

Amendment 9 to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

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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.