
CROWD CONTROL

8.03.01 PURPOSE

The purpose of this order ~~establishes~~ is to establish general policies and procedures regarding the Department's response to ~~demonstrations and other First Amendment activities~~ public assemblies and specifies acceptable crowd control techniques and levels of force to ensure the protection of the First Amendment rights of the crowd and the safety of the entire community.

No policy can anticipate every conceivable situation or exceptional circumstance officers may face. In all circumstances, officers are expected to exercise sound judgment and provide safety with respect.

8.03.02 DEFINITIONS

A. Crowd Management. Crowd management refers to the techniques used by law enforcement in response to a known event, activity, or occurrence. In situations involving crowd management, law enforcement agencies have the ability to assist in the planning, coordination, and management of the event.

B. Crowd Control. Crowd control is the law enforcement response to a protest or gathering that has become unlawful and/ or violent. It may warrant arrest and/ or deployment of dispersal tactics or even use of force.

C. Unlawful Assembly. Whenever two or more persons assemble together to [1] do an unlawful act, or [2] do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly. [Pen. Code § 407.] The terms "boisterous" and "tumultuous" have been interpreted as conduct that poses a clear and present danger of imminent violence. [In re Brown (1973) 9 Cal. 3d 612, 623.].

D. Riot. Any use of force or violence, disturbing the public peace, or any threat to use force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot. [Pen. Code § 404(a).]

E. Duly Authorized Representative of Media. A person in possession of current, valid credentials issued by the Department or other law enforcement agency, or other identification establishing representation of news media, whether print, television, or Internet media. "Freelance" media personnel, including reporters, photographers, videographers, bloggers, or vloggers, possessing identification that establishes their ongoing affiliation or employment with a news outlet should be considered duly authorized representatives of the media.

8.03.03 POLICY

A. Law Enforcement Objective The law enforcement objective during crowd control is to balance the group's First Amendment rights of free speech and assembly while preventing and reasonably enforcing observed violations of the law. **PROTECTION OF RIGHTS.** It is the policy of the San Francisco Police Department to ensure that rights guaranteed by the constitutions of the United States and the State of California are protected for all individuals. A primary mission of police at events involving free speech activity is to protect and respect First Amendment rights to freedom of expression and assembly.

B. Restrictions

1. Limits **Members shall** The San Francisco Police Department will not attempt to limit the size, location, time or activity at any demonstration, march, protest, or picket unless there are articulable facts or circumstances causing reasonable concern for public safety, public health, **public order**, or the safe movement of persons in the area.
2. Restrictions/Control- **Members shall not be affected by the content of the opinions being expressed nor by the race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability or political affiliation of anyone exercising their lawful First Amendment rights.** The San Francisco Police Department will not seek to restrict or control the content of opinions being expressed, nor shall members let their own personal, political or religious views affect their actions.

C. Dispersal. California Penal Code Section 726 establishes the authority to disperse unlawful assemblies and riots in the name of the people of the state. Crowds may only be dispersed or ordered to move *when there are reasonable and articulable factors justifying the order in accordance with law. Before giving the order to disperse, the event commander must consider whether a dispersal endangers the public or participants in the crowd and whether a reasonably less intrusive option to stop the unlawful behavior exists.*

~~C CROWD CONTROL TACTICS. Crowd control tactics shall not be affected by the content of opinions alone being expressed, nor by the race, sex, sexual orientation, physical disabilities, appearance or affiliations of the participants.~~

D. Dispersal Orders. Dispersal orders for the purpose of ordering people to leave an area must satisfy the legal requirements and convey the importance of compliance. An officer is not required to use any particular words. However, the words must be sufficient to inform a reasonable person that the officer in acting in an official capacity and ordering people to leave the area. Elements of an effective dispersal order include:

- Audible announcements setting forth the pending consequences of continued unlawful behavior, such as remaining at the location will subject individuals to arrest.
- Members should provide sufficient time to disperse after the order with clear directions and visible and ample means of egress.

- To ensure participants can hear and understand the order to disperse, equipment appropriate to the size and noise of the crowd shall be used.
- The order to disperse should be given repeatedly over a period of time and, if necessary, from a variety of locations and in multiple languages, if appropriate.
- During dangerous and unlawful situations where the use of kinetic energy projectiles and chemical agents are warranted, it is required that repeated audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so.

~~D. ANNOUNCEMENTS. To ensure that the participants can hear and understand the order to disperse, equipment appropriate to the size and noise of the crowd shall be used. The order to disperse shall be given repeatedly over a period of time and, if necessary, from a variety of locations.~~
E. DISPERSAL Crowds shall not be dispersed or ordered to move unless there are reasonable and articulable factors justifying the order in accordance with law. Before giving the order to disperse, the event commander must consider whether a dispersal endangers the public or participants in the crowd. If the event commander directs a crowd be moved by any means, including the use of force, time to disperse and a safe and clear route for individuals must be provided and announced in the same manner as the order to disperse.

~~E. F. Arrests.~~ A proper response to criminal conduct during a free speech activity is an assembly may be to cite or book those individuals engaged in criminal conduct (see DGO 5.06, Citation Release). There may be small groups within a larger assembly who are engaged in illegal acts. When possible, efforts should be made to identify and/or detain and arrest the specific individuals involved in the unlawful activity. However, in incidents where an unlawful assembly is declared and dispersal orders are given, any resulting mass arrests must be authorized by the event commander.

~~G. F. Use of Force~~
1. **Appropriate Force.** Unless further restricted by this order, members must use force in accordance with DGO 5.01, Use of Force.
~~REASONABLE FORCE.~~ When the use of force is justified, the minimum degree of force necessary to accomplish an arrest or dispersal shall be employed. Officers are permitted to use reasonable and necessary force to protect themselves or others from bodily harm, but no more (see DGO 5.01, Use of Force).——

2.. **Use of Kinetic Energy Projectiles and Chemical Agents.** Kinetic energy projectiles and chemical agents shall not be used by members to disperse any assembly, protest, or demonstration. Members shall only employ kinetic energy projectiles and chemical agents if their use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any member, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the requirements stated in California Penal Code Section 13652(b).

In addition, the Department shall, within 60 days of each incident, publish the information as specified in California Penal Code Section 13652.1, on its internet website of all instances in which a member uses a kinetic energy projectile or chemical agent for crowd control. However, the Department may extend that period for another 30 days if just cause is demonstrated by the Department, but in no case longer than 90 days from the time of the incident.

~~2.~~ **3. Horses, Motorcycles, Motor Bikes, K-9s.** Horses shall not be used to move or disperse passive individuals who are sitting or lying down. Motorcycles or motorbikes shall not be driven into a crowd or used to make physical contact with persons. The use of K-9s in crowd control is prohibited.

~~H.~~ **G. Use of Non-Uniformed Officers.** Non-uniformed officers shall not be used to make arrests in crowd control situations unless there is reasonable cause to believe there is a danger to life or the possibility of great bodily injury. See DGO 5.08, Non-Uniformed Officers.

H. Media. California Penal Code Section 409.7 establishes that if members close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest or rally where individuals are engaged in activity that is protected pursuant to the First Amendment, the following requirements shall apply:

1. A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed areas described in this section. See DGO Section 8.03.02 (Definitions).
2. Members shall not intentionally assault, interfere with, or obstruct the duly authorized representative of any news service, online news service, newspaper, or radio or television station or network who is gathering, receiving, or processing information for communication to the public.
3. A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network that is in a closed area described in this section shall not be cited for the failure to disperse, a violation of a curfew, or a violation of 148(a)(1) PC, for gathering, receiving, or processing information. If the duly authorized representative is detained by a member, that representative shall be permitted to contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.
4. This section does not prevent members from enforcing other applicable laws if the person is engaged in activity that is unlawful.

If access is granted to closed areas, members of the media are not permitted entry into a command post or to interfere with police actions. The event commander should inform on-scene personnel when aware of media presence within closed areas.

8.03.04H. PROCEDURES

For detailed policies and procedures concerning crowd control and event planning, see SFPD “Crowd Control Manual” and “Event Management Manual”. See **DGO 10.11 (Body Worn Cameras)** for authorized activations of body worn cameras.

References

DGO 5.01 Use of Force
DGO 5.06 Citation Release
DGO 5.08 Non-Uniformed Officers
DGO 8.10 First Amendment Activities
DGO 10.11 Body Worn Cameras
Crowd Control Manual, SFPD
Event Management Manual, SFPD
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