

DO 8.03 - SFPD Policy Working Group Recommendations and Discussion Tracking as of 5/10/24

#	Working Group Recommendations	Page Number	Meeting Date	SFPD Response	SFPD Explanation	Open/Closed
R1	The working group discussed whether there should be delineation between "Crowd Control" and "Crowd Management" captured in the DO 8.03.	1	12/12/23	Recommendation has been completely included in draft DO	Both the Crowd Control Manual (Page 7) and Learning Domain 24 (Chapter 5 Page 3-7) the definition of crowd control and crowd management. This will be discussed at the 1/11/2024 DO 8.03 Working Group Meeting. See response to R#18 for resolution of this recommendation.	Closed
R2	A working group member requested clarification between lawful assembly and unlawful assembly.	1	12/12/23	Recommendation has been completely included in draft DO	Penal Codes defines the difference between a lawful and unlawful assembly. This will be discussed at the 1/11/2024 DO 8.03 Working Group Meeting. See response to R#18 for resolution of this recommendation.	Closed
R3	A working group member asked whether the DO 8.03 should reference the use of Surveillance tools.	N/A	12/12/23	Recommendation will not be included in Draft DO	Department is open to including language to reference the compliance with local, state or federal regulations relating to surveillance tools in the Crowd Control policy. This will be discussed at a future working group meeting. Update 3/14/2024: The Department can not policy the use of Surveillance tools through this DO. However, with the passage of Prop E, the Department is allowed to use drones and pilot other surveillance tools which will still require their own respective policies.	Closed
R4	The working group requested to receive a copy of Crowd Control Manual and Learning Domain (LD) 24 of Peace Officers Standards and Training (POST) in order to be better prepared for future discussions.	N/A	12/12/23	Administrative Question and Answer-not for inclusion in DO	While the Crowd Control Manual will not be updated through this working group process, the Executive Sponsor agreed to the importance of working group members having access to related manuals and training documents. A copy of the redacted Manual and Learning Domain 24 of Peace Officers Standards and Training (POST) was provided to working group members on December 27th, 2023, and will be posted on public website 72 hours in advance of the 1/11/2024, working group meeting.	Closed
R5	During the Officer Panel Q&A, officers stated that there are several principal issues that officers deal with during event planning that could be cited throughout the DO, including unlawful assembly, mass arrests, dispersal orders, and use of barricades.	1	1/11/24	Recommendation has been partially included in draft DO	The working group will discuss the policy updates regarding unlawful assembly, mass arrests, dispersal orders, and use of barricades in future working group meetings when respective sections of the policy are discussed. Update 3/14/2024: The Department stated that the definitions for "Unlawful Assembly" and "Riot" were pulled directly from the POST LD-24 and added to DO Section 8.03.02 (Definitions) during the working group meeting held on 1/23/2024. In addition, the Department stated that DO Sections 8.03.03 C and D (Dispersal and Dispersal Orders) and 8.03.03 E (Arrests) were updated on 2/20/2024 and 2/27/2024 respectively to add more meaningful details based on recommendations that were provided by working group members in working groups held after 1/11/2024. Furthermore, the Department stated that policy on the use of barricades during crowd control situations will remain within the SFPD Crowd Control Manual and be considered for an update, if needed, when the manual is updated later this year.	Closed
R6	During the officer panel Q&A, an officer mentioned a Department Bulletin that was issued two years ago relating to CA Penal Code 409.7. The officer noted that it may be important to clarify what a "duly authorized representative of the media" is and whether it is the burden of the press or an officer to prove if a person is claiming to be a "duly authorized representative of the media".	2	1/11/24	Recommendation has been completely included in draft DO	The working group will discuss adding a clarification on "Duly Authorized Media", types of identifications to be used for verification in future, and burden of proof issues in future working group meeting when the "Media" section of the policy is discussed. Update 3/14/2024: The definition for "Duly Authorized Representative of the Media" was added to the "Definitions" section of DO 8.03 which includes the information on valid credentials for identification for persons claiming to be "Duly Authorized Representative of the Media". In addition, the "Media" section of DO 8.03 was updated to include the reference for California Penal Code 409.7 and clarification on the staging area for "Duly Authorized Representative of the Media". Furthermore, the Department decided that the burden of proof to identify as Duly Authorized Representative of the Media falls on the person claiming to be one so they could be permitted to an appropriate staging area as per California Penal Code 409.7.	Closed
R7	A working group member suggested to review the San Jose Police Department's Crowd Control Policy to address clarification on what constitutes as "Duly Authorized Representative of the Media".	2	1/11/24	Recommendation has been completely included in draft DO	The working group will refer to San Jose Police Department's Crowd Control policy for clarification on "Duly Authorized Media" in future working group when the "Media" section of the policy is discussed. Update 3/14/2024: The definition for "Duly Authorized Representative of the Media" was added to DO Section 8.03.02 (Definitions) and it includes the information on valid credentials that could be used for identification.	Closed
R8	During the Officer Panel Q&A, officers stated that it could be beneficial to add the definitions for crowd control and crowd management to the policy and added that clarification on when crowd management transitions into crowd control could also be added to the policy.	1	1/11/24	Recommendation has been completely included in draft DO	A new section 8.03.02, "Definitions" was created and the definition of "Crowd Control - DO 8.03.02 A" - added to the policy. The working group will discuss the definition of Crowd Management and the language referencing when Crowd Management turns into Crowd Control in future working group meetings. Update 3/14/2024: The Department stated that the definition for "Crowd Management" was added to DO Section 8.03.02 (Definitions) during the working group meeting held on 1/23/2024 and newly added definitions for Crowd Management and Crowd Control already covers the nexus between Crowd Management and Crowd Control.	Closed
R9	The working group worked together to change the language for the "Purpose" section of the DO 8.03 Crowd Control.	1	1/11/24	Recommendation has been completely included in draft DO	Previous language: The purpose of this order is to establish general policies and procedures regarding the Department's response to demonstrations and other First Amendment activities and specifies acceptable crowd control techniques and levels of force. New language as proposed by the Working Group: The purpose of this order is to establish general policies and procedures regarding the Department's response to 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.	Closed
R10	The working group decided to include the definition of "crowd control" pulled directly from the POST LD-24	1	1/11/24	Recommendation has been completely included in draft DO	"Crowd Control. Crowd control is the law enforcement response to a protest or gathering that has become unlawful and/ or violent. It may also require arrest and/ or deployment of dispersal tactics or even use of force." Also see response to R8.	Closed
R11	A working group member suggested to find another departmental policy such as DO 8.09 (Media Services) where clarification on the definition of the "Duly Authorized Representative of the Media" can be provided and a reference of the said policy can be added to DO 8.03.	2	1/23/24	Recommendation will be modified and included in the draft DO	The Department is open to potentially adding the definition of "Duly Authorized Representative of the Media" in DO 8.09 (Media Relations) which is slated for an update in the Calendar Year 2024, and adding it as a reference within DO 8.03. This recommendation has been forwarded to the Executive Sponsor of DO 8.09 revision. Update 2/27/2024: The working group decided to add the definition of "Duly Authorized Representative of the Media" to DO 8.03.02 (Definitions) and amend DO Section 8.03.03 H (Media) to add more clarity on issues listed out in R# 44, as opposed to finding another departmental policy such as DO 8.09 (Media Services) to provide clarification on them.	Closed
R12	A working group member suggested to also add a reference to the rights of onlookers (non-members of media) in DO 8.03.	2	1/23/24	Recommendation has been partially included in draft DO	The rights of onlookers are already addressed in DO 5.07, which was last updated in September 2023. DO 8.03 is addressing violations of the law and rights of onlookers focuses on lawful activities. At this time, the Department is open to adding a reference to DO 5.07 in DO 8.03.	Closed

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#	Working Group Recommendations	Page Number	Meeting Date	SFPD Response	SFPD Explanation	Open/Closed
R13	DPA shared the concern that the draft for DO 8.03 as currently written does not include the "best practices" research they shared during Stage I Development. DPA recommended to pause the working group for a month and start with a brand new draft.	N/A	1/23/24	Recommendation will not be included in Draft DO	This recommendation violates DO 3.01.03 D (1) and 3.01.04 C (1) that mandate the draft be provided in advance of a community working group. Moreover, the Stage I Draft that was shared with all working group members before the first working group meeting included DPA recommendations and included relevant "best practices" research. Furthermore, all working group members were reminded of the original goal of convening a community group, which is to discuss best practices or proposed changes, develop a recommendation grid, and propose new language in the draft based on WG recommendations that are accepted by the Department. DPA provided previously shared research materials to the Policy Development Division which were posted on the SFPD Policy Working Group Webpage. Specific procedural information will be included in the Crowd Control Manual, not in DO, and the Department has already agreed to update the Crowd Control Manual once DO 8.03 has been approved by the Police Commission.	Closed
R14	A working group member asked for a clarification on the scope of the "Department General Order" and how much details are required to put into an order that's supposed to be general.	N/A	1/23/24	Administrative Question and Answer-not for inclusion in DO	The Department provided an answer during the working group meeting to clarify that a Department General Order is meant to include general policy guidelines for a given departmental policy and specific details such as operational details are meant to be included in the manual. The Department also reiterated its intention to update the Crowd Control Manual once DO 8.03 Crowd Control is updated with final changes as approved by the Police Commission.	Closed
R15	The working group discussed whether there is a need for a separate DO for Crowd Management in addition to the one for Crowd Control.	1	1/23/24	Recommendation has been completely included in draft DO	The Working Group agreed to keep the focus of DO 8.03 on Crowd Control as long as the definition of Crowd Management and nexus between Crowd Management and Crowd Control is included in this DO. In response, the definition of Crowd Control was already added to DO 8.03 during the working group meeting held on 1/11/24 and the definition for Crowd Management was added to DO 8.03 on 1/23/2024. In addition, the language regarding nexus between Crowd Control and Crowd Management will be discussed in the future working groups. Update 3/14/2024: The Department stated that the definitions for Crowd Control and Crowd Management that were added to DO Section 8.03.02 (Definitions) during the working group meeting held on 1/11/2024 and 1/23/2024 respectively already covers the nexus between Crowd Management and Crowd Control.	Closed
R16	A working group member suggested to add language from the POST LD-24 Page 4-17, "It is the responsibility of all law enforcement officers to protect and uphold each individual's rights to free speech and assembly while also protecting the lives and property of all people" to DO 8.03", to ensure that the policy conveys the balance between the free speech rights and protection of life and property.	1	1/23/24	Recommendation has been completely included in draft DO	This recommendation is addressed in two parts. First, the purpose statement of DO 8.03 was changed in the previous working group meeting held on 1/11/24 and the new proposed language already states "ensuring the protection of the First Amendment Rights and the safety of the community" as the purpose of the crowd control techniques and levels of force during Department's response to public assemblies. In addition, the working group decided to add "Law Enforcement Objective" as the new proposed section 8.03.03 A. which states, "The law enforcement objective during crowd control is to control the situation, provide intervention, prevent violations of the law, and reasonably enforce observed violations of the law while balancing the groups' First Amendment rights of free speech and assembly". Thus, a balance between the free speech rights and protection of life and property are conveyed in two different sections of DO 8.03.	Closed
R17	A working group member suggested to add language from the POST LD-24 Page 5-7 stating "Law Enforcement Objective" as DO Section 8.03.03 A. and that can potentially replace the previous DO Sections 8.03.02 A, B, and C.	1	1/23/24	Recommendation has been partially included in draft DO	1. The previous DO Section "8.03.02 A. Protection of Rights" was replaced with proposed new DO Section "8.03.03 A. Law Enforcement Objective". The proposed new language for the "Law Enforcement Objective" was pulled directly from the POST LD-24 Page 5-7 as recommended and as follows, "The law enforcement objective during crowd control is to control the situation, provide intervention, prevent violations of the law, and reasonably enforce observed violations of the law while balancing the groups' First Amendment rights of free speech and assembly". 2. The previous DO Section "8.03.02 B Restrictions" was not removed but re-numbered to a proposed new DO Section "8.03.03 B Restrictions". However, the subsections 1 and 2 for the "Restrictions" section were modified to add a proposed new language which is as follows, "1. Limits. Members shall 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, 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". 3. The previous DO Section "8.03.02 Crowd Control Tactics" was removed as recommended.	Closed
R18	The working group decided to include the definitions of Crowd Management, Unlawful Assembly, and Riot pulled directly from the POST LD-24 and requested them to be listed in the order of escalation within the new DO Section 8.03.02 (Definitions) along with previously added definition of Crowd Control.	1	1/23/24	Recommendation has been completely included in draft DO	The proposed new language of DO Section 8.03.02 "Definitions" is as follows: A. Crowd Management. Crowd management refers to the techniques used by peace officers 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 also require arrest and/ or deployment of dispersal tactics or even use of force. C. Unlawful Assembly. Whenever two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly. 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.	Closed
R19	The working group decided to replace the previous DO Section 8.03.02 A "Protection of Rights" with new DO Section 8.03.03 A "Law Enforcement Objective".	1	1/23/24	Recommendation has been completely included in draft DO	Previous language: 8.03.02 Policy: A. 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. Proposed New Language: 8.03.03 Policy : A. Law Enforcement Objective. The law enforcement objective during crowd control is to control the situation, provide intervention, prevent violations of the law, and reasonably enforce observed violations of the law while balancing the groups' First Amendment rights of free speech and assembly.	Closed
R20	The working group decided to change the verbiage, "The San Francisco Police Department" to "Members" in the proposed new DO Sections 8.03.03 B 1 and 2.	2	1/23/24	Recommendation has been completely included in draft DO	"The San Francisco Police Department" was replaced with "Members" as the proposed new language within DO Sections 8.03.03 B 1 and 2.	Closed
R21	The working group decided to take out the previous DO Section 8.03.02 C, Crowd Control Tactics" to avoid redundancy with the language of the proposed new DO Section 8.03.03 B 2, "Restrictions/Control".	2	1/23/24	Recommendation has been completely included in draft DO	The previous DO Section "8.03.02 Crowd Control Tactics" was removed as recommended. Also, please see response to the Recommendation # 17.	Closed

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R22	The working group decided to modify the language of new DO Section 8.03.03 B 2, "Restrictions/Control", directly pulled from the 2022 CA POST Guidelines: Crowd Management, Intervention, and Control.	2	1/23/24	Recommendation has been completely included in draft DO	Previous Language: Restrictions/Control. 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. Proposed New Language: 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.	Closed
R23	A working group member suggested to add language that clarifies when the dispersal orders should be given.	2	1/23/24	Recommendation will not be included in Draft DO	DO 8.03 currently states that "Crowds shall not be dispersed or ordered to move unless there are reasonable and articulable factors justifying the order in accordance with law", thus implying when the dispersal orders are given. In addition, officers are guided by SFPD Crowd Control Manual, specifically "Orders to Disperse".	Closed
R24	A working group member suggested to add language regarding the use of de-escalation techniques before the crowd is dispersed.	2	1/23/24	Recommendation has been completely included in draft DO	This recommendation will be discussed during the future working group sessions when the section of "Dispersal Orders" is discussed. See response to R #26 and 27 for resolution of this recommendation.	Closed
R25	The working group discussed regarding whether mentioning kinetic energy projectiles is appropriate in the "Dispersal Orders" section or just within the "Use of Kinetic Energy Projectiles and Chemical Agents" section of DO 8.03.	2 and 3	1/23/24	Recommendation will not be included in Draft DO	This recommendation will be discussed during the future working group sessions when the section of "Dispersal Orders" and "Use of Kinetic Energy Projectiles and Chemical Agents" are discussed. Update 3/14/2024: The Department stated that it would keep the language regarding the "Use of Kinetic Energy Projectiles and Chemical Agents" within the "Dispersal Orders" section because the way it is written clearly states that they are only used during dangerous and unlawful situations where their use is warranted.	Closed
R26	A working group member suggested that if "use of de-escalation" is added to DO 8.03, that it be defined and placed in the "Dispersal" section. The member also suggested to potentially use the language from the IACP 2019 Crowd Management Model Policy, "Crowd Dispersal" Section F(1)(a) as a reference for de-escalation.	2	2/20/24	Recommendation has been partially included in draft DO	The Department explained that the term "de-escalation" ties to use of force and that dispersal orders themselves are a form of de-escalation. Adding this term may confuse officers so it is preferred to use different terminology that allows officers to use "less intrusive" options before dispersal of a crowd.	Closed
R27	Regarding less intrusive options in Dispersal SEC: The working group decided to add language directly pulled from the Chicago Police Department General Order G02-02 "First Amendment Rights", Section IX A to DO Section 8.03.03 C (Dispersal), with slight modifications in the language as suggested by the Department.	2	2/20/24	Recommendation has been completely included in draft DO	Chicago PD GO Section IX A Language: "Before issuing a crowd dispersal order, the field commander must consider if there are and attempt any available less intrusive options to stop the unlawful behavior necessitating the issuance of the crowd dispersal order. In considering whether a less intrusive option is available, the field commander will consider whether attempting such option would result in an immediate risk of physical harm to a person or property or would be clearly ineffective under the circumstances at the time." Proposed New Language: "Before issuing a crowd dispersal order, the event commander should consider any available less intrusive options to stop the unlawful behavior necessitating the issuance of the crowd dispersal order. In considering whether a less intrusive option is available, the event commander will consider whether attempting such option would result in an immediate risk of physical harm to a person or property or would be clearly ineffective under the circumstances at the time."	Closed
R28	Dispersal SEC: Regarding newly added language "Before issuing a crowd dispersal order, the event commander should consider any available less intrusive options to stop the unlawful behavior." Working group members suggested to mandate the consideration of less intrusive options by using the word "shall" instead of "should" and suggested an additional mandate for documentation of that consideration.	2	2/20/24	Recommendation will not be included in Draft DO	Mandating the consideration of less intrusive options doesn't allow Police Officers to act immediately in dispersing a crowd during situations that escalate quickly and/or are dangerous. In addition, the authority to disperse unlawful assemblies and riots is the only legal mandate established in California Penal Code 726.	Closed
R29	Dispersal SEC: A working group member suggested to use more affirmative language regarding when crowds are dispersed. In addition, it was suggested to add language regarding California Penal Code 726 in this section.	2	2/20/24	Recommendation has been completely included in draft DO	The Department made the following change in DO Section 8.03.03 C (Dispersal): Previous Language: "Crowds shall not be dispersed or ordered to move unless there are reasonable and articulable factors justifying the order in accordance with law". Proposed New Language: "Crowds may only be dispersed when there are reasonable and articulable factors justifying the order in accordance with law". In addition, the following language was added to DO Section 8.03.03 C (Dispersal): "California Penal Code 726 establishes the authority to disperse unlawful assemblies and riots in the name of the people of the state" directly pulled from SFPD Crowd Control Manual.	Closed
R30	Dispersal SEC: A working group member suggested to remove redundant language from this section.	2	2/20/24	Recommendation has been completely included in draft DO	In response to this recommendation, the Department removed the following language in DO Section 8.03.03 C (Dispersal): "Before giving the order to disperse, the event commander must consider whether a dispersal endangers the public or participants in the crowd".	Closed
R31	A working group member suggested to write out the "Dispersal Orders" section of DO 8.03 in a bullet list instead of a paragraph, the way they are listed within the Page 5-16 of the POST LD-24 and in Section F under "Crowd Control Procedures" of SFPD Crowd Control Manual .	2	2/20/24	Recommendation has been completely included in draft DO	The Department created a bulleted list for elements of an effective dispersal order in the "Dispersal Orders" section of DO 8.03. Update on 4/11/2024: The Department decided to consolidate the last two bullet points in this section and modify the language to align closely with the language found within California PC Section 13652. Previous Language: • 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. • The announcements must include the type of kinetic energy projectiles and/or chemical agents to be used when objectively reasonable to do so. Proposed New Language: • 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.	Closed

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R32	A working group member suggested that the script that officers use to provide dispersal orders should include a legal justification for dispersing a crowd and be added to DO Section 8.03.03 D (Dispersal Orders).	2	2/20/24	Recommendation has been partially included in draft DO	The Department will meet internally before providing a response to this recommendation. Update 3/14/2024: The Department stated it would keep the script used by officers to disperse a crowd in the Crowd Control Manual as opposed to adding it in this DO and will consider adding a legal and/or factual justification for dispersing a crowd within the script when updating the SFPD Crowd Control Manual later this year.	Closed
R33	A working group member suggested to add the language regarding prohibition on the use of chemicles or kinetic energy projectiles on certain vulnerable populations such elderly or pregnant individuals.	2	2/20/24	Recommendation included in training, Department Manual, or other procedural or guidance document	This prohibition is already included in the Tactile Unit/Specialist Team Unit Order 23-02 that was issued on 10/23/2023.	Closed
R34	A working group member suggested to keep the granular details as recommended in Recommendation #35 and 36 in SFPD Crowd Control Manual instead of Department General Order.	2	2/20/24	Administrative Question and Answer-not for inclusion in DO	The Department agrees that procedural details are more appropriately housed in a manual and training materials instead of a general order.	Closed
R35	DO Section 8.03.03 E (Arrests): The working group decided to change the words "proper" and "free speech activity" to "appropriate" and "assembly" respectively in the first sentence of this section.	2	2/20/24	Recommendation has been completely included in draft DO	Previous Language: A proper response to criminal conduct during a free speech activity is to cite or book those individuals engaged in criminal conduct (see DO 5.06, Citation Release). Proposed New Language: An appropriate response to criminal conduct during an assembly is to cite or book those individuals engaged in criminal conduct (see DO 5.06, Citation Release).	Closed
R36	DO Section 8.03.03 E (Arrests): The working group discussed whether there is a need to keep this section since it doesn't add any value the way it is currently written or add more meaningful details to it. In response to this recommendation, a working group member suggested to add the sections of "Response to Violent Conduct" and "Response to Other Illegal Conduct" from the San Jose Police Department's Crowd Control Policy to this section. In addition, to avoid adding procedural details in DO, the Department suggested that language of this section be changed as follows: "If arrests are an appropriate response to criminal conduct during an assembly, then defer to the SFPD Crowd Control Manual".	2	2/20/24	Recommendation has been partially included in draft DO	This recommendation will be discussed during the future working group sessions when the section of "Arrests" is further discussed. Also, see response to R# 40. Update 2/27/2024: The Department suggested to replace the current language of this section (that was updated in the last working group) with the language from the Sacramento Police Department First Amendment Assembly Manual (Page 3, Section D4). Also, see R# 40.	Closed
R37	A working group member suggested to add language regarding what triggers "mass arrests" in DO 8.03 within the "Arrests" section.	2	2/20/24	Recommendation has been completely included in draft DO	This recommendation will be discussed during the future working group sessions when the section of "Arrests" is further discussed. Update 2/27/2024: The Department stated that the newly proposed language from the Sacramento Police Department First Amendment Assembly Manual already covers considerations for arrests, including mass arrests. In addition, the Department advised working group members that the current terminology adopted by the Department for "Mass Arrests" is "Multiple Arrests". Also, see R# 41.	Closed
R38	A working group member suggested to add the following language from the manual to DO: "Arrests shall be made at Event Commander's direction".	2	2/20/24	Recommendation has been completely included in draft DO	This recommendation will be discussed during the future working group sessions when the section of "Arrests" is further discussed. Update 2/27/2024: The Department added the following language in the "Arrests" section of DO: "The event commander shall be in charge of any event that will result in multiple arrests (mass arrests)" Also, see R# 41.	Closed
R39	DO Section 8.03.03 E (Arrests): Regarding department's suggestion to replace the current language of this section with the language from Sacramento Police Department First Amendment Assembly Manual, a working group member recommended to use the newly proposed language as an addition rather than replacement since it aids the current language. As a result, the working group decided to keep the current language and place the language from Sacramento Police Department First Amendment Assembly Manual after the current language. In addition, the working group decided to remove "appropriate" and replace "is cite or book" to "may cite or book" in the current language.	2	2/27/24	Recommendation has been completely included in draft DO	Previously Updated Language (as of 2/20/24): An appropriate response to criminal conduct during a free speech activity is to cite or book those individuals engaged in criminal conduct (see DO 5.06, Citation Release). Proposed New Language (on 2/27/24): A response to criminal conduct during an assembly free speech activity maybe to cite or book those individuals engaged in criminal conduct (see DO 5.06, Citation Release). There may be small groups within a larger assembly who are engaged in civil disobedience or illegal acts and, when possible, efforts should be made to identify and/or detain and arrest the specific individuals involved in the unlawful activity. However, there will be situations where, based on the totality of circumstances, the entire assembly must be declared unlawful in order to effectively prevent violent and disorderly activity or where enforcement action is not reasonable or feasible against the specific subjects committing illegal acts.	Closed
R40	DO Section 8.03.03 E (Arrests): The working group members discussed listing out additional details regarding "mass arrests" such as mentioning who has authority to make a determination when mass arrests should occur and adding some language in this section that refers Police Officers to a section of the Crowd Control Manual containing procedural details regarding mass arrests.	2	2/27/24	Recommendation has been completely included in draft DO	The Department added the following language in the "Arrests" section of DO 8.03: "The event commander shall be in charge of any event that will result in multiple arrests (mass arrests). If multiple arrests occur, follow the Crowd Control Manual for "Multiple Arrest Procedures".	Closed
R41	DO Section 8.03.03 F 2 (Use of Kinetic Energy Projectiles and Chemical Agents): The working group decided to replace the current language of this section with the language from POST LD 24 Page 5-16, to ensure that this section includes a reference to the California Penal Code § 13652 which guides the use of kinetic energy projectiles and chemical agents by law enforcement agency during an assembly, protest, or demonstration.	3	2/27/24	Recommendation has been completely included in draft DO	Previous Language: Kinetic Energy Projectiles and Chemical Agents shall not be used to disperse any assembly, protest, or demonstration except under specific circumstances (see Crowd Control Manual, SFPD). Proposed New Language: Kinetic energy projectiles and chemical agents shall only be deployed by a peace officer if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, 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). Update on 4/11/2024: The Department decided to add the following language regarding reporting requirements pursuant to California Penal Code Section 13652.1 in this section: "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 peace officer 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".	Closed
R42	DO Section 8.03.03 G (Use of Non-Uniformed Officers): The working group decided to add the language from DO 5.08 (Non-Uniformed Officers) in this section to provide guidance to non-uniformed officers in situations where crowd management has transitioned into crowd control.	3	2/27/24	Recommendation has been completely included in draft DO	Previous Language: See DO 5.08, Non-Uniformed Officers. Proposed New Language: 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 DO 8.10, Guidelines for First Amendment Activities and SFPD Crowd Control Manual).	Closed

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R43	A working group member recommended to add hyperlinks for anything referenced in DO 8.03, so officers can directly and quickly access the referenced document for further guidance.	N/A	2/27/24	Recommendation has been completely included in draft DO	The Department will consider adding hyperlinks for all references that are used in DO 8.03 and must create a process to ensure that hyperlinks are always upto date.	Closed
R44	DO Section 8.03.03 H (Media): The working group members recommended to research the policies of other police departments to provide clarification on the following issues: 1. Definition of the "Duly Authorized Representative of Media". 2. Identifications to qualify as "duly authorized representative of media". 3. Burden of responsibility on identifying "duly authorized representative of media". 4. Staging area where "duly authorized representative of media" is permitted.	3 and 4	2/27/24	Recommendation has been completely included in draft DO	The Department will conduct more research on policies of other police departments and will come prepared in the next working group meeting with an updated draft of DO that has a definition of "Duly Authorized Representative of the Media" and details to address other issues mentioned in this recommendation. Update on 3/14/2024: The Department added the following definition in DO Section 8.03.02 (Definitions) for "Duly Authorized Representative of the Media" derived from the San Jose Police Department Duty Manual, Section L 2306.1, with slight modifications: <i>"A person in possession of current, valid credentials issued by the Department or other law enforcement agency, or other identification establishing duly authorized representation of news media affiliation or employment, whether print, television, or Internet media. A personal blogger with no credentials and no supporting third-party news service identification does not meet the criteria of duly authorized"</i> . The newly added definition also covers the credentials that are needed to qualify as duly authorized representative of the media. In addition, the Department stated that the burden of proof to identify as "Duly Authorized Representative of the Media" falls on journalists by showing valid credentials and officers on the field have responsibility to work with them to check those credentials, so they could be allowed to remain or be permitted in closed areas as per 409.7 PC. Furthermore, the following language was added to DO Section 8.03.03 H (Media) from the San Diego Police Department Procedures for First Amendment Activity and Facilitation and Management, Section XII. C. 1, <i>"If access is granted to closed areas, members of the media are not permitted entry into a command post or allowed to move through police lines and interfere with police actions. These violations may be the cause for removing a journalist from a closed area or charging an offense not precluded by 409.7 PC"</i> which provides clarification on where duly authorized representative of the media is not permitted.	Closed
R45	DO Section 8.03.03 H (Media): The working group discussed the issues around ability of media personnel to go back and forth between police lines and an appropriate response for media personnel engaged in any activity that's unlawful and not covered under 409 PC, and decided to revise the language that was added in this section from the San Diego Police Department Procedures for First Amendment Activity and Facilitation and Management to add more clarity on the discussed issues.	4	3/14/24	Recommendation has been completely included in draft DO	Previously Proposed Language from the San Diego Police Department Procedures for First Amendment Activity and Facilitation and Management, Section XII. C. 1: "If access is granted to closed areas, members of the media are not permitted entry into a command post or allowed to move through police lines and interfere with police actions. These violations may be the cause for removing a journalist from a closed area or charging an offense not precluded by 409.7 PC." "New Proposed Language: "If access is granted to closed areas, members of the media are not permitted entry into a command post or interfere with police actions."	Closed
R46	DO Section 8.03.03 H (Media): The working group decided to change the starting language of this section to add a reference for the California Penal Code Section 409.7, so it is easier for anyone reading the policy to go directly to the language as written in 409.7 PC.	3	3/14/24	Recommendation has been completely included in draft DO	Previously Proposed Language: "If officers close the immediate area surrounding any emergency field command post or any other command post....." New Proposed Language: "California Penal Code Section 409.7 establishes that if officers close the immediate area surrounding any emergency field command post....."	Closed
R47	DO Section 8.03.03 H (Media): The working group decided to reorganize a few sentences in this section so the language in this section is written out as closely as possible to the language found within California Penal Code Section 409.7.	3 and 4	3/14/24	Recommendation has been completely included in draft DO	The following sentence was moved from the last paragraph of DO Section 8.03.03 H (Media) and added to bullet #3 within the same section: <i>"If the duly authorized representative is detained by an officer, 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"</i> . In addition, the following sentence was moved from the last paragraph of DO Section 8.03.03 H (Media) and added as bullet #4 within the same section: <i>"This section does not prevent officers from enforcing other applicable laws if the person is engaged in activity that is unlawful"</i> .	Closed
R48	DO Section 8.03.03 H (Media): While citing Sacramento Police Department's First Amendment Assembly Manual, a working group member asked a question regarding the meaning of Legal Observers and Crowd Monitors, and if there is a need to add clarification in this section stating that 409.7 PC does not apply to them.	3 and 4	3/14/24	Administrative Question and Answer-not for inclusion in DO	The Department explained that Legal Observers and Crowd Monitors are usually attorneys from organizations such as National Lawyers Guild or other civil rights organizations who wear bright colored hats to stand out from the crowd and their role is to observe any civil rights violations during crowd control situations. In addition, the Department stated that since they are not protected under Shield's Law (409.7 PC) which specifies how to address members of the media, there is no need to add a reference regarding them in this section.	Closed
R49	DO Section 8.03.02 E (Definitions - Duly Authorized Representative of the Media): A working group member shared a concern regarding the language for "personal blogger" within the definition of a "Duly Authorized Representative of the Media" that was added in this section and stated that the news medium doesn't define whether it's journalism or not.	1	3/14/24	Recommendation has been completely included in draft DO	The Department made the following change to the last sentence of the newly added definition for "Duly Authorized Representative of the Media": Previously Proposed Sentence: "A personal blogger with no credentials and no supporting third-party news service identification does not meet the criteria of duly authorized". Proposed New Sentence: "Freelance" media personnel, including reporters, photographers, videographers, bloggers, or vloggers without valid media credentials, but possessing other identification establishing affiliation and employment with a third-party news service, should be considered duly authorized representatives of the media". Update on 4/11/2024: The Department further modified the proposed new sentence to read as follows: "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.	Closed
R50	DO Section 8.03.02 B (Definitions - Crowd Control): A working group member recommended to replace the phrase, "also require" with "warrant" within the definition for Crowd Control to ensure consistency with CA POST Guidelines for Crowd Management, Intervention, and Control released in 2022.	1	3/14/24	Recommendation has been completely included in draft DO	Previously Proposed Language: "Crowd control is the law enforcement response to a protest or gathering that has become unlawful and/ or violent. It may also require arrest and/ or deployment of dispersal tactics or even use of force". New Proposed Language: "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".	Closed

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R51	A working group member recommended to add a reference regarding the use of Body Worn Cameras (BWCs) to this policy so officers can quickly access DO 10.11, Body Worn Cameras, and know when to activate BWCs during First Amendment Activities. In addition, a working group member suggested to add the following language from the Department Notice 20-175 (Activation of Body Worn Cameras) in DO 8.03 that could be used as a reference point for the use of BWCs: "Members shall not activate the BWC in a manner that is specifically prohibited by DO 2.0 1, General Rules of Conduct, and DO 8. 10, Guidelines for First Amendment Activities."	N/A	3/14/24	Recommendation has been partially included in draft DO	The Department added a reference to DO 10.11 (Body Worn Cameras) under the "References" section of DO 8.03. The details on the use of body worn cameras during First Amendment Activities, when needed, will be considered to be added when updating the SFPD Crowd Control Manual. Update on 4/11/24: The Department added the following sentence to make a reference to DO 10.11 (Body Worn Cameras) within DO Section 8.03.04 (Procedures): " See DO 10.11 (Body Worn Cameras) for authorized activations of body worn cameras. "	Closed
R52	DO Section 8.03.02 (Definitions): The working group decided to further modify the definition of "Duly Authorized Representative of the Media" to remove some redundancies.	4	4/11/24	Recommendation has been completely included in draft DO	Previously Proposed Language: "A person in possession of current, valid credentials issued by the Department or other law enforcement agency, or other identification establishing duly authorized representation of news media affiliation or employment, 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. Proposed New Language: "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.	Closed
R53	DO Section 8.03.03 H (Media): The working group recommended to add examples of types of journalist identification that could be accepted for someone to be considered as "Duly Authorized Representative of the Media" in the SFPD Crowd Control Manual.	1	4/11/24	Recommendation included in training, Department Manual, or other procedural or guidance document	The Department will add examples of journalist identification types that will suffice for someone to be considered as "Duly Authorized Representative of the Media" in the SFPD Crowd Control Manual when it is updated.	Closed
R54	A working group member recommended to add clarification in this DO regarding if California Penal Code Section 13652 applies to crowd control situations originating from the First Amendment related activities.	3	4/11/24	Recommendation requires further discussion/analysis	The Department is currently waiting on guidance from the City Attorney on this issue and DO 8.03 will be updated accordingly once the clarification is obtained regarding if California Penal Code Section 13652 applies during crowd control situations originating from the First Amendment related activities.	Open
R55	DO Section 8.03.03 A (Law Enforcement Objective): A working group member recommended to replace the word "balancing" in this section with a stronger word that emphasizes the focus of law enforcement on protection of groups' First Amendment rights during crowd control situations.	2	4/11/24	Recommendation has been partially included in draft DO	The Department explained that the word, "balancing" is the correct terminology to use in this section since the law enforcement does have to balance the groups' First Amendment rights with preventing and addressing observed violations of the law but decided to re-word this section that brings the protection of First Amendment rights to the forefront of law enforcement objective during crowd control situations as follows: Previously Proposed Language: " A. Law Enforcement Objective. The law enforcement objective during crowd control is to control the situation, provide intervention, prevent violations of the law, and reasonably enforce observed violations of the law while balancing the groups' First Amendment rights of free speech and assembly." Proposed New Language: " 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."	Closed
R56	DO Section 8.03.03 C (Dispersal): A working group member recommended to re-add the following sentence in this section that was perviously perceived by working group members as redundant and accordingly removed during the working group meeting held on 2/20/2024 : "Before giving the order to disperse, the event commander must consider whether a dispersal endangers the public or participants in the crowd". (See R# 30). In addition, the working group decided to modify the overall language for this section to make it more concise.	2	4/11/24	Recommendation has been completely included in draft DO	Previously Proposed Language: " 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 issuing a crowd dispersal order, the event commander should consider any available less intrusive options to stop the unlawful behavior necessitating the issuance of the crowd dispersal order. In considering whether a less intrusive option is available, the event commander will consider whether attempting such option would result in an immediate risk of physical harm to a person or property or would be clearly ineffective under the circumstances at the time". Proposed New Language: " 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".	Closed
R57	DO Section 8.03.03 E (Arrests): A working group member recommended to remove "civil disobedience" from this section. In addition, the working group further modified the language of this section to make it more concise and ensure that mass arrests are distinguished from multiple arrests.	3	4/11/24	Recommendation has been completely included in draft DO	Previously Proposed Language: " E. Arrests. A response to criminal conduct during an assembly may be to cite or book those individuals engaged in criminal conduct (see DO 5.06, Citation Release). There may be small groups within a larger assembly who are engaged in civil disobedience or illegal acts and, when possible, efforts should be made to identify and/or detain and arrest the specific individuals involved in the unlawful activity. However, there will be situations where, based on the totality of circumstances, the entire assembly must be declared unlawful in order to effectively prevent violent and disorderly activity or where enforcement action is not reasonable or feasible against the specific subjects committing illegal acts. The event commander shall be in charge of any event that will result in multiple arrests (mass arrests). If multiple arrests occur, follow the Crowd Control Manual for "Multiple Arrest Procedures"." Proposed New Language: " E. Arrests. A response to criminal conduct during an assembly may be to cite or book those individuals engaged in criminal conduct (see DO 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, there will be situations where the entire assembly must be declared unlawful in order to effectively prevent violent and disorderly activity. The event commander shall be in charge of any event that will result in multiple arrests or mass arrests. If multiple or mass arrests occur, follow the Crowd Control Manual for "Multiple Arrest Procedures".	Closed
R58	DO Section 8.03.03 F1 (Reasonable Force): A working group member recommended to replace the word, "shall" with "should" from the following sentence in this section: "When the use of force is justified, the lowest level of force necessary to accomplish an arrest or dispersal shall be employed". This is because having a "shall" limits officers' ability to apply an appropriate amount of force that may not be the lowest level but is still objectively reasonable and necessary to accomplish an arrest or dispersal.	3	4/11/24	Recommendation has been partially included in draft DO	The Department changed the language of this section as follows: Previous Language: Reasonable Force. When the use of force is justified, the lowest level of force necessary to accomplish an arrest or dispersal shall be employed. Officers are permitted to use force that is objectively reasonable (See DO 5.01, Use of Force). Proposed New Language: Appropriate Force. Unless further restricted by this order, members must use force in accordance with DO 5.01, Use of Force.	Closed

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R59	DGO Section 8.03.03 F2 (Use of Kinetic Energy Projectiles and Chemical Agents): A working group member recommended that the language of the first paragraph of this section that was previously proposed in the working group meeting held on 2/27/2024 (see R#41), to be written out in an active tense.	3	4/11/24	Recommendation has been completely included in draft DGO	Previously Proposed Language: "Kinetic energy projectiles and chemical agents shall only be deployed by a peace officer if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, 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)". Proposed New Language: "A peace officer 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 peace officer, 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)".	Closed
R60	DGO Section 8.03.03 H (Media): Based on the feedback that was further solicited by the panel of officers invited during the working group meeting held on 1/11/2024, the working group recommended the following: 1. Add a reference for "Definitions" to the first bullet point of this section so officers can easily locate the definition for "Duly Authorized Representative of the Media", when needed. 2. Bold the last sentence of this section: "If access is granted to closed areas, members of the media are not permitted entry into a command post or interfere with police actions".	4	4/11/24	Recommendation has been partially included in draft DGO	The Department added the following to the first bullet point of this section: "See DGO Section 8.03.02 (Definitions)", however, did not make the last sentence in bold as the Department did not want to convey that the last sentence was more important than any other information contained in this DGO as well as to remain consistent with current formatting instructions issued by the Department.	Closed