
First Amendment Assemblies and Crowd Management

430.1 PURPOSE AND SCOPE

The primary purpose and role of the Olympia Police Department during public demonstrations is to protect persons, property, de-escalate violence and facilitate free expression and freedom of assembly.

430.2 POLICY

The Olympia Police Department respects the rights of people to peaceably assemble. The department will prioritize protection of life and prevention of injury while proactively minimizing damage to City businesses and residences, with officer safety and citizen well-being at the forefront. This policy is intended to help ensure a public safety response that promotes equity, fairness, professionalism, un-biased policing, and accountability.

430.3 DEFINITIONS

Civil Disobedience: A non-violent form of protest or resistance to obeying certain laws, demands or commands of a government.

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 an unlawful assembly.

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 Management: Encompasses law enforcement management, intervention, and control strategies and tactics employed before, during, and after a gathering for the purpose of maintaining the event's lawful activities. This could include event planning, pre-event contact with group leaders, information gathering, and other means. May include providing traffic control to prevent pedestrian demonstrators from encountering moving traffic.

De-escalation tactics: Actions used by officers that are intended to minimize the likelihood of the need to use force during an incident (RCW 10.120.010).

Demonstration (or Protest): A lawful assembly of persons who have organized primarily to exercise their First Amendment right to express political or social doctrine views and attract public attention. Planned or spontaneous demonstrations include, but are not limited to, the distribution of literature, displaying banners, vigils, rallies, marches, strike, or other similar activity. Lawful demonstrations or acts of civil disobedience are not inherently, but can become, civil disturbances.

First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of

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the right of the people to peaceably assemble, and to petition the Government for a redress of grievances

Freedom of Speech: As guaranteed by the first amendment, officers are prohibited from restricting the press or rights of individuals to speak freely. Community members are also guaranteed the right to assemble peaceably to demonstrate.

Incident Commander: A command member (usually a Lieutenant) who has overall control and responsibility for managing the demonstration by establishing objectives, planning strategies, and implementing tactics in accordance with department policy, law, and training.

430.4 GENERAL CONSIDERATIONS

The Olympia Police Department recognizes that the City of Olympia has a tradition of free speech and assembly. It is the responsibility and priority of the Olympia Police Department not to unduly impede the exercise of First Amendment rights and to provide for the safe and lawful expression of speech while also working to maintain public safety, peace, and order. Individuals or groups present on the public way, such as public facilities, streets, or walkways, generally have the right to assemble, rally, demonstrate, protest, or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. The content of the speech does not generally provide the basis for imposing limitations on First Amendment rights. Officers will treat demonstrators with equity and dignity regardless of the content of free speech. Officers shall not take action or fail to take action based on the opinions being expressed.

While the First Amendment provides broad protections for the expression of speech, it does not provide protection for criminal acts, including but not limited to: disorderly conduct, interference with traffic upon the public streets, assault, property damage, or other immediate threats to public safety.

It is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. The Olympia Police Department recognizes that demonstrations and events are dynamic in nature. Accordingly, members will monitor the crowd throughout the event to assess the level of risk posed to both demonstrators and the public at large, with the goal of minimizing potential violence, injury, or damage to property. Officer response should be commensurate to overall crowd behavior, and officers should differentiate between groups or individuals who are engaging in criminal behavior or otherwise posing a threat to the safety of others and those in the crowd who are lawfully demonstrating. The Department recognizes that the unlawful acts of some members of a crowd do not automatically turn an assembly from lawful to unlawful. Officers should make every effort to employ crowd intervention techniques to isolate individual offenders committing crimes within an otherwise law-abiding crowd. Officers will strive to maintain a diplomatic presence to dissuade participants from engaging in civil disturbance and to encourage crowd self-monitoring.

If a demonstration becomes a civil disturbance, the Police Department has a responsibility to reasonably protect public safety and property and restore peace when allowable by applicable

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law. It is the Department's mission to de-escalate whenever safe and feasible to do so. The Police Department should employ only objectively reasonable crowd management tactics with an intent to prioritize de-escalation. If a demonstration escalates to a civil disturbance that is no longer isolated to individuals or smaller groups, officers shall adjust their tactical response at the direction of the incident commander to adequately resolve the incident and restore public safety, peace, and order. In doing so, incident command will make intervention decisions while continually considering the First Amendment rights of law-abiding participants..

In order to de-escalate the potential for disorder and avoid mass arrests, officers will endeavor to accommodate assemblies, protests, or acts of civil disobedience that may temporarily block traffic or otherwise obstruct public streets by regulating or rerouting traffic as much as practical. Mass arrests will generally be avoided and conducted as a last resort.

430.4.1 OFFICER CONDUCT AND EXPECTATIONS

All members are expected to conduct themselves in a professional manner when interacting with persons involved with demonstrations and special events and will be properly identified as peace officers. Any communication with members of a crowd will remain content neutral.

Officers shall not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront, or argue about the reasons for the protest with participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.
- (d) Use language that violates the department's commitment to diversity, equity, and inclusion.

Any identifiable on-duty peace officer who witnesses another peace officer engaging or attempting to engage in the use of excessive force against another person shall intervene when in a position to do so, per **RCW 10.93.190**.

Supervisors should continually observe department members under their command to ensure that members' interaction with participants and their response to crowd dynamics is appropriate. Supervisors must also recognize that extended hours in tense, high stress situations may impact officer health and wellness. Supervisors will maintain regular communication with their officers and watch for signs of fatigue induced by extended or highly stressful operations. Supervisors will attempt to provide breaks for officers or rotate staff between posts, as they are able, to mitigate officer fatigue and improve officer wellness.

430.4.2 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

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When available, officers will use department provided body worn cameras and/or vehicle equipped cameras to document unfolding events, including officer actions, in accordance with **OPD Body-Worn Camera Policy 422**.

430.4.3 JOURNALISTS, LEGAL OBSERVERS, AND RECORDING

Journalists, legal observers, and others may observe and record the demonstrations and officer's response. Journalists and legal observers are allowed in areas open to the public. If they enter areas that are closed to the public, they will be asked to leave, and enforcement action may be taken if they refuse to do so. Officers will not attempt to prevent the lawful observing or recording of police activities.

430.5 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants and crowd makeup (children, elderly, etc.)
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to TCOMM, and the assignment of a supervisor should be requested. 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. The assigned Incident Commander should be responsible for establishing a clearly defined command structure, acquiring and deploying available resources, and requesting assistance from other agencies as needed. A spontaneous or non-permitted event is not necessarily unlawful, nor does it automatically require a significant police response.

The Incident Commander will notify City Communications regarding the details of any unplanned event as soon as feasible.

430.6 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed when time allows and relevant information is available. The assigned incident commander should complete the Event Planning/Safety & Resource Assessment to assist in determining staffing and resource needs, if any. The Incident Commander will make efforts to contact event organizers to discuss event planning in the spirit of equity and inclusion, and to ensure adequate resources are assembled to help facilitate the First Amendment rights of event attendees.

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430.6.1 INFORMATION GATHERING, ASSESSMENT AND COMMUNICATION

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced and equitable response to criminal activity and the protection of public safety interests.

When the event organizer is known, the Incident Commander will make efforts to make contact and engage in dialogue regarding the plan and safety goals of the demonstrating group. The department will incorporate this information into response planning in an effort to minimize the necessity for police intervention. The department recognizes that for some planned events, determining and contacting an individual organizer may not be possible.

Information will be obtained in a lawful manner and will not be based solely on the subject of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

During the planning phase, the Incident Commander will assess and consider any potential impacts to businesses, residential areas, public spaces, or community groups. When time allows, representatives for these groups will be contacted and provided information regarding expected impacts and given a point of contact at the police department for follow up, if needed.

The Incident Commander will notify the City Communications Office as soon as feasible of any significant planned demonstration.

430.6.2 OPERATIONAL PLANS

An Incident Commander will be selected for the planning, preparation, and coordination of an event. The Incident Commander may designate an assistant Incident Commander, or other designee, to assist with these responsibilities. The Incident Commander should develop an operational plan for the event.

The operational plan will minimally provide:

- (a) Command assignments, chain of command structure, roles and responsibilities.
- (b) Staffing and resource allocation
- (c) Management of criminal investigations (when available).
- (d) Deployment of specialized resources.

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- (e) Event communications and interoperability in a multi-jurisdictional event.
- (f) Liaison with demonstration leaders and external agencies (when available).
- (g) Media relations.
- (h) Logistics liaison to Incident Command (if needed).
- (i) Traffic management staffing.
- (j) First aid and emergency medical service provider availability
- (k) Prisoner transport and detention (if needed).
- (l) Review of policies regarding public assemblies and use of force in crowd management
- (m) Any relevant information gathered during the event planning that pertains to public safety or officer safety.

430.6.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the OPD Policy 325). For planned events, Incident Command will conduct a joint briefing prior to events, which will include OPD rules of engagement, clearly assigned duties, and expectations for officers with respect to communication, diversity, equity, and inclusion.

The Olympia Police Department does not condone the assistance of vigilantes or armed groups, to assist in carrying out the duties and functions of police in any circumstance. Engaging in this type of conduct may be unlawful, and the OPD will take enforcement action against violators when safe and feasible.

430.6.4 PROTECTIVE EQUIPMENT DECISION FACTORS

The Incident Commander shall authorize the appropriate level of protective equipment based on several factors to include, but not limited to:

- (a) Member safety,
- (b) Knowledge of past violence associated with a known group,
- (c) Individual and/or group physical resistance,
- (d) The presence or expected presence of weapons,
- (e) Actual or credible threats or indicators of violent behavior,
- (f) Actual or credible threats of criminal actions, and
- (g) The potential impact or perceived effect that appearing in protective gear may have on a crowd.

When practicable, the Incident Commander should attempt to position officers in protective gear in locations that minimize visibility until deployment is necessary to prevent inadvertent escalation.

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430.7 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

The priority of the Police Department is to allow demonstration and event participants to manage their own events. To that end, the Incident Commander will weigh the totality of the circumstances to inform the decision to introduce police action to maintain public safety. If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event. Dispersal orders will not be used to disperse peaceful crowds.

Should the Incident Commander determine that public safety is presently or is about to be jeopardized, they or their authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group using an amplified Public Address system or other reasonably effective available means.

If 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. 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. The announcement should be amplified and documented by audio and video, when feasible. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues. A reasonable time to disperse should be allowed following a dispersal order. Dispersal orders should be repeated at least once, if feasible, before law enforcement action is taken, and continually thereafter, as needed. The Incident Commander or designee should ensure there are sufficient avenues for egress available to allow the crowd to depart in accordance with department training.

430.8 USE OF FORCE

It is the Olympia Police Department's mission to facilitate crowd management events with the least amount of force reasonably necessary to protect life and property. In crowd intervention situations, officers may be required to physically engage individuals who exhibit conduct ranging from obstructive to violent criminal behavior. Officers may have to utilize force to stop an immediate threat or effect an arrest. All force used will be documented in accordance with law, policy, and training.

430.8.1 CROWD INTERVENTION WEAPONS AND TOOLS

Less lethal weapons and munitions may only be used by officers trained in their use and in accordance with **OPD Policy 300, Use of Force**, and when permitted by Washington State Law governing the use of force by Police Officers.

Examples of less lethal and crowd management platforms include but are not limited to: Pepperball™ launchers, large bore (40MM) launchers, Oleoresin Capsicum (OC), pyrotechnic smoke cannisters, and Blast Ball/Sting Ball distraction devices. Control devices, including OC,

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should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

The Training Office will maintain the list of crowd management munitions approved by the Chief in accordance with **OPD Policy 300**. Chlorobenzalmalonitrile (CS) munitions, commonly referred to as "tear gas," will not be used by the Olympia Police Department for crowd management purposes in any form, pyrotechnic or otherwise.

430.8.2 PROHIBITED CROWD INTERVENTION METHODS

Members shall not take the following actions to disperse a crowd:

- (a) Use fire hoses,
- (b) Intentionally bring demonstrators into contact with a police vehicle (i.e., to push or strike),
- (c) Deploy Canine Units,
- (d) Use of a conducted energy weapon (CEW),
- (e) Use of equipment provided by another agency upon which an officer is not sufficiently, trained
- (f) Use of any equipment prohibited by Washington State law,
- (g) Intentionally targeting peaceful demonstrators with munitions.

Only Officers trained in Demonstration/Crowd Management will be assigned to such details. Officers who have not been trained will be assigned to perimeter or support positions or partnered under the direct supervision of fully trained staff.

430.8.3 PROVIDING MEDICAL AID

Officers should attempt to provide aid to subjects exposed to OC, impact munitions, or other uses of force at the earliest safe opportunity at a scene controlled by law enforcement. Medical aid may include summoning medical assistance. Any individual struck by a kinetic energy munition shall be transported to a hospital for medical clearance prior to any jail admittance in accordance with **OPD Policy 300**. When available, officers should request the assistance of Tactical Emergency Medical Services (TEMS) assigned to Crowd Management details to expedite treatment.

430.8.4 USE OF FORCE REPORTING

Any use of force by a member of this department shall be documented completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident. Officers shall report uses of force to a supervisor as soon as practical and document each use of force in accordance with **OPD Policy 300**. Each use of force will subsequently be evaluated by the designated Lieutenant and forwarded to the Professional Standards Office for review and submission to the Police Auditor.

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430.9 ARRESTS

The Olympia Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan, criminal law, department policy and training. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must exist articulable probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Timely access to medical care.
- (c) Timely access to legal resources.
- (d) Timely processing of arrestees.
- (e) Full accountability for arrestees, evidence and personal property.
- (f) Clear and accurate documentation of each arresting officer and arrestee.

430.10 COMMUNICATION MEDIA RELATIONS

The Olympia Police Department's goals are to facilitate participants' right to assemble. Furthermore, where event participants comply with the law, the Police Department shall encourage and support participants' efforts to monitor themselves in an attempt to limit police involvement.

When a police response is requested or deemed necessary by the department:

- (a) The department shall make reasonable efforts, when feasible, to contact and engage in dialogue with known event or demonstration organizers to assist the department in planning, and to develop a shared understanding of the organizers' needs and objectives. Similarly, the department should communicate its expectations and inform participants on permissible and restricted actions during the event or demonstration.
- (b) The department shall inform City leaders about planned demonstrations or civil disturbances that have the potential to impact quality of life, daily operations, and public safety.
- (c) The Incident Commander or designee shall attempt to maintain communication with known demonstration organizers before and during an event.
- (d) The OPD Public Information Officer should use all reasonably available avenues of communication, including but not limited to: press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives, the community, and event participants about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event in accordance with OPD policy. When staffing allows, social media will be employed to provide the community with real time, accurate updates regarding location, community impact, and any necessary public safety information.

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430.11 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment to their supervisors prior to returning to normal operational duties.

430.11.1 POST EVENT

The Incident Commander should designate a member or team to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Incident, arrest, use of force, injury, and property damage reports
- (c) Photographs, audio/video recordings, TCOMM records/tapes
- (d) Evidence collection records

430.11.2 AFTER-ACTION REPORTING

The City Communications Office will be notified as soon as feasible after any planned or unplanned demonstrations.

After an event, the Incident Commander will complete an After-Action report, detailing the events that occurred and any police response. This report will be forwarded to the City Communications Office, the Chief of Police, and any other necessary parties as directed by the Chief of Police.

The after-action report of the event will explain all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Challenges identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documents in a generic manner, without identifying individuals or specific incident, facts, or circumstances
- (f) Adherence to policy and training

430.12 TRAINING

Commissioned Department members and Tactical Emergency Medical Services (TEMS) will receive regular training regarding this policy, as well as the dynamics of crowd management, use of force, diversity, equity, and inclusion, procedural justice, and de-escalation. The Department will, when practicable, train with its external and mutual aid partners to ensure consistency of tactics and to strengthen interagency communication. Training records will be maintained by the Training Office in accordance with **Training Policy 203**.