

Washington State Office of the Attorney General



# **Use of Physical Force in Crowd Management Incidents** Best Practices

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# Best Practices for Use of Physical Force in Crowd Management Incidents

The use of physical force in crowd management contexts raises some concerns unique to those situations not addressed in a standard use of force policy. The following model provisions are intended to be incorporated into a law enforcement agency's broader policies on crowd management.

- (1) **Mission:** The mission of law enforcement during peaceful demonstrations and civil disturbances is to facilitate free expression and freedom of assembly, de-escalate any violence, and resolve conflict. The following restrictions and limitations on the use of physical force should be observed during peaceful demonstrations and civil disturbances. Otherwise, the Use of Force policy applies.

- (2) **Unlawfulness:**

A crowd situation shall be considered a peaceful protest or demonstration when participants are exercising their rights to free speech in a lawful manner. In these instances, there may be no police response, or if there is a police response, it shall be to facilitate the event without the use of physical force.

Whenever isolated unlawful activity by individuals or small groups in an otherwise peaceful assembly can be addressed through targeted enforcement, officers shall respond with crowd intervention tactics to intervene and remove law violators so that the peaceful assembly may proceed. Crowd intervention tactics are actions designed to facilitate continued exercise of constitutional rights by isolating and arresting law violators within an otherwise lawful assembly.

When acts or conduct within a crowd create a substantial risk of causing injury to any person or substantial harm to property, law enforcement may declare an unlawful assembly and issue a formal dispersal order.

Declaring a protest to be an unlawful assembly or a "riot" does not affect the requirement that each use of physical force must be necessary and for a lawful purpose.

- (3) **Use of Physical Force:**

Physical force may be used against specific individuals in a crowd for lawful purposes in accordance with the Use of Force policy and the restrictions identified below. When possible, officers will use all available and appropriate de-escalation tactics under the circumstances to reduce or eliminate the need to use physical force. Officers will use the least amount of physical force necessary to overcome resistance under the circumstances and will terminate the use of force when necessity ends. (RCW 10.120.020).

Restrictions apply to the use of certain types of physical force in a crowd as follows.

- (a) **Passive Noncompliance**

In situations where individuals are committing an unlawful act with passive noncompliance (e.g., sitting or lying down), an incident supervisor shall attempt to communicate with these individuals to reach a peaceful resolution. If needed, officers may use techniques to direct movement (e.g., lift, carry). Tactics reasonably likely to cause pain shall not be used.

- (b) **Baton**

- (i) Officers shall not use batons to push a crowd prior to dispersal orders being given, and a reasonable time allowed to comply with such orders. This provision does not apply to officers using a baton to overcome an imminent threat of assault from a specific person.

- (ii) Officers attempting to move a crowd or individuals using a baton shall not push anyone who is clearly unable to move back for reasons outside of their control (e.g., crowd surge, physical disability, physical barriers, etc.).
  - (iii) Officers shall exercise reasonable care to avoid striking the head, neck, throat, or spine of any person when using crowd management baton techniques.
- (c) Projectile Impact Weapons (PIW)
  - (i) A PIW is a less lethal weapon that fires projectiles, such as 40mm sponge or foam rounds, PepperBall or similar projectile, blast balls or bean bags designed to temporarily incapacitate a person.
  - (ii) The use of a PIW against groups of people is prohibited. This provision is not intended to prohibit officers from using a PIW in crowd control situations against a specific individual who is threatening imminent assault against any person. However, officers shall carefully weigh the risk to bystanders and the feasibility of using other force techniques. Such use shall be in compliance with the Use of Force policy.
- (d) Other Less Lethal Munitions
  - (i) Noise-flash diversionary devices, or “flashbangs,” and grenade-type devices shall not be used for crowd management purposes, except as a last resort.
  - (ii) Non-chemical smoke shall only be used at the direction of the incident supervisor and by personnel authorized to carry and deploy it. After each deployment, the incident supervisor shall re-evaluate the scene to determine if additional deployment is necessary.
- (e) Tear Gas
  - (i) Law enforcement agencies may not use or authorize its officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded person, or hostage situation. (RCW 10.116.030).
  - (ii) Prior to using tear gas, law enforcement agencies shall exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances. (RCW 10.116.030).
  - (iii) Tear gas shall only be deployed after receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used. (RCW 10.116.030).
  - (iv) Announce the intent to use tear gas.
  - (v) Allow sufficient time and space for persons to comply with the officer’s directives. (RCW 10.116.030).
  - (vi) In considering use of tear gas, the incident supervisor should carefully weigh the risk of harm resulting from its use on the crowd as these tools may impact all persons in the area, including officers, as well as persons outside the immediate area. Prior to deployment of tear gas the incident supervisor should ensure that personnel are properly equipped with protective gear, such as gas masks.
  - (vii) After each deployment, the incident supervisor shall re-evaluate the scene to determine if additional deployment is needed.

(f) Canines

The use of police K-9s for the purposes of crowd management and crowd dispersals is expressly prohibited. (WA Criminal Justice Training Commission Canine Model Policy.)

(4) Medical Aid

At the earliest safe opportunity at a scene controlled by law enforcement, officers shall provide or facilitate first aid to persons who have been injured, who complain of pain from force application, or who seek assistance after being exposed to chemical agents. (RCW 36.28A.445).

(5) Reporting

All uses of physical force that occur during the course of crowd management are to be reported, investigated, and reviewed in accordance with the policy on Reporting, Investigation and Review. The potentially large scale of such events, and the heightened potential for subjects of physical force to not end up in custody, shall not be treated as justification for dispensing with usual force review protocols.