

Proposed CPP Recommendations to First Amendment Activity Facilitation (“Protest Policy”)

1. Define “peaceful demonstrator” and “legal observer”

Please add definitions of “peaceful demonstrator” and “legal observer” to section IV. Proposed options:

Peaceful demonstrator - Individuals attending a First Amendment protected activity, who are not suspected of committing a serious or violent crime or do not pose an immediate threat of harm to officers or others.

Legal observers – Individuals who are trained volunteers with legal, civil rights or similar organizations whose purpose is to observe and record happenings at events such as demonstrations or rallies, who will be clearly identified as legal observers and are not simply participants in protest events.

2. Adding “legal observers” to XII. Public Information and the Media

The Commission believes that peaceful legal observers should not be specifically targeted. We believe the easiest way to achieve this would be to add legal observers to this section of the procedure, specifically XII. B. which states “the media shall never be targeted for dispersal or enforcement action because of their media status.”

3. Dispersal orders

In VII. C.2. and 7, clarify the legal standard (which states that officers are not required to use any specific words) vs. SDPD’s procedure (which states officers shall use specific dispersal orders).

Current procedure references both, which creates confusion. SDPD indicated that 4.17 is more restrictive than California law. We recommend making this requirement explicitly clear.

4. Dispersal technique

We share the ACLU/MOGO’s recommendation, that the procedure should make clear that force shall not be used indiscriminately, rather targeted only against specific individuals whose conduct justifies such force.

5. Enhance definition and section of “unlawful assembly”

Current case law narrows the statute to assemblies “which are violent or which pose a clear and present danger of imminent violence.”

6. Planning for protest events

- We recommend deleting V. A. 7. E. (has the Department previously worked with the organizers, have previous events been lawful). Each protest event needs to be reviewed from a fresh lens, regardless of past events.

- Composition of event attendees (V. A. 7. i.) should be elaborated upon as the current explanation could cause bias-based perceptions and/or discriminatory policing.

7. OC Spray usage at protests

The CPP wanted to make sure a UC Davis incident (where 11 peaceful sitting protestors were pepper sprayed) does not happen in San Diego. We recommend

specifically reiterating in the procedure that use of OC is prohibited during passive resistance (per 1.06).

We recommend using verbiage similar to Philadelphia's procedures which expressly "prohibit(s) the use of Chemical Weapons and Kinetic Energy Munitions by any member of the Department on any individual engaging in peaceful First Amendment Activities."

8. Officer ID Numbers on Flexcuffs

Previously we had recommended that officers write their ID numbers on flexcuffs when they detain someone. This recommendation was previously rejected, however at our May 2024 meeting, former Chief Nisleit indicated he would reconsider this recommendation. (Officers may write ID numbers on flexcuffs ahead of time when deployed to a protest activity.)

9. Officer Identification Requirements

The Commission continues to believe that officers should be required to provide their name and badge/ID numbers upon request by members of the public. We recommend that the ability for officers to only provide an ID number be discontinued.

We were told that there is concern of officers being "doxxed," however officers already have the ability have much of their personal information redacted from public records such as the DMV.

10. Specialty Munitions

The current (IX. D. 4. And X.) should be enhanced to describe when these munitions may be used, how they will be used and the order of escalation they may be used in.