contain or disperse a crowd.

F. Mass Arrest

During the course of civil disturbances, it may be necessary to make arrests of numerous individuals over a relatively short period of time. In order for this process to be handled efficiently, safely, and legally, a number of actions and procedures should be observed.

The IC should designate officers to perform mass or directed arrests and should be advised of the basic charges to be recorded in all arrests. Persons who appear to be the leading agitators for confrontation or who are inciting crowd violence should be identified and removed. Passive subjects who are sitting or lying down, but who agree to walk, should be escorted to the transportation vehicles for processing. Two or more officers should be designated to carry each individual who refuses to walk. If it is required, a designated secure area should be identified for holding arrestees after their initial field booking and while awaiting transportation. All arrestees should be advised of the charges and searched for weapons, evidence, and contraband.

Digital photographs should be taken of the arrestee with the arresting officer and of the arrestee and any property that is turned over to the transporting officer. Transporting officers should not accept arrestees without a properly prepared field arrest form and assurance that photographs have been taken. They should also ensure that all arrestee property is placed in a container that is legibly marked with the arrest form number. At the detention or processing facility, the transporting officer should deliver the arrestee together with the arrest form and personal property.

All injured arrestees should be provided medical attention prior to being transported to the detention facility; photographs or videos should be taken of all known injuries.

⁸ See the IACP Policy Center documents on Electronic Control Weapons available at <https://www.theiacp.org/resources/policy-center-resource/electronic-control-weapons>.

⁹ See the IACP Policy Center documents on Pepper Aerosol Restraint Spray available at <https://www.theiacp.org/resources/policy-center-resource/pepper-aerosol-restraint-spray>.

G. Crowd Dispersal

When the need for crowd dispersal becomes a possibility, the IC may have time to consider whether lesser alternatives may be effective, such as continued dialogue. In order to make this determination, the intention and motivation of leaders should be established along with exploring a mutually acceptable plan for de-escalation and dispersal of the crowd. Another option is to communicate to the participants that their assembly is in violation of the law and that the agency wishes to resolve the incident peacefully, but that acts of violence will be dealt with swiftly and decisively. The IC may also opt to de-escalate violence by targeting and arresting specific individuals who are engaged in violence or inciting violence.

All potentially necessary equipment and personnel, such as law enforcement, fire, and EMS, should be on hand to successfully carry out tactical requirements and contingencies if dispersal of the crowd is required. This should also include logistical requirements related to the potential for making mass arrests. The IC should direct unit commander(s) to issue warnings prior to taking physical actions to disperse the crowd whenever this is reasonably possible. A warning should be issued loudly and often enough to be heard by the entire crowd. The warning should consist of an announcement citing the offenses or violations being committed; an order to disperse; and the designation of dispersal routes. A second and a third warning should be issued at reasonable time intervals if time permits before actions are taken to disperse the crowd. To ensure the warnings have been heard throughout the crowd, it is recommended that at least two officers go to the rear of the crowd to verify the warnings are audible. When practical, the warnings should be audio recorded at a location in the rear of the crowd. In addition, the time and the names of the issuing officers should be noted in the IC's event log.

Law enforcement agencies may employ several options when a crowd does not heed their warnings. These include, but are not limited to, any one or any combination of the following: Note that a means of egress for all individuals must be present at all times.

- Display of forceful presence, which can include police lines combined with motorcycles, law enforcement vehicles, and mobile field forces
- Multiple simultaneous arrests
- Use of aerosol crowd control chemical agents
- Law enforcement formations and use of batons for forcing crowd movement

H. Use-of-Force Reporting and Investigation

Use-of-force reporting requirements apply equally to policing demonstrations and civil disturbances. It is very important for law enforcement agencies to document and investigate uses of force during these events, not only for managerial and accountability reasons, but also to respond effectively to potential complaints alleging excessive force following an event.

However, reporting, documenting, and recording uses of force in the context of civil disturbances can be hampered by logistical and safety concerns. As such, the agency's internal affairs (IA) or designated managerial personnel may wish to have alternative protocols in place for these instances.

A member(s) of the agency's designated managerial personnel trained and equipped to investigate use-of-force incidents should be assigned to the command post of the IC during a declared civil disturbance to coordinate and record force-related information and complaints. This individual, or his or her equivalent, should be prepared to deploy quickly to a serious use-of-force incident and should complete a comprehensive use-of-force after-action report. However, only serious uses of force, as defined by the agency, should be investigated during the course of the civil disturbance. Events should be video recorded and photographed for the purposes of after-action reporting and as evidence for possible defense in future litigation or other legal inquiries.

I. Deactivation

When the demonstration or civil disturbance has concluded, all law enforcement officers engaged in the incident should be accounted for; and any personnel injuries should be assessed and documented. Officers should interview or question all witnesses, suspects, and others. In addition, all involved personnel should be debriefed, as required, and any equipment that has been used during the event, such as handcuffs or OC spray, should be replaced. This is particularly important for any standard equipment that is carried by officers in a patrol capacity.

All written reports should be completed as soon as possible after the event. They should provide comprehensive documentation of any incidents that occurred; any assessments to explain the origin(s) or basis for the incident; the agency's response; and a statement of impact and outcomes, to include the costs of equipment, personnel, continuing effects, and other related items or issues. These reports and the overall response to the event should be analyzed in an effort to develop best practices and to ensure that adequate training is provided to officers responding to similar events in the future.

J. Training

Officers should receive both initial and ongoing training related to crowd control and management. Training considerations should include the following:

- Training for all personnel, including new officers, to respond to crowd control events
- Periodic refresher training on a quarterly, semi-annual, or annual basis as appropriate for the agency
- Specialty units training together, such as bike units and mounted patrol, special response teams, crowd management teams, aircraft operations, and mobile response teams
- Joint training exercises with other agencies that will likely work together during major events, which should include reviewing the written plan and the incident command system
- Use of force training to ensure all members understand current case law, best practices, and latest trends
- Incorporating training in the use of less-lethal munitions and chemical agent deployment training during periodic training, joint training, or use-of-force training
- Initial and refresher incident management training for supervisors and team leaders

III. CONCLUSION

Wherever possible, law enforcement agencies should work with crowd event organizers to develop a written plan that outlines the response to planned gatherings of large numbers of individuals. By establishing open lines of communication with organizers, agencies can establish ground rules prior to the event and respond quickly to any items of concern during the event. However, in some instances, peaceful gatherings may devolve into civil disturbances. In these situations, law enforcement agencies must be prepared to respond to crowds in a way that protects individual rights related to assembly and free speech; prevents loss of life, injury, or property damage; and minimizes disruption to persons who are not involved.

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Need to Know ...

Updated: April 2019

Crowd Management

When encountering crowds, law enforcement efforts should focus on protecting individual rights related to assembly and free speech; preventing loss of life, injury, or property damage; and minimizing disruption to persons who are not involved.

- The **primary goal** of all law enforcement crowd response should be to protect individuals and their associated rights, including, but not limited to, those associated with assembly and free speech.
- Whenever possible, law enforcement agencies should attempt to make **advance contact** with event organizers to gather information about the event to ensure accurate assignment of personnel and resources. By establishing positive communication channels and working relationships in advance, law enforcement can help mitigate possible confusion and negative outcomes during the event.
- An **incident command system (ICS)** should be utilized in crowd management and civil disturbances to ensure control and unified command. In the United States, this may include the use of the National Incident Management System (NIMS).
- Agencies should develop an **event action plan (EAP)** prior to any event involving large gatherings of individuals. The EAP should address items such as command assignments and responsibilities, need for special response teams, staging points, traffic management, and communications plans.
- Officers should be deployed to **monitor crowd activity**. These officers should wear their badges, nameplates, or other personal identification on their uniforms or helmets in a manner that is clearly visible at all times and should refrain from engaging in contentious conversations with participants.
- **Mass arrests** in crowd situations should be avoided unless necessary.
- A **means of egress** must be available to all individuals at all times.
- In crowd situations, officers should be permitted to use only the **level of force** that is objectively reasonable to protect themselves or others from physical harm; to restrain or subdue a resistant individual; or to bring an unlawful situation safely and effectively under control.
- In situations where a demonstration or civil disturbance occurs **spontaneously**, the first officer on the scene should observe the situation from a safe distance, notify communications, request assistance from a supervisor, and attempt to identify any crowd leaders. Once additional resources are available, the goal should be to disperse the disorderly or threatening crowd in order to eliminate the immediate risks of continued escalation and further violence.
- In some situations, **crowd dispersal** techniques may be necessary. However, all potentially necessary equipment and personnel, such as law enforcement, fire, and EMS, should be on hand prior to beginning the dispersal.



International Association of Chiefs of Police
44 Canal Center Plaza, Suite 200
Alexandria, VA 22314
703.836.6767 | FAX 703.836.4743
www.theIACP.org



Public Safety Committee: Crowd Management

Seattle Police Department

December 10, 2024



Presenters: Thank you for having us.

- **Tim Burgess, Deputy Mayor**
- **Natalie Walton-Anderson, Director of Public Safety**
- **Lisa Judge, Inspector General**
- **Brian Maxey, Chief Operating Officer**
- **Dan Nelson, Assistant Chief, Metropolitan Bureau**



Why is this Ordinance before you?

- This new ordinance is necessary to ensure consistency between City law and SPD crowd management policies/practices
- Upon passage, this new ordinance and SPD policies will be consistent with national best practices on using less-lethal tools recommended by the Office of the Inspector General for Public Safety, the Center for Policing Equity, and the International Association of Chiefs of Police
- Once adopted, SPD will transmit its Crowd Management policy to the Monitoring Team and DOJ for review/submission to the Court



What does the Ordinance do?

- Affirms the right of the people of Seattle “to assemble to celebrate, engage, worship, watch sporting events, exchange ideas, protest, or simply gather.”
- Recognizes the role of the police to facilitate safe gatherings.
- Requires the prioritization of de-escalation, engagement, and dialogue.
- Prohibits the use of crowd control tools unless there is an “imminent risk of physical injury to any person or significant property damage.”
- Mandates that police use of crowd control tools be objectively reasonable, necessary, and proportional to the threat presented.
- Restricts the use of tear gas more than state law
- Mandates that a police officer may only use approved less lethal tools for which that officer has been trained.
- Requires SPD, with the Office of the Inspector General for Public Safety, to issue an annual report on the use of these tools.



Why is this the right approach?

- This ordinance restricts the use of less-lethal tools, not the tools themselves
- This is a preferred approach so incident commanders have the ability to respond to serious incidents
- SPD policies control how these tools are used with a six-step continuum of possible actions, called CMIC: “Crowd Management, Intervention, and Control Strategies.”



SPD's CMIC – 1-2

	Crowd Actions	Police Response
Phase 1 (Lawful Assembly Standoff)	Events that are typically static or smaller in scale and do not require police assistance.	<ul style="list-style-type: none"> • Monitor and assess crowd behavior. • Develop Incident Action Plan (IAP) and objectives. • Minimize police presence observable by crowd.
Phase 2 (Lawful Assembly Police Interaction)	Likely larger and/or preplanned events with designated groups or organizers.	<ul style="list-style-type: none"> • Utilize POET Officers for communication • Engender facilitation, not confrontation. <ul style="list-style-type: none"> • Monitor and assess crowd behavior. • Minimize police presence observable by crowd. <ul style="list-style-type: none"> • Assess and modulate response <ul style="list-style-type: none"> • Develop IAP and objectives. • Determine appropriate level of police presence



SPD's CMIC – 3-4

	Crowd Actions	Police Response
Phase 3 (Escalating Behavior)	Crowd or individuals within the crowd showing low level signs of disorder.	<ul style="list-style-type: none"> • Attempt to use organizers and monitors to gain voluntary compliance. <ul style="list-style-type: none"> • Utilize POET Officers for communication • Use amplified sound to communicate intent <ul style="list-style-type: none"> • Use low profile tactics when possible. • Continue to assess and modulate response as behavior changes.
Phase 4 (Isolated Unlawful Behavior)	<p>Individual violent acts within the crowd, property damage, unpermitted traffic disruption, and defacement are not protected activities.</p> <p>However, isolated unlawful activity by individuals or small groups within a crowd should not automatically form the basis for declaring an assembly unlawful.</p> <ul style="list-style-type: none"> • Isolated destruction of property • Isolated acts of violence • Isolated rock or bottle throwers • Individual sit-down demonstrators blocking traffic 	<ul style="list-style-type: none"> • Attempt to use organizers and monitors to gain voluntary compliance. • Isolate, arrest, and remove law violators quickly <ul style="list-style-type: none"> • Video action of officers and law violators. • Use amplified sound to communicate intent <ul style="list-style-type: none"> • Use low profile tactics when possible. <ul style="list-style-type: none"> • Effect necessary arrests. • Any force used should be reasonable, necessary, and proportional to effect necessary arrests. • When it is not possible to make an immediate arrest, identify and track subjects for later arrest. • Continue to assess and modulate response as behavior changes.



SPD's CMIC - 4-6

	Crowd Actions	Police Response
<p>Phase 5 (Unlawful Assembly (Riot))</p>	<p>Where unlawful behavior within or of a crowd cannot be controlled through intervention strategies, assemblies may be dispersed.</p> <ul style="list-style-type: none"> • Violent acts by 4 or more persons or acts that pose an imminent threat of violence against persons or substantial property damage. • Significant unpermitted traffic disruption that poses an imminent threat of harm to members of the assembly or the traveling public. • Other criminal acts in the crowd that cannot be addressed through crowd intervention strategies, due to size, intent, or nature of the acts by members of the crowd. 	<ul style="list-style-type: none"> • When safe and feasible and considering the risk to officer safety and members of the crowd, force may be used to disperse the crowd or address the acts of violence. <ul style="list-style-type: none"> • Issue an order to disperse. • Identify dispersal routes. • Identify appropriate area for media, medics, and legal observers. • Any force used should be reasonable, necessary, and proportional to disperse or move a crowd. <ul style="list-style-type: none"> • Continue to assess and modulate response as behavior changes.
<p>Phase 6 (Immediate Life Safety)</p>	<p>In certain circumstances crowd management events may escalate to immediate threats to life safety that require immediate police action.</p> <ul style="list-style-type: none"> • Crowd members throwing Molotov Cocktails. • Vehicle ramming attack. 	<ul style="list-style-type: none"> • Issue an order to disperse. <ul style="list-style-type: none"> • Identify dispersal routes. • Any force used should be reasonable, necessary, and proportional to disperse or move a crowd. <ul style="list-style-type: none"> • Continue to assess and modulate response as behavior changes <ul style="list-style-type: none"> • CS gas possible, if authorized by the Mayor.



Central Staff Collaboration

1. *Revise the CMIC to align with property damage standards articulated in 14.090 POL 8.*

SPD revised its CMIC as recommended and reviewed 14.090 and 8.300 to ensure the “substantial property damage” language was incorporated throughout.

2. *Recommend that crowd dispersal orders be given by officers that are ranked Lieutenant and above.*

SPD accepted this recommendation and revised policy.

3. *SPD could consider amending its crowd control policies to prioritize, when practical and feasible, mutual aid officer deployment into non-force situations.*

The use of mutual aid assets is directed by the Incident Commander after a scoping review by the Seattle Police Operations Center (SPOC). Although other departments do not follow SPD Policies, they are subject to state law, the state Model UOF policy and are under the command and control of SPD.

4. *SPD could consider clarifying its blast ball deployment policy language to ensure that, absent a life-safety threat, and when used for crowd control/ dispersal, officers deploy blast balls in empty spaces away from people.*

SPD modified its policy targeting “empty spaces to address persons engaged in the threats of harm...”.



Questions and discussion

Crowd Management

Presentation to the Public Safety Committee



Presenters: Thank you for hosting us

- **Tim Burgess, Deputy Mayor**
- **Natalie Walton-Anderson, Director of Public Safety**
- **Lisa Judge, Inspector General for Public Safety**
- **Brian Maxey, Chief Operating Officer, SPD**
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Why is this ordinance before you?

- This new ordinance is necessary to ensure consistency between City law and SPD crowd management policies/practices
- Upon passage, this new ordinance and SPD policies will be consistent with national best practices on using less-lethal tools recommended by the Office of the Inspector General for Public Safety, the Center for Policing Equity, and the International Association of Chiefs of Police
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- Requires SPD, with the Office of the Inspector General for Public Safety, to issue an annual report on the use of these tools.

Why is this the right approach?

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Questions & Discussion



Seattle
Community
Police Commission

January 8, 2025

VIA EMAIL

Dear Councilmember Kettle,

I am writing to share the position of the Community Police Commission (CPC) regarding CB 120916, expected to be discussed in City Council's Public Safety Committee meeting on January 14. This draft legislation proposes revisions to Seattle's framework for SPD's approach to crowd management, including but not limited to the appropriate use of, and limitations on, less-lethal weapons. The CPC has been working to develop its recommendations on CB 120916 since it received the draft legislation in October 2024. This work included soliciting feedback from the community in a survey on the proposed legislation, and multiple work sessions.

At the CPC meeting on January 8, 2025, the CPC's Police Practices Workgroup presented a summary of the CPC's community survey related to CB 120916 and their recommendations for on the draft legislation. The CPC unanimously approved the Workgroup's recommendations, which are included below.

Community Feedback. Following Mayor Harrell's proposal of CB 120916, the CPC distributed a survey to gather input from constituents on crowd management in Seattle. This survey closed at 5pm on January 7, with a final count of 125 responses. We are actively working to integrate this feedback into our response to the City Council. However, given the short timeline and the holiday season, we believe there has not been sufficient time to thoroughly and responsibly incorporate community feedback into our letter and the attached ordinance redlines. Therefore, we respectfully request that the City Council

postpone voting on this ordinance until the CPC can fully reflect community input in our position. This letter and the attached proposed redline changes to the draft legislation contain our preliminary feedback, but they do not fully represent our stance on the issue at this time.

Returning Seattle to self-government on policing issues. The CPC shares the goal of the Mayor, elected officials, and community leaders to fully resolve the long-running consent decree, and offers the following proposed revisions in hopes of achieving a community consensus around a framework that will serve all communities within the City of Seattle.

Overall approach. We support the overall approach of the Mayor’s proposed legislation, which focuses on overarching values that guide SPD deployment and intervention in crowd management situations, including but not limited to speech and assembly events, and which does not place outright prohibitions on the use of specific tools. We agree that absolute prohibitions can have unintended consequences, not only by leaving SPD in a position to use less-appropriate tools, but also, by removing the tools necessary for SPD to assure freedom of speech and assembly to members of the public when counter-protestors threaten those fundamental rights.

However, we conclude that evidence of unintended physical injury over years establishes that blast balls call for a circumscribed zone of appropriate use; we urge that the Ordinance not set up heightened levels of approval with enormous exceptions for exigent circumstances that “swallow the rule,” creating public confusion about who is actually expected to authorize use of the weapon; we propose requiring mutual aid agencies to follow SPD policy on use of force, including but not limited to policy on use of less-lethal weapons and crowd management, when deployed in Seattle; and we urge that the CPC, not solely the OIG, be included in after-action dialogue with SPD, consistent with the CPC’s role in Seattle’s police accountability framework as a sounding board for the public about emerging matters of public concern.

We also believe that more explicit language emphasizing the role of SPD, specifically in protecting the free exercise of speech and assembly when these are under threat from other members of the public, is important, particularly in light of growing political tensions in civil society.

Proposed substantive revisions. Please find attached proposed red-line edits to CB 120916, summarized here:

- Limit the use of blast balls to their deployment away from people, at a distance of at least 10 yards from any person, as proposed in Section 2-H;
- Require that mutual aid agencies deploying in Seattle agree to abide by Seattle ordinances and SPD policy regarding use of force, including but not limited to those on less-lethal tools and crowd management, by requiring that they act only as directed by the SPD incident commander, who is bound by Seattle law and SPD policy, as proposed in Section 6;
- Require that SPD confer with the CPC following deployment of less-lethal weapons in a crowd management context, and that SPD solicit and incorporate feedback from members of the public regarding significant crowd management deployments, including any using less-lethal weapons, in its after-action assessments, and that these be incorporated into the required annual report by SPD and the OIG on crowd management incidents, as proposed in Section 5; and
- Emphasize the role of SPD in protecting the exercise of speech and assembly rights when these are under threat from other members of the public, as proposed in Section 2-B, C, & D.

Recommendations related changes to SPD crowd management policy. We recognize that development of SPD policy is an executive function, and, that a core function of the CPC is to provide input in that process and to suggest revisions to policy where needed to address public concerns and priorities. Accordingly, we are also sending proposed

revisions to SPD regarding SPD Policy Manual Sections 8.050 (Use of Force—Definitions), 8.300 (Use of Force—Tools), and 14.090 (Crowd Management, Intervention & Control).

CPC policy staff and I are available to discuss any of these recommendations with Council staff, Councilmembers, SPD, and the Mayor's Office, at your convenience. We look forward to reaching a consensus framework that will reconcile the importance of protecting free speech and assembly, preventing inappropriate and harmful uses of less-lethal weapons and other uses of force in the context of crowd management, and returning Seattle to self-government with respect to policing and public safety.

Sincerely,

Handwritten signature of Joel C. Merkel, Jr. in cursive script.

Joel Merkel, Co-Chair
Community Police Commission

Cc:

All City Councilmembers
Mayor Bruce Harrell
Deputy Mayor Tim Burgess



Seattle Office of Police Accountability

January 10, 2025

Via Electronic Mail

Councilmember Robert Kettle
Public Safety Committee Chair
Seattle City Council
Robert.Kettle@seattle.gov

Dear Councilmember Kettle,

I write in support of Council Bill 120916 and respectfully request the City Council pass this draft legislation which would:

- (1) Repeal Seattle Municipal Code (SMC) SMC 3.28.146 and Ordinance 126422 restricting the Seattle Police Department's (SPD's) use of less lethal weapons (LLWs), including use of LLWs for crowd management purposes; and
- (2) Require SPD to adopt and maintain a crowd management policy that is consistent with City values and expectations as outlined in uncodified language in Section 2 of CB 120916; and
- (3) Require SPD to adopt and maintain a crowd management policy that is consistent with the City values and expectations outlined in CB 120916.

This Crowd Control Legislation enforces hard-examined community values, guides Seattle Police Department (SPD) policy and permits the City of Seattle to implement the final requirements of the federal Consent Decree.

For nearly five years, the people of Seattle have deeply examined their expectations of the crowd management strategies and tactics used by SPD. Immediately following the May 25, 2020, murder of George Floyd, Seattle experienced months of demonstrations that included SPD officers using less lethal force with tear/CS gas, pepper spray, 40 mm "Blue Nose" rounds, and blast balls.

These events led to a comprehensive City response and years of dialogue. From May 30 through the end of 2020, OPA was contacted over 19,000 times concerning SPD's conduct at and response to various demonstrations, resulting in 145 OPA investigations.¹ In addition to OPA's individual complaint investigations, Seattle's Office of Inspector General for Public Safety (OIG) conducted a comprehensive, four-wave Sentinel Event Review concerning the 2020 Protests in Seattle.² An additional layer of oversight, Seattle was and remains under a federal Consent Decree concerning specific aspects of SPD operations since 2012.³ Seattle City Council passed two ordinances—Ordinance 126102 in June 2020 and Ordinance 126422 in August 2021—which sought to specifically

¹ See City of Seattle, Office of Police Accountability, Demonstration Complaint Dashboard, available at <https://www.seattle.gov/opa/case-data/demonstration-complaint-dashboard>.

² See City of Seattle, Office of Inspector General for Public Safety, Sentinel Event Review, available at <https://seattle.gov/oig/sentinel-event-review>.

³ *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR), available at <https://seattlepolicemonitor.org/documents>.



Seattle Office of Police Accountability

regulate SPD's use of less lethal weapons (LLWs) for crowd management purposes. Then-Mayor Jenny Durkan returned both ordinances to Council unsigned along with detailed memoranda outlining her concerns. Due to federal oversight, neither ordinance took effect.

There has been much discussion and ideating since 2021, but the conflicts between City ordinance, SPD policy, and federal oversight persist. In February 2021, the Court approved "interim" crowd management policies for SPD, but these are at odds with provisions of Seattle Ordinance 126422 and, so, cannot be finalized. Notably, Ordinance 126422 explicitly conditioned its implementation on Court approving compliant policies.

Seattle is poised to move forward. The Court overseeing the federal Consent Decree has indicated that the only remaining hurdle for Seattle to exit federal oversight is for the City to submit SPD crowd management and LLW policies for review by the monitor and Department of Justice, as well as final approval by the Court. Council Bill 120916 harmonizes SPD's Court-approved interim policies and prior Seattle ordinances. It does so by requiring SPD to adopt and maintain crowd management policies that adhere to consensus values and expectations, comply with specific State laws, empower transparency and accountability through collaboration with OIG, daylight revisions, and comply with labor law. At the December 10, 2024, Public Safety Committee meeting, SPD presented and took public comment on a revised crowd management policy structured to meet these benchmarks.

SPD has engaged with OPA during this process, circulated draft policies, invited feedback, and addressed critical concerns such as:

- Clarifying that the threshold for declaring an "Unlawful Assembly" requires "significant" property damage;
- Requiring that an Incident Commander, "ranked Lieutenant or higher," authorize any use of LLWs (other than tear/CS gas) to move a crowd following the issuance of a dispersal order and reasonable amount of time to comply;
- Requiring that, when feasible, blast balls be directed towards and "open space," and removing the direction that the deployment should be "near the person(s) engaged in the threats of harm or acts of violence or property destruction"; and
- Specifying that blast balls may only be used when force is authorized "for Crowd Control and Crowd Dispersal," versus individual threats of harm or to life safety.

Importantly, Council Bill 120916 requires compliance with core principles and law, while empowering transparency and Seattle's accountability system. OPA looks forward to discussing these recommendations with all parties.

Sincerely,

A handwritten signature in blue ink that reads "Bonnie Glenn".

Interim Director Bonnie Glenn

cc: Mayor Bruce Harrell, Seattle City Councilmembers, Sue Rahr - Interim Seattle Police Chief, Lisa Judge - Director of the Office of Inspector General, and Eci Ameh - Acting Executive Director of the Seattle Community Police Commission.

Amendment 1 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Kettle

Expanding and Clarifying City values and expectations for Crowd Management

Effect: This amendment would incorporate into Section 2 additional City values and expectations for SPD's Crowd Management Policy. The added language would:

- Prohibit use of blast balls unless: (1) crowd conditions mirror those described in Phase 5 of the CMIC Matrix, as an "Unlawful Assembly (Riot);" and (2) authorization is provided by the on-scene Assistant Chief of Police incident commander, after consultation with the Chief or Acting Chief.
- When used for crowd movement or dispersal purposes, Police Department policy shall reflect that blast balls shall be deployed when safe and feasible consistent with training in an open space to mitigate against the risk of injury to a person.
- Mutual Aid officers responding to the city at the request of SPD for crowd management purposes must agree to follow the command and control of the on-scene SPD Incident Commander. Mutual Aid officers may not deploy any less lethal weapons in a crowd management setting contrary to the on-scene Incident Commander's direction and any applicable state laws or standards established by the Washington State Criminal Justice Training Commission.

A new Section 5 would require the Seattle Police Department to report to the Office of Inspector General for Public Safety and Community Police Commission any deployment of less lethal weapons in a crowd management setting as soon as feasible. It would also require the OIG to evaluate the deployment promptly for compliance with the goals and values of this ordinance.

It would require the OIG annual report to include information on the Police Department's training on the use of blast balls and whether the training is consistent with the ordinance.

A new Section 6 would require SPD to notify the Council's Public Safety Committee before authorizing use of any less lethal weapon that is not currently authorized in SPD policy.

Amend Section 2 of CB 120916 as follows:

H. Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless 1) specific facts and circumstances establish an imminent threat of violence against persons or significant property damage, and 2) use of blast balls is authorized by the on-scene Assistant Chief of Police incident commander after consultation with the Chief or Acting Chief.

Police Department officers should be trained to understand that a blast ball's two-stage combustion may create some degree of inaccuracy during deployment, potentially disrupting the blast ball's trajectory from the intended destination.

When used for crowd movement or dispersal purposes, Police Department policy shall reflect that blast balls shall be deployed, when safe and feasible, consistent with training in an open space to mitigate against the risk of injury to a person.

The Police Department's Mutual Aid policy (currently SPD 16.240) shall require the Seattle Police Operations Center to coordinate mutual aid requests such that any request for mutual aid for crowd management purposes must include appropriate planning documents such as an Incident Action Plan or Briefing Sheet.

Mutual Aid officers responding to the city at the request of SPD for crowd management purposes must agree to follow the command and control of the on-scene SPD Incident Commander. Mutual Aid officers may not deploy any less lethal weapons in a crowd

management setting contrary to the on-scene Incident Commander's direction and any applicable state laws or standards established by the Washington State Criminal Justice Training Commission. The Police Department shall provide to its mutual aid partners copies of curricula and written materials that are used to train Police Department officers to deploy blast balls, and shall offer the opportunity to meet with mutual aid partners to discuss best practices in the use of physical force in crowd management settings.

To the extent possible and when appropriate, the Police Department should seek to include as a component of interjurisdictional disaster planning or other law enforcement trainings discussions that address the Police Department's crowd management policies and tactics, the Washington State Attorney General's Office best practices, and recommendations from the Office of Inspector General for Public Safety's Sentinel Event Review.

Amend Section 5 of CB 120916 and add a new Section 6 as follows, renumbering subsequent sections accordingly:

Section 5. The Seattle Police Department shall report to the OIG and Community Police Commission any deployment of less lethal weapons in a crowd management setting as soon as feasible. The OIG shall evaluate the deployment promptly for compliance with the goals of this ordinance and values established herein. OIG shall work with the CPC and SPD leadership to ensure deployments are consistent with community values and expectations.

When appropriate the OIG and CPC will meet with community members to collect experiential feedback and provide SPD with timely recommendations on crowd communication and de-escalation tactics, as necessary to ensure that the tactics are consistent with the

Department's training and policies. OIG may initiate a sentinel event review for any situations that create significant community concern. The Police Department, in collaboration with the Office of Inspector General for Public Safety, shall create an annual report on the use of force in crowd management situations, including details of the use of less lethal tools, to be filed with the City Clerk by the end of the first quarter of the following year. This report shall include information on the Police Department's training on the use of blast balls and whether the training is consistent with Section 2 of this ordinance.

Section 6. Prior to authorizing the use of any less lethal weapon type for crowd management purposes that is not currently authorized in SPD policy as of the effective date of this ordinance, the Police Department shall notify the Council Public Safety Committee, or its successor Committee, and report on: (1) the potential impacts and uses that could harm individuals within or outside of a crowd; (2) the specific policies and training curriculum that will mitigate potential harms; and (3) whether use of the less lethal weapon is consistent with emerging practices as determined by civil liberty organizations, national policing organizations such as the Police Executive Research Forum, International Association of Chiefs of Police, and the Center for Policing Equity, and the Office of Inspector General for Public Safety.

Amendment 2 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Saka

Mayoral proclamation of emergency required for use of blast balls

Effect: This amendment would require SPD policy to prohibit the use of blast balls to move or disperse a crowd unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02. Additionally, SPD policy shall prohibit the use of blast balls to move or disperse a crowd unless specific facts and circumstances establish an imminent threat of violence against persons or significant property damage.

Once allowed per the requirements above, any SPD officer ranked Lieutenant or higher may order use of blast balls to move or disperse a crowd. This is the current standard set in SPD's Crowd Management, Intervention and Control policy (SPD 14.090).

Delete the first paragraph of subsection H to CB 120916, as amended, and add the following:

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Amendment 3 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Mayoral authorization and proclamation required for use of blast balls, without exception

Effect: This amendment would require that the Mayor issue a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02 and provide specific authorization for the use of blast balls consistent with the conditions and restrictions established for crowd dispersal under Phase 5 of SPD’s Crowd Management, Intervention and Control policy (CMIC) (SPD 14.090). These restrictions require “Violent acts by four or more persons or acts that pose an imminent threat of violence against persons or significant property damage.” Additionally, there shall be no exceptions for individual officers to make decisions and SPD Incident Commanders must request Mayoral approval for each new day of use of blast balls.

Once authorized per the requirements above, any SPD Incident Commander ranked Lieutenant or higher may authorize use of blast balls to move or disperse a crowd. This is the current standard set in SPD’s Crowd Management, Intervention and Control policy (SPD 14.090).

Delete the first paragraph of subsection 2.H to CB 120916, as amended, and add the following:

H. Police Department policy shall prohibit the use of blast balls for any reason, without exception, unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02 and separately provided specific authorization for the use of blast balls consistent with the conditions and restrictions established for crowd dispersal under Phase 5 of SPD’s Crowd Management, Intervention and Control policy (14.090). Additionally, SPD Incident Commanders must request Mayoral approval for each new day of use of blast balls.

Amendment 4 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Add CPC Recitals and Recommendations on Blast Ball Deployment

Effect: This amendment would amend CB 120916, as amended by Amendment 1, to require that the Police Department’s policy on use of less lethal weapons (SPD 8.300) shall require that blast balls be deployed only when directed away from people, underhand, at a distance of at least 10 yards. It would also incorporate two new recitals that were suggested by the Community Police Commission:

WHEREAS, the CPC indicated in a January 8, 2025 letter to the City Council that “blast balls, as used in Seattle over the last decade, have a demonstrated track record when used according to past policy of inflicting injury, including serious injury, to individuals including bystanders, journalists, lawful demonstrators and in at least one instance, a police officer, when past policy intended to reduce the risk of such injury but was unable to achieve that outcome”; and

WHEREAS, the CPC letter also indicates that “when other law enforcement agencies assist the Seattle Police Department in responding to major events or disruptions, their actions have the potential to impact the rights and wellbeing of Seattle residents and to affect public confidence in policing to the same extent as actions of SPD officers, and members of the public should be able to expect their rights to be observed by any law enforcement officer deployed in the City of Seattle by agreement and request of the City of Seattle;”

Background: On January 8, 2025, the Community Police Commission sent to City Council members and the Mayor a letter that requested that blast balls be “directed away from people, underhand, at a distance of at least 10 yards.” The CPC also requested the addition of new recitals in CB 120916, two paragraphs of which are included in this amendment.

The current SPD policy on blast ball deployment (8.300-POL-10 Blast Balls) notes that, “when used for crowd control and dispersal purposes, when feasible, sworn employees will direct blast balls toward an open space.” It also says that “the preferred method of blast ball deployment is low deployment (e.g., bowling style).” Although, it also allows sworn employees to use a high deployment (e.g., overhand throw) when “the need for a farther deployment or the need to get around an obstruction outweighs the risk created by the separating munition.”

On page 3 of CB 120916, add two new recitals as follows:

WHEREAS, the CPC indicated in a January 8, 2025 letter to the City Council that “blast balls, as used in Seattle over the last decade, have a demonstrated track record when used according to past policy of inflicting injury, including serious injury, to individuals including bystanders, journalists, lawful demonstrators and in at least one instance, a police officer, when past policy intended to reduce the risk of such injury but was unable to achieve that outcome”;
and

WHEREAS, the CPC letter also indicates that “when other law enforcement agencies assist the Seattle Police Department in responding to major events or disruptions, their actions have the potential to impact the rights and wellbeing of Seattle residents and to affect public confidence in policing to the same extent as actions of SPD officers, and members of the public should be able to expect their rights to be observed by any law enforcement officer deployed in the City of Seattle by agreement and request of the City of Seattle”;

After the third paragraph of subsection H to CB 120916, as amended, and add the following:

Additionally, blast balls shall be deployed only when directed away from people, underhand, at a distance of at least 10 yards from the nearest person.

Amendment 5 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Mutual Aid Officers must follow SPD Crowd Management Policies

Effect: This amendment would prohibit SPD Incident Commanders from deploying to a crowd management role any mutual aid officer who is unable or unwilling to comply with SPD's Crowd Management Policies. SPD may deploy mutual aid officers to non-crowd management roles during a crowd management event.

Add a new Section 6 as follows, renumbering subsequent sections accordingly:

Section 6. The Police Department's mutual aid policy (SPD 16.240) and interim crowd management policy (SPD 14.090) shall prohibit the department's Incident Commanders from deploying to a crowd management control role any mutual aid officer who is unable or unwilling to comply with SPD 14.090. SPD may deploy mutual aid officers to non-crowd control management roles during a crowd management event.

Amendment 6 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Saka

Accountability Agency review of SPD Policies

Effect: The amendment would require SPD to comply with the Accountability Ordinance requirement that Seattle’s accountability agencies are provided with opportunities for regular, timely review of proposed revisions to the SPD Policy Manual.

Add a new Section 6 to CB 120916 as follows, renumbering subsequent sections accordingly:

Section 6. Before authorizing any new policy in the Policy Manual, the Police Department shall ensure that it complies with the provisions of subsection 3.29.410.C of Ordinance 125315, known as the Accountability Ordinance.

Amendment 7 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Council approval required for changes to SPD's crowd management policies

Effect: This amendment would require SPD to seek Council approval before amending the department's Crowd Management Intervention and Control Policy.

Add a new Section 6 to CB 120916 as follows, renumbering subsequent sections accordingly:

The Police Department shall seek Council approval before amending its Policy Manual section on Crowd Management Intervention and Control (SPD 14.090).

Amendment 8 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Author: Councilmember Rinck

Role of SPD in Crowd Management Settings

Effect: This amendment would require SPD to amend the purpose statement for its Crowd Management, Intervention, and Control (CMIC) policy (14.090-POL-1 Purpose). The purpose statement shall specify that “a fundamental function of the role of police in all crowd management settings is to identify and clearly communicate safe entry and exit points for individuals assembled in crowds as well as individuals passing by, living in the area, or working in the area.”

Background: SPD’s CMIC policy requires that Incident Commanders to ensure that there is an avenue of egress sufficient to allow a crowd to depart an assembly that has been declared unlawful under CMIC Phase 5. This requirement is reflected in the Crowd Control and Dispersal procedures outlined in SPD 14.090-POL-8. Separately, the CMIC policy has a purpose statement that serves as a guideline for SPD’s crowd management activities:

4.090-POL-1 Purpose

The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the United States Constitution and Article 1, § 4 and 5 of the Washington State Constitution. The Seattle Police Department (SPD) takes seriously its responsibility and commitment to support and facilitate the exercise of these rights in a fair and equitable manner, without consideration as to content or political affiliation, with as minimal a footprint as is reasonably necessary to preserve public safety and order.

This policy recognizes that assemblies in Seattle may range from small gatherings that require no police support, to permitted celebratory and/or protest marches, to large-scale, unpermitted demonstrations where activities outside of First Amendment protections, including significant traffic disruption, property destruction, and/or threats of violence may require a greater police presence.

This policy is intended to provide clear guidance to officers, supervisors, and commanders in employing appropriate crowd management, intervention, and control strategies in a manner to facilitate, to the extent safe and feasible, the right to free expression and peaceable assembly. This policy is also intended to provide guidance by which officers and supervisors may objectively determine at what juncture a demonstration or assembly leaves the realm of legal protest and becomes an abridgement on the life-safety and property rights of others. At all times, SPD’s response will be based upon the conduct of those assembled, not the content of their speech or affiliation. See RCW 9A.84.010.

The department recognizes that the visible appearance and/or actions of law enforcement may affect the demeanor and behavior of a crowd. It is the department’s mission

to de-escalate whenever safe and feasible to do so, without compromising public order and safety.

The department also recognizes that the unlawful acts of some members of a crowd do not automatically turn an assembly from peaceable to unpeaceable. It is the department's commitment to provide officers and supervisors with crowd management and intervention strategies that allow for the peaceable expression of federal and state rights while at the same time removing individuals whose illegal behavior jeopardize the safety of lawful activity. This policy is intended solely to guide the decisions, actions, and operations of department personnel in planning for and responding to crowd management situations within the City of Seattle. It is not intended to expand or abridge constitutional analyses with respect to the parameters of First Amendment protections and restrictions more appropriate for a court of law.

This policy is to be read in conjunction with manual sections 14.100 – Special Events and Title 8 – Use of Force.

Add a new Section 6 as follows, renumbering subsequent sections accordingly:

Section 6. The purpose statement for Seattle Police Department Policy 14.090-POL-1 - Crowd Management, Intervention, and Control, shall be amended to include a statement that a fundamental function of the role of police in all crowd management settings is to identify and clearly communicate safe entry and exit points for individuals assembled in crowds as well as individuals passing by, living in the area, or working in the area.

Amendment 9 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Author: Councilmember Rinck

Less Lethal Weapon use should be necessary and proportionate to effect crowd dispersal

Effect: This amendment would require SPD to amend the purpose statement for its Crowd Management, Intervention and Control (CMIC) policy (14.090-POL-1 Purpose). The purpose statement shall specify that “Less lethal weapon use should be necessary and proportionate to effect crowd dispersal. Use of less lethal weapons or tactics that may cause serious physical injury or fatal harm should be proportional to the threat of physical injury or harm that would otherwise occur from crowd violence.”

Background: SPD’s CMIC policy requires that Incident Commanders to ensure that any force used should be reasonable, necessary, and proportional to disperse or move a crowd. This requirement is reflected in the CMIC matrix shown in SPD 14.090. Separately, the CMIC policy has a purpose statement that serves as a guideline for SPD’s crowd management activities:

4.090-POL-1 Purpose

The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the United States Constitution and Article 1, § 4 and 5 of the Washington State Constitution. The Seattle Police Department (SPD) takes seriously its responsibility and commitment to support and facilitate the exercise of these rights in a fair and equitable manner, without consideration as to content or political affiliation, with as minimal a footprint as is reasonably necessary to preserve public safety and order.

This policy recognizes that assemblies in Seattle may range from small gatherings that require no police support, to permitted celebratory and/or protest marches, to large-scale, unpermitted demonstrations where activities outside of First Amendment protections, including significant traffic disruption, property destruction, and/or threats of violence may require a greater police presence.

This policy is intended to provide clear guidance to officers, supervisors, and commanders in employing appropriate crowd management, intervention, and control strategies in a manner to facilitate, to the extent safe and feasible, the right to free expression and peaceable assembly. This policy is also intended to provide guidance by which officers and supervisors may objectively determine at what juncture a demonstration or assembly leaves the realm of legal protest and becomes an abridgement on the life-safety and property rights of others. At all times, SPD’s response will be based upon the conduct of those assembled, not the content of their speech or affiliation. See RCW 9A.84.010.

The department recognizes that the visible appearance and/or actions of law enforcement may affect the demeanor and behavior of a crowd. It is the department’s mission to de-escalate whenever safe and feasible to do so, without compromising public order and safety.

The department also recognizes that the unlawful acts of some members of a crowd do not automatically turn an assembly from peaceable to unpeaceable. It is the department's commitment to provide officers and supervisors with crowd management and intervention strategies that allow for the peaceable expression of federal and state rights while at the same time removing individuals whose illegal behavior jeopardize the safety of lawful activity. This policy is intended solely to guide the decisions, actions, and operations of department personnel in planning for and responding to crowd management situations within the City of Seattle. It is not intended to expand or abridge constitutional analyses with respect to the parameters of First Amendment protections and restrictions more appropriate for a court of law.

This policy is to be read in conjunction with manual sections 14.100 – Special Events and Title 8 – Use of Force.

Add a new Section 6 as follows, renumbering subsequent sections accordingly:

Section 6. The purpose statement for Seattle Police Department Policy 14.090-POL-1 - Crowd Management, Intervention, and Control, shall be amended to include a statement that less lethal weapon use should be necessary and proportionate to effect crowd dispersal. Use of less lethal weapons or tactics that may cause serious physical injury or fatal harm should be proportional to the threat of physical injury or harm that would otherwise occur from crowd violence.

Amendment 10 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Author: Councilmember Rinck

Create a private right of action

Effect: This amendment would create a private right of action against the City when a person incurs physical injuries proximately caused by the use of less lethal weapons in violation of SPD's Crowd Management, Intervention, and Control policy.

A person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this Section. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this Section shall be \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery or process available to a person under federal and state law.

A private right of action would allow individuals to make a claim against the City. If the claim is not resolved, then the individual could file a civil lawsuit for damages.

Background: This private right of action was similar to that in Ordinance 126422, except that it does not allow for recovery for emotional damages. Ordinance 126422, which updated city policies to allow some LLWs to be used by trained SPD officers under specific circumstances. This Ordinance did not take effect because its implementation was conditioned on the Court approving compliant policies, and per a recommendation from the Executive, the federal monitor did not allow a submittal for judicial review. The Ordinance was not signed by then Mayor Durkan.

Add a new Section 6 as follows, renumbering subsequent sections accordingly:

Section 6. A person shall have a right of action against the City for physical injuries proximately caused by the use of less lethal weapons in violation of Seattle Police Department Policy 14.090 - Crowd Management, Intervention, and Control. A person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this section.

DOSS
Public Safety Committee
January 14, 2025
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Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this section shall be \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery or process available to a person under federal and state law.



Seattle Office of Police Accountability

January 13, 2025

Via Electronic Mail

Councilmember Robert Kettle
Public Safety Committee Chair
Seattle City Council
Robert.Kettle@seattle.gov

Dear Councilmember Kettle,

I write in support of Council Bill 120916 and respectfully request the City Council pass this draft legislation which would:

- (1) Repeal Seattle Municipal Code (SMC) SMC 3.28.146 and Ordinance 126422 restricting the Seattle Police Department's (SPD's) use of less lethal weapons (LLWs), including use of LLWs for crowd management purposes; and
- (2) Require SPD to adopt and maintain a crowd management policy that is consistent with City values and expectations as outlined in uncodified language in Section 2 of CB 120916; and
- (3) Require SPD to adopt and maintain a crowd management policy that is consistent with the City values and expectations outlined in CB 120916.

This Crowd Control Legislation enforces hard-examined community values, guides Seattle Police Department (SPD) policy and permits the City of Seattle to implement the final requirements of the federal Consent Decree.

For nearly five years, the people of Seattle have deeply examined their expectations of the crowd management strategies and tactics used by SPD. Immediately following the May 25, 2020, murder of George Floyd, Seattle experienced months of demonstrations that included SPD officers using less lethal force with tear/CS gas, pepper spray, 40 mm "Blue Nose" rounds, and blast balls.

These events led to a comprehensive City response and years of dialogue. From May 30 through the end of 2020, OPA was contacted over 19,000 times concerning SPD's conduct at and response to various demonstrations, resulting in 145 OPA investigations.¹ In addition to OPA's individual complaint investigations, Seattle's Office of Inspector General for Public Safety (OIG) conducted a comprehensive, four-wave Sentinel Event Review concerning the 2020 Protests in Seattle.² An additional layer of oversight, Seattle was and remains under a federal Consent Decree concerning specific aspects of SPD operations since 2012.³ Seattle City Council passed two ordinances—Ordinance 126102 in June 2020 and Ordinance 126422 in August 2021—which sought to specifically

¹ See City of Seattle, Office of Police Accountability, Demonstration Complaint Dashboard, available at <https://www.seattle.gov/opa/case-data/demonstration-complaint-dashboard>.

² See City of Seattle, Office of Inspector General for Public Safety, Sentinel Event Review, available at <https://seattle.gov/oig/sentinel-event-review>.

³ *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR), available at <https://seattlepolicemonitor.org/documents>.



Seattle Office of Police Accountability

regulate SPD's use of less lethal weapons (LLWs) for crowd management purposes. Then-Mayor Jenny Durkan returned both ordinances to Council unsigned along with detailed memoranda outlining her concerns. Due to federal oversight, neither ordinance took effect.

There has been much discussion and ideating since 2021, but the conflicts between City ordinance, SPD policy, and federal oversight persist. In February 2021, the Court approved "interim" crowd management policies for SPD, but these are at odds with provisions of Seattle Ordinance 126422 and, so, cannot be finalized. Notably, Ordinance 126422 explicitly conditioned its implementation on Court approving compliant policies.

Seattle is poised to move forward. The Court overseeing the federal Consent Decree has indicated that the only remaining hurdle for Seattle to exit federal oversight is for the City to submit SPD crowd management and LLW policies for review by the monitor and Department of Justice, as well as final approval by the Court. Council Bill 120916 harmonizes SPD's Court-approved interim policies and prior Seattle ordinances. It does so by requiring SPD to adopt and maintain crowd management policies that adhere to consensus values and expectations, comply with specific State laws, empower transparency and accountability through collaboration with OIG, daylight revisions, and comply with labor law. At the December 10, 2024, Public Safety Committee meeting, SPD presented and took public comment on a revised crowd management policy structured to meet these benchmarks.

SPD has engaged with OPA during this process, circulated draft policies, invited feedback, and addressed critical concerns such as:

- Clarifying that the threshold for declaring an "Unlawful Assembly" requires "significant" property damage;
- Requiring that an Incident Commander, "ranked Lieutenant or higher," authorize any use of LLWs (other than tear/CS gas) to move a crowd following the issuance of a dispersal order and reasonable amount of time to comply;
- Requiring that, when feasible, blast balls be directed towards and "open space," and removing the direction that the deployment should be "near the person(s) engaged in the threats of harm or acts of violence or property destruction"; and
- Specifying that "Exception: sworn employees may make individual decisions to deploy blast balls if reasonable, necessary, and proportional to address immediate threats to life safety, but not for crowd dispersal purposes."

Importantly, Council Bill 120916 requires compliance with core principles and law, while empowering transparency and Seattle's accountability system. OPA looks forward to discussing these recommendations with all parties.

Sincerely,

A handwritten signature in blue ink that reads "Bonnie Glenn".

Interim Director Bonnie Glenn

cc: Mayor Bruce Harrell, Seattle City Councilmembers, Sue Rahr - Interim Seattle Police Chief, Lisa Judge - Director of the Office of Inspector General, and Eci Ameh - Acting Executive Director of the Seattle Community Police Commission.