

PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies, demonstrations, or civil disturbances.

POLICY

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 Bellevue Police Department respects the rights of people to peaceably assemble. It is the policy of this department to facilitate the safe expression of the people's First Amendment right to assemble while also preserving the peace, protecting life, and preventing the destruction of property. When facilitating the expression of First Amendment rights, the police department will not align with any particular social or political agenda and will operate in a content-neutral manner with equal regard to all parties involved in the event. We will enforce the law and protect all citizens, whatever their reason for exercising their First Amendment rights.

GENERAL CONSIDERATIONS

Individuals or groups in public spaces and in the public right-of-way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise peacefully express their views and opinions through varying forms of communication, including the distribution of printed material. However, these rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering.

Unfortunately, not all public assemblies remain peaceful expressions of the people's First Amendment rights. It is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. Therefore, when preparing to facilitate First Amendment protected events, the Police Department should be prepared for a range of public safety contingencies, including counter-demonstrators, violence, property damage, and civil disorder. When there is a potential for civil disturbance, the people's First Amendment rights must be balanced against any specific, articulable potential threats to public safety, including physical violence, protection of private property, disruption of essential government functions, and the safe and efficient flow of traffic. Any actions by this police department must be narrowly tailored to serve a specific governmental interest in preserving public safety. This may include imposing restrictions on the time, place, and manner of gatherings if there is a clear, articulable danger of imminent lawlessness. These government restrictions may also include keeping opposing groups separated if there is a likelihood of violence between them. If isolated criminal acts occur within an otherwise peaceful assembly, the goal of the police department will be to address those criminal acts by arresting the suspect(s) when it is safe and feasible to do so, and then facilitate the continuation of the larger assembly. In the event there is criminal conduct that creates an imminent or actual danger to public safety, that assembly is no longer protected by the First Amendment and may be declared an unlawful assembly by the Incident Commander.

PLANNED EVENTS

The Department is committed to providing assistance to organizations and citizens wishing to peacefully demonstrate and exercise the rights guaranteed by the United States Constitution. A representative of the Department should attempt to contact leaders of groups planning to demonstrate and offer to work with the group in the planning of the demonstration in order to ensure the safety and protection for the demonstrators

as well as the general public. *Refer to Appendix A for specific provisions to be addressed during the planning and preparation of the Department's involvement in any demonstration or legal large-scale gathering.*

For planned events, comprehensive, incident-specific operational plans should be developed. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established.

UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions.

Initial assessment information should be promptly communicated to the Communications Center and the on-duty police supervisor. The shift supervisor should respond if the unplanned event is likely to lead to criminal activity, injuries, or cause a disruption to vehicle and pedestrian traffic. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

A Patrol Captain or his/her designee will determine the necessary mobilization phase for the incident, take steps to activate the necessary mobilization, and respond to the Command Post and assume incident command.

UNLAWFUL ASSEMBLY

The Incident Commander will have the authority to adjust the level and nature of police response to address the developing circumstances and known intelligence available at the time. As a general principle, the police should use the least restrictive options reasonably available for managing the situation. These include requests for compliance, area denial, crowd movement, enforcement of civil violations, or individual arrests for criminal acts. If members of the crowd become engaged in criminal activity that threatens public safety and has the potential to overwhelm the police department's resources to continue to protect the public, the Incident Commander may declare it an unlawful assembly.

ARREST PHILOSOPHY

The Bellevue Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan unless circumstances dictate otherwise. If practicable, warnings or advisements should be communicated prior to arrest. If there is probable cause to believe criminal activity is occurring within an assembly otherwise protected by the First Amendment, it shall be the objective of the Bellevue Police Department to conduct the least disruptive intervention. This should be accomplished by assigning individual accountability to individual suspects committing specific and articulable criminal acts, while facilitating the resumption of the peaceful expression of First Amendment rights for those who gather with that purpose. Police Officers will take enforcement action against those individuals involved in criminal activity, if and when it is safe and feasible to do so. The decision to arrest for criminal activity can be made at the officer and/or squad level. All arrestees will be photographed with the arresting officer, who will promptly complete a certificate of probable cause for the crime(s) the suspect was arrested for. Officer and public safety are paramount. We will make arrests for criminal activity when safe and feasible to do so, using team tactics consistent with law, policy, and training.

DISPERSAL ORDERS

Should the Incident Commander determine that public safety is presently, or is about to be jeopardized, he/she or an authorized designee should attempt to verbally persuade event organizers or participants to disperse on their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group. If there are multiple groups (e.g., counter protestors) only those groups engaged in criminal activity should be given a dispersal order.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly and should order the dispersal of the participants according to state law. *Refer to RCW Chapter 9A.84.* The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. For large and/or spread-out crowds, and when circumstances allow, the announcement should be amplified, made in different languages as appropriate, and made from multiple locations in the affected area while documenting by audio and video when feasible. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

If there are two or more groups, only those groups engaged in criminal activity should be given a dispersal order. If two or more groups are engaged in criminal activity, then each group should be given instructions specific to each group to avoid potential confusion, avoid moving the problem to a different location, or from creating additional conflict.

No officer shall attempt to disperse a crowd without sufficient police resources.

Mass arrests should be employed only when alternative tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests should only be undertaken upon the order of the Incident Commander or an authorized designee. There must be probable cause for each arrest. *See BPD Policy "Appendix A - All Hazard Plan for Unusual Occurrences and Special Operations" (page A-13) for additional Mass Arrest procedures.*

JUVENILE OFFENDERS

Arrested juveniles shall be separated from adult offenders as soon as possible. Juvenile offenders will be transported to a separate detention facility.

DETENTION FACILITIES

In some instances, the arrested persons may be transported to a temporary detention area away from the scene, processed, and released on a criminal citation. When arrested persons are to be booked, arrangements shall be made prior to the arrests with a jail facility. A temporary detention facility may be established to accomplish the necessary processing for individuals. Adequate security must be in place at any temporary detention facility to prevent escape or intrusion. The detention facility process will be managed by the Incident Commander or his/her designee.

USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual or individuals refuse to comply with lawful orders, the Incident Commander shall evaluate the totality of the circumstances and adopt a reasonable response to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Less lethal devices should only be used in accordance with the department's Use of Force policy. Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

LESS LETHAL MUNITIONS

The Bellevue Police Department employs the use of less-lethal munitions and weapons to intervene, disrupt, or stop individual suspects committing or about to commit specific, individual criminal acts or to disperse an unlawful assembly engaged in collective overwhelming violent activity. The use of single-projectile less lethal munitions is at the discretion of officers trained in the use of such munitions as the situation dictates. Less lethal devices, when employed, should be directed toward specific individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Use of tear gas (CS) in a riot situation may only be deployed after receiving authorization from the Mayor of the City of Bellevue.

See BPD policy "02.00.060 – Special Firearms/Weapons/Less Lethal Devices" for further details about the use of special weapons, firearms, and less lethal devices and munitions.

TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. Officers with specialized assignments in responding to civil disturbances shall conduct periodic training to maintain proficiency with the use of their equipment and tactics. The Department should, when practicable, train with its external and mutual aid partners.