



IV

Best Practices

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Chapter I, II, and III have focused on the constitutional and other legal guardrails that state and local authorities must consider when planning for public demonstrations, rallies, protests, and marches that could result in violence. With these in mind, as well as the experiences of jurisdictions across the country—large and small, urban and rural—a number of best practices have been established.

A. Lay the Groundwork *Now* to Have the Tools in Place

There are many steps that local leaders can and should take well before learning of any plans for a protest in their community. These efforts not only will provide the authorities necessary for protecting public safety, but also are more likely to build the kind of trust and respect within communities critical to ensuring a safe event where constitutional rights are protected. And planning in advance, in accordance with applicable law discussed in the prior Sections, often can increase the likelihood that the measures taken will withstand legal challenges.

1. Build Relationships

Ensuring public safety while protecting civil rights and civil liberties means knowing your community and developing relationships, coalitions, and a community identity *before* any plans for a protest or rally. Local officials and law enforcement officers should engage with members of all constituencies—civic, business, educational, religious, and political leaders and organizations; activist, civil rights, and civil liberties groups; residential associations; racial and ethnic minorities and the LGBTQ community; students—to discuss how the community should respond to specific scenarios:

- How do these constituents want their government and their community to respond if a white supremacist group announces a rally in their town?
- How can the local officials and these various constituencies work together to convey the message they want to send as a community without running afoul of the First Amendment rights of those whose views they vehemently oppose?
- How do community members want their law enforcement to ensure that protesters and counter-protesters will be able to express their views safely?
- How have particular constituencies like minorities and vulnerable populations been treated at past events—in your communities or elsewhere—and what special considerations must be given to ensuring that everyone in the community can feel confident that law enforcement is committed to protecting their rights?
- How has structural racism affected your community, and how do city officials and law enforcement officers intend to account for it in the context of planning for public protests and rallies?

Many of these questions are difficult ones about which community members will have different views and therefore consensus will be unlikely. But the process of understanding diverse

perspectives and developing a community response is important to developing trusting relationships, even if the decisions that local leaders make might not please everyone.

2. Establish Permitting Systems or Other Processes for Imposing Time, Place, and Manner Restrictions on Events on Public Property

If your locality does not have an ordinance or other authority that establishes procedures governing when public property may be used for public events such as rallies, protests, demonstrations, and marches, consider enacting one—now. Do not wait to learn of a planned event and then enact emergency authorities, which could be more vulnerable to legal challenge if hastily put into place in advance of a particular event.

Permitting systems have the advantage of being an easy way for jurisdictions to impose time, place, and manner conditions on permit-holders, a violation of which can be enforced through withdrawal of the permit and cancellation of the event. Some small jurisdictions with modest resources may not wish to establish a permitting system, but could by ordinance provide a city official (mayor, city manager, or city attorney, for example) with authority to establish time, place, and manner restrictions for public events as they arise. Local officials should consult the previous discussions of time, place, and manner restrictions in this toolkit, along with their own applicable local law, when establishing a permitting system or other similar process.

Local officials should also:

- Consider including time, place, and manner conditions that will apply to all public events, such as:
 - Prohibiting weapons and other items that can be used as weapons;
 - Prohibiting behaviors that are unlawful under state anti-paramilitary-activity statutes, laws prohibiting the false assumption of law enforcement duties, and anti-mask laws; and
 - Setting consistent capacity and hours limitations specific to the venue.
- Ensure that time, place, and manner conditions apply to *all* attendees, not just the permit-holder or organizer's invited attendees. This means that, in addition to including the time, place, and manner conditions in any permit issued, the same time, place, and manner conditions should be included in announcements about the event to the general public in advance of the event and through signage at the event, so everyone considering attending will be aware of them, ideally in advance.

B. Engage in Event-Specific Planning with All Constituencies

1. Prepare Law Enforcement in Advance

Conduct training sessions for all law enforcement that will assist in protecting public safety at the event. This should include not only local law enforcement, but also all other law enforcement officers who will be participating through mutual assistance agreements and other arrangements, such as law enforcement from neighboring jurisdictions, state law enforcement, and college or university law enforcement. Training should include:

- Applicable constitutional principles, including First, Second, and Fourth Amendment principles of the U.S. Constitution and anti-militia provisions found in most state constitutions;
- Applicable criminal laws, especially those that may be less frequently used, such as laws prohibiting private paramilitary activity and unauthorized law enforcement functions, hate crimes, and domestic terrorism laws; and
- Best practices for policing events where there is a likelihood of violence.⁴⁴¹

2. Ensure Adequate Information-Sharing Mechanisms

When preparing for a public event where violence may be anticipated, establishing mechanisms for sharing threat-related information between state, local, and federal law enforcement agencies is critical. Equally critical is ensuring that community members, including activist groups, have a reliable mechanism for communicating threat information they are hearing through their networks. Their calls and emails should be returned promptly, and law enforcement should meet personally with any groups intending to organize counter-protests or counter-programming, as well as with community members who are most vulnerable.

3. Communicate, Communicate, Communicate

Communicate with event organizers and expected counter-protesters and advocacy groups in advance of the event. Communicate with the public at large. Communicate with the media.

a. Do:

- Broadly share known facts about the nature of the event and anticipated attendees.
- Seek input from a wide range of community stakeholders about their concerns.
- Acknowledge underlying issues that may be implicated by the protest event, including structural racism, police-community relations, politics, urban-rural polarization, and other issues.

⁴⁴¹ See *infra* Policing at Protests: Best Practices.

- Be credible by working with diverse messengers whom different groups in your community will believe and trust.
- Establish a banner that brings stakeholders from different communities together for action, emphasizing the local identity of your community and the need to protect the rights of every person in it.
- Tell people [“who we are” rather than “who we aren’t”](#) by using strong, positive, unifying norms that seek dignity and respect for all, reject violence, and say how “we” will respond and what “we” will do.
- Share plans for protecting public safety while preserving civil rights and civil liberties *early and often*; and respond punctually and transparently to community concerns.
- Make sure your commitment to action is believable by demonstrating it through, for example, committing resources to ensure the safety of vulnerable communities and counter-protesters.
- Assure the community that law enforcement is there to protect *everyone’s* rights, not just those of the permit-holder.

b. Don’t:

- Don’t be vague; instead be concrete, clear, and truthful, and when you don’t know the answer, say so.
- Don’t signal negative norms that can feed narratives of [collective blame](#); instead, if violence or destruction of property occurs, continually reinforce the message that those committing violence are a small minority.
- Don’t use blanket messages that appear to characterize all protesters or counter-protesters with having engaged in violence if it is committed by only a few.

4. Misinformation and Disinformation

Whether planned in advance or spontaneous, expect a lot of social media chatter about the event and recognize that some of it will be misinformation and disinformation.

a. Correct Misinformation as Quickly as Possible.

The more people hear it, the more likely they will [believe it](#).

b. Be Clear When Something is False.

When you must restate the misinformation to correct it, start by warning that the information is false. People tend to believe [information they hear multiple times](#), so making clear the information is false is essential before restating it.

c. Makes Sure the Correction Comes From a [Credible Source](#).

Whether it comes from an individual, institution, news outlet, organization, or a combination of sources, make sure a correction comes from a source that people believe represents their values and interests—or, better still, from multiple sources who are trusted by various parts of the community.

d. If Applicable, Draw Attention to the Questionable Credibility or Motives of the Source of the Misinformation.

Misinformation and disinformation often start on extremist platforms known for conspiracy theories but quickly spreads to more widely used social media platforms. Misinformation and disinformation also often start with foreign actors eager to sow discord and division in the United States. If intelligence officials or researchers have determined that the source of particular content circulating online is a foreign actor with a malicious motive or is otherwise of questionable veracity, say so, openly and often.

e. Keep in Mind Cognitive Biases.

Our brains are subject to cognitive biases, and we tend to believe what we want to believe and dismiss that which we do not want to believe. [Try to reduce the level of perceived threat](#) to the audience's views and values when correcting misinformation and disinformation by keeping the message limited to correcting that particular content, rather than attempting to dislodge all at once a broader worldview.

5. Publicize Time, Place, and Manner Restrictions Through Multiple Means.

Restrictions should be publicized at least a few days in advance of the event, where possible, so that people can be prepared. Attendees should not get to the event location only to find that they won't be able to bring certain items into the area. Local authorities should publicize all time, place, and manner restrictions through multiple means:

- On the permit, if applicable;
- In a press release sent to local media;
- On the website and social media accounts of the local jurisdiction, police department, and/or sheriff's office;
- In direct communications to groups expected to attend and/or counter-protest; and
- On signage clearly visible at the event.

In all such communications, announce that the restrictions are designed to ensure public safety while protecting the rights of all attendees, and that criminal laws, including hate crimes laws, will be enforced.

6. Consider Using a “Stadium-Style” Security Plan with Limited Entry Points, Security Screening, and Buffer Zones Between Protesters and Counter-Protesters.

Where groups with strongly held views are expected to clash, consider setting up a “stadium-style” security plan by which protesters and counter-protesters enter at separate points and remain separated from each other during the event by a buffer zone. Security screening may take place at the entry points, consistent with local law.⁴⁴² Attendees should self-select which entrance to use, but officials should communicate clearly the plan and the location of specific entrances in advance.

7. Ensure Police Protection of Both Protesters and Counter-Protesters

Whether coming as protesters or counter-protesters, attendees should feel that law enforcement is there to protect their safety and their rights. If law enforcement is providing a designated parking area and police escort for protesters, law enforcement should do the same for counter-protesters. If law enforcement forms a barrier between protesters and counter-protesters, they should alternate the direction in which they face so that they do not appear to be protecting one group *from* the other group, but instead protecting both. Ensure that law enforcement is clearly identified by their insignia and their names. Communicate clearly that law enforcement is committed to protecting all attendees, regardless of their viewpoints.

⁴⁴² See *supra* Sections I.A.2.d, III.B.1.