

**\*Please note: This is a working draft of Directive 635.10, Crowd Management/Crowd Control. This is proposed language and the Bureau has not adopted any changes to the current policy at this time.**

### **635.10 Crowd Management/Crowd Control** *(2nd Universal Review 3/16/17-3/30/17)*

#### **Refer:**

- ORS § 181.575 Specific Information Not to be Collected or Maintained
- ORS § 131.675 Dispersal of Unlawful or Riotous Assemblies
- DIR 344.05, Bias-Based Policing/Profiling Prohibited
- DIR 635.20, Community Member Observation of Police
- DIR 700.00, National Incident Management System (NIMS) and Incident Command System (ICS)
- DIR 900.00, General Reporting Guidelines *(not enacted)*
- DIR 905.00, Non-Force After Action Reporting *(not enacted)*
- DIR 1010.00, Use of Force

#### **Definitions:**

- **Civil Disobedience:** A non-violent form of protest or resistance to obeying certain laws, demands or commands of a government.
- **Civil Disturbance:** An unlawful assembly that constitutes the breach of peace or any assembly of persons where there is a threat of collective violence, destruction of property or other criminal acts.
- **Crowd Control:** Law enforcement response to a pre-planned or spontaneous event, activity, or occurrence that has become unlawful or violent and may require dispersal of the crowd and/or arrests.
- **Crowd Management:** Encompasses law enforcement management, intervention, and control strategies when responding to all forms of public assemblies and gatherings. Also refers specifically to strategies and tactics employed before, during, and after a gathering for the purpose of maintaining the event's lawful activities.
- **Crowd Management Incident Commander (CMIC):** For the purposes of this Directive, a command member who has received special training in crowd management/crowd control. The Chief of Police will designate a command staff member to serve as the CMIC for every major demonstration and/or special event. This position possesses the overall responsibility for managing the demonstration by establishing objectives, planning strategies, and implementing tactics in accordance with this Directive and Directive 700.00, National Incident Management System (NIMS) and Incident Command System (ICS). This position reports to the Assistant Chief of Operations during demonstrations.
- **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 of banners, vigils, rallies, marches, strikes or other

similar activity (e.g., event, concert, festival, street theater, etc.). Lawful demonstrations can devolve into civil disturbances that necessitate enforcement action.

- **Freedom of Speech:** The right to speak, associate, assemble, and petition by the government; speech that is protected by the First Amendment to the United States Constitution and Article I, Section 8 of the Oregon Constitution. For the purposes of this Directive, the rights issuing from both the federal and state Constitutions are collectively referred to as First Amendment rights.
- **Incident Action Plan (IAP):** A proposal that provides a concise and consistent means of capturing and communicating overall incident priorities, objectives and strategies for both operational and support activities.
- **Mobile Field Force (MFF):** Sworn members, who are trained in basic crowd control tactics and techniques, organized into a squad and deployed to assist in the management of a crowd.
- **Operations Section Chief:** A member, designated by the Assistant Chief of Operations, who develops and implements strategy and tactics to carry out incident objectives. The designated member organizes, assigns, and supervises the tactical response resources.
- **Persons-In-Charge:** The person(s) designated by a demonstration organizer or permit holder to act on behalf of, and with the authority of, the demonstration organizer or permit holder.
- **Portland Police Bureau Demonstration Liaison:** A Bureau member who has been designated by the CMIC as the primary contact for communication with the demonstration's Person-In-Charge to police.
- **Rapid Response Team (RRT):** The Bureau's team of members who are specially trained in crowd management and control tactics and techniques.
- **Riot:** Five or more persons engaging in tumultuous and violent conduct and thereby intentionally or recklessly creating a grave risk of causing public alarm.
- **Special Event:** Generally, a non-routine activity within a community that brings together a large number of people.
- **Squad:** A group of members tasked with accomplishing certain goals and missions. A minimum of one sergeant shall be assigned to each squad. The maximum span of control is twelve members per sergeant. (ICS refers to this group as a "strike team")
- **Unlawful Assembly:** Whenever two or more individuals assemble to carry out a lawful or unlawful purpose in a manner likely to seriously jeopardize public safety, peace or order, or when a lawful assembly of not less than two persons agrees by actions or words to engage in conduct likely to seriously jeopardize public safety, peace or order.

**Policy:**

1. The purpose of this Directive is to provide guidance for demonstrations, special events, the managing of crowds during demonstrations, and controlling crowds during civil disturbances.

2. Freedom of speech, association, and assembly, and the right to petition the government are subject to lawful restrictions on the time, place, and manner of expression; the content of the speech does not provide the basis for imposing limitations on First Amendment rights.
3. The Portland Police Bureau recognizes that the City of Portland has a tradition of free speech and assembly. It is the responsibility and priority of the Portland Police Bureau not to unduly impede the exercise of First Amendment rights and to provide for the safe and lawful expression of speech, while also maintaining the public peace and order. A police response that impedes otherwise protected speech must be based upon a compelling government interest.
4. 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, trespassing, destruction of property, disorderly conduct, and assaults.
5. In managing a demonstration, it is the goal of the Bureau to apply the appropriate level of coordination, assistance, guidance, and management, to protect constitutional rights, life, property, and to maintain public peace and order. The Bureau 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 disorderly or violent outbursts. Member response should be commensurate to overall crowd behavior, and members 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. Members will strive to maintain a non-confrontational presence to dissuade participants from engaging in disorderly behavior and to encourage crowd self-monitoring.
6. If a demonstration becomes a civil disturbance, the Bureau has a responsibility to reasonably restore order and the public peace. In restoring the public peace and order, the Bureau may employ reasonable crowd management and/or crowd control tactics to contain, control, and de-escalate the situation. If there is an escalation in violent or disorderly behavior that is no longer isolated to individuals or small groups, members shall adjust their tactical response to adequately resolve the incident in an attempt to restore order to the demonstration and reduce the need for an enhanced police presence.
7. All members are expected to conduct themselves in a professional manner when interacting with persons involved with demonstrations and special events. Members shall identify themselves by wearing a visible name badge or identification number. A member's communication with members of the crowd will remain content neutral.

**Procedure:**

1. Directive 1010.00, Use of Force, governs all uses of force in crowd management and crowd control situations.
2. The Bureau shall use the national, standardized and exhaustive system established in the Incident Command System (ICS) to plan and manage significant incidents and events. Members shall refer to Directive 700.00, National Incident Management System (NIMS) and Incident Command System (ICS), for specific guidance regarding incident management.

- 2.1. When time and circumstances permit and a police response is reasonably anticipated, the CMIC, or their designee, shall develop an Incident Action Plan (IAP) prior to the start of an incident or event.
3. Communication.
  - 3.1. The Bureau's goal is to facilitate, in the least intrusive manner, participants' lawful objectives and protect their right to assemble. Furthermore, where event participants comply with City laws and ordinance, the Bureau shall empower participants to monitor themselves in an effort to limit member involvement.
    - 3.1.1. When a police response is necessary:
      - 3.1.1.1. The Bureau shall make reasonable efforts to contact known event or demonstration organizers to assist in the Bureau's planning and to develop an understanding of the organizers' needs and objectives. Similarly, the Bureau should communicate its expectations and inform participants on permissible and restricted actions during the event or demonstration.
      - 3.1.1.2. The Bureau, through the PPB Demonstration Liaison or another designee, shall attempt to maintain communication with known event or demonstration organizers before and during the event. The Liaison shall maintain communications with the CMIC to keep them apprised of the situation.
      - 3.1.1.3. The Bureau, through the Public Information Officer (PIO) or another designee, shall communicate through the use of social media and other conventional outlets to keep the public, including the crowd, informed throughout the event.
    - 3.2. When feasible, members should strive to engage and interact with the crowd in a positive and non-confrontational manner.
  4. Demonstrations and Special Events.
    - 4.1. Planned Demonstrations and Special Events.
      - 4.1.1. If there is adequate notice of a demonstration or special event, the Assistant Chief of Operations or the Chief of Police shall designate a CMIC as soon as practicable to establish and maintain command and planning of the event in accordance with ICS.
      - 4.1.2. The CMIC, or their designee, shall determine if any police response is warranted.
      - 4.1.3. If the CMIC deems police response necessary, the CMIC, or a designee, should use the "Event General Planning Reference Guide" to assist in the development of the IAP for the demonstration or special event.
        - 4.1.3.1. The CMIC shall activate RRT for events that are anticipated to involve civil disturbance.
        - 4.1.3.2. Any time RRT is activated, the CMIC shall notify the Detective Division to ensure mass-arrest resources are available. The CMIC is responsible for determining the appropriate scale of the mass arrest team response.
    - 4.2. Spontaneous Demonstrations.
      - 4.2.1. The on-duty precinct supervisor shall respond to the incident, assume command and determine if an additional police response is warranted.
        - 4.2.1.1. The on-duty supervisor will remain as the incident supervisor until relieved. The on-duty supervisor may contact a RRT supervisor or the RRT commander if RRT supervisors are unavailable to determine an appropriate level of response.

- 4.2.1.1.1. After a consultation, the incident supervisor shall notify the CMIC.
      - 4.2.1.1.1.1. The CMIC shall determine the level of response and activate RRT, if needed.
    - 4.2.1.2. A Sergeant who is the first supervisor on scene of a spontaneous demonstration shall notify their Lieutenant, who may then respond to the scene and assume command when there are two or more squads involved.
  - 4.3. If an event requires MFFs from multiple Responsibility Units (RUs), the on-scene supervisor shall consult with the RRT commander.
    - 4.3.1. After consultation, the incident supervisor shall notify the CMIC.
      - 4.3.1.1. The CMIC shall determine the level of response and activate RRT, if needed.
  - 4.4. Demonstrations may be photographed and audio and video recorded to provide situational awareness to the CMIC, and may be used for prosecution of criminal acts and defense in civil court. Such recordings will comply with ORS §181.575. To the extent not governed by other policies, any recorded audio or video not containing alleged criminal acts for prosecution, shall be turned over to the city attorney's office to be stored. No such recording shall be used to monitor individuals or groups solely based on political association or affiliation.
5. Member Responsibilities during Demonstrations.
  - 5.1. The CMIC shall:
    - 5.1.1. Oversee the development, dissemination, and implementation of the IAP for the demonstration in accordance with this Directive and the Event Planning Reference Guide;
    - 5.1.2. Determine the mission and objectives and consider what crowd tactics are reasonable and warranted, if any, based on the totality of the circumstances;
    - 5.1.3. When feasible, attempt to maintain communication, through the PPB Demonstration Liaison, with the Person-In-Charge, or their designee, during demonstrations;
    - 5.1.4. Ensure announcements communicated to the crowd are clear, consistent, lawful, and appropriate for the circumstances. The content and timing of the announcement shall be documented and, if feasible, shall be audio recorded;
    - 5.1.5. Activate RRT, when deemed necessary; and
    - 5.1.6. Authorize the deployment of riot control agents and/or special impact munitions, when necessary, to address civil disobedience and crowd dispersal.
  - 5.2. The Operations Section Chief shall:
    - 5.2.1. Assist the CMIC in determining staffing levels, probable missions, and possible tactical strategies during the planning for the event; and
    - 5.2.2. Assign units to specific missions during the event to meet the objectives established by the CMIC.
  - 5.3. The Detective Division Commander or Supervisor shall:
    - 5.3.1. Coordinate with the CMIC to determine the scale of the mass arrest team response;
    - 5.3.2. Assign detectives to assist with mass arrests;
    - 5.3.3. Manage the processing of all arrests pursuant to the Detective Division SOP; and
    - 5.3.4. Ensure that all required documentation for arrests is collected.

- 5.4. Sergeants shall:
  - 5.4.1. Verify that all members have the proper equipment;
  - 5.4.2. Ensure that members are briefed prior to the start of the event; and
  - 5.4.3. Communicate orders from the CMIC to their assigned squad to ensure that the mission and objectives are appropriately executed.
- 5.5. Members shall:
  - 5.5.1. Follow the directions of the sergeant; and
  - 5.5.2. Not take independent police action, unless exigent circumstances require immediate action for protecting themselves or others.
6. Coordination with Other Agencies
  - 6.1. The Bureau may request assistance from other law enforcement agencies to sufficiently staff and respond to a demonstration or special event.
    - 6.1.1. The Bureau CMIC, or their designee, shall appropriately brief outside agency personnel prior to their deployment.
    - 6.1.2. The Bureau CMIC shall maintain the authority to determine tactical objectives; direct the overall police response (all agencies); and determine, when necessary and reasonable, to deploy less lethal munitions to address civil disobedience and/or disperse the crowd.
    - 6.1.3. The Bureau expects assisting agencies to act in accordance with the lawful orders of the Bureau CMIC; however, their members' conduct is subject to the outside agency's policies and procedures.
7. Announcements and Warnings.
  - 7.1. Members shall make loud and intelligible announcements and warnings to the crowd.
  - 7.2. Announcements are designed to convey general information to the crowd in an effort to keep an event lawful.
  - 7.3. Civil Disturbance.
    - 7.3.1. When issuing warnings, members should cite specific offenses and violations being committed and caution the crowd that acts of civil disturbance will not be permitted and can result in arrest or necessitate the use of force. To reduce or eliminate the necessity for force, members shall give clear directions in an attempt to gain compliance. Members shall issue a minimum of two warnings to alert the crowd of possible impending force that may be used, unless doing so would present a danger to the member(s) or others.
  - 7.4. Unlawful Assembly.
    - 7.4.1. Prior to ordering the dispersal of an unlawful assembly, and when tactically feasible and time reasonably permits, members shall issue a minimum of two warnings at reasonable intervals to allow the crowd to comply, prior to taking decisive action.
    - 7.4.2. Members shall document the warnings in an appropriate police report, and if feasible, ensure the audio (e.g., date, time, announcing officer, messages, etc.) confirmation received by identified staff on other end.
8. Prohibited Crowd Control Tactics.
  - 8.1. Members shall not take the following actions to disperse a crowd:

- 8.1.1. Use fire hoses;
    - 8.1.2. Deploy Canine Units; and
    - 8.1.3. Use a conducted electrical weapon (CEW).
  - 8.2. The Bureau shall not use mounted patrol units (MPUs) against passively resistant demonstrators who are sitting or lying down.
9. Crowd Dispersal.
- 9.1. The CMIC may order the crowd dispersed when a demonstration or special event becomes a civil disturbance or the crowd presents a clear and present danger to the safety of the public or members.
10. Detentions.
- 10.1. The failure to comply with the lawful order to disperse can transform otherwise legal conduct into criminal conduct if the protest has been determined to be a civil disturbance or if the crowd has been trespassed from a certain location. Members may be justified in detaining a crowd engaged in an unlawful assembly after providing a lawful order to disperse followed by a reasonable opportunity to comply with that order.
11. Arrests.
- 11.1. Absent exigent circumstances, arrests should only be made when authorized by the CMIC.
  - 11.2. Careful consideration should be given to the timing, location, and method of the arrest and resources available.
  - 11.3. To effect arrests, members must be able to articulate the individualized probable cause for the arrest of each person.
12. Reporting and Coordination Requirements.
- 12.1. The CMIC (or their designee) shall:
    - 12.1.1. Write an After Action in accordance with Directive(s) 905.00, Non-Force After Action Reporting, or 1010.00, Use of Force, if force was used;
    - 12.1.2. Review any uses of force by other agencies' personnel as part of the overall incident after action report;
    - 12.1.3. Write an overall police report that describes the major decisions made by the police during the incident in accordance with Directive 900.00, General Reporting Guidelines;
    - 12.1.4. Ensure all other applicable pertinent reports are submitted as required by Directive 900.00, General Reporting Guidelines, and 1010.00, Use of Force; and
    - 12.1.5. Hold a formal debrief of the event to discuss the overall plan, tactics, staffing and areas of improvement. The debrief should include key supervisory member participants in the event.
  - 12.2. The Detective Division Commander or Supervisor shall:
    - 12.2.1. Ensure coordination with the District Attorney's Office when arrests were made.
  - 12.3. Supervisor Responsibilities.

- 12.3.1. The supervisor shall not independently direct management or crowd control tactics without the authorization of the Incident Commander, unless exigent circumstances require immediate action.
  - 12.3.2. At the end of the event, the lead supervisor of each squad shall conduct a debriefing of the incident with their personnel and complete an appropriate police report in accordance with Directive 900.00, General Reporting Guidelines, and 1010.00, Use of Force, documenting the actions of their squad during the incident.
  - 12.3.3. The assistant supervisor, or a designated alternate supervisor, of each squad shall write an after action of any force used by the squad in accordance with Directive 1010.00, Use of Force, during the incident. This after action shall be submitted to the CMIC.
- 12.4. Members Responsibilities.
- 12.4.1. Members who use force, or witness force by another member during the incident, shall document such actions in an appropriate police report, in accordance with Directive 1010.00, Use of Force.

**PROVIDE FEEDBACK:** [Use this Form](#)