



CPP “Protest Policy” Recommendations

Introduction

CPP Research & Community Meetings

- Starting June 2020
- Reviewed Seattle, Fresno, Oakland and Washington DC demonstration policies
- Shared with SDPD to create San Diego's procedure

Development of a Procedure

- February 2021: SDPD released "First Amendment Activity Facilitation and Management" Procedure
- March 2021: CPP requested 19 revisions or clarifications
- May 2021: SDPD responded to recommendations
- August 2022: SDPD revised procedure

Reason & Purpose

- San Diego Police Department had no specific, stand-alone policy or procedure on how to address mass protest activities
- SDPD relied on components of other existing procedure to guide officers
 - Use of force, use of chemical agents, arrests, handcuffing, body worn cameras etc.
- CPP's Policy Committee initiated research to determine best practices nationwide
- Many other large cities also did not have a specific stand-alone policy or procedure
- Reviewed cities with publicly available policies or procedures with similar needs or circumstances
 - Seattle – 1999 WTO protests, and SPD's response led to resignation of Police Chief
 - Oakland – OPD experienced multiple violations including use of force, arrests and care for arrestees
 - Washington DC – Significant experience with protest activities

How SDPD Categorized Recommendations



Accepted or
will implement




Recommendation
already exists.



"Operational or legal challenges"
Will not implement



Accepted Recommendations

4. Clarify that a protest will not be declared unlawful simply for being “boisterous.”
 - SDPD agreed that simply because an assembly is boisterous or tumultuous does not establish a violation of PC §407. Procedure will be amended.
 - 6e. “Ample means of egress” considering those with mobility issues
 - SDPD agreed to add inclusive language.
 - 6f. Add options for non-English/Spanish speakers, signage for hearing impaired etc.
 - SDPD agreed to add “Display of signage, including electronic signage and billboards, indicating unlawful assembly, dispersal and clearly identified routes of egress.”
 7. EMS providers should have proper materials on hand (ex. decontamination).
 - SDPD does not have authority over SDFD or EMS, however agreed to add “cooperative pre-planning” to ensure adequate resources
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Recommendation Already Exists

SDPD stated “care is taken not to duplicate pre-existing procedures.”

All officers are responsible for abiding by all SDPD policies and procedures - 1.01 Abiding by Legal Updates, Orders, Policies, Procedures and Training Bulletins and 9.03 Obedience to Rules).

1. Include SDPD existing guidelines regarding pre-protest planning with event organizers.
2. Restate that existing P&P remain in full force and effect during protests.
3. Specifically address how juveniles are treated in line with existing procedures.
5. Include in procedure a statement that preservation of life takes precedence over property.
 - SDPD referred to it's Vision Values and Mission Statement as well as other P&Ps.

Recommendation Already Exists

6. Dispersal orders

- 6a. Require BWCs activated to record circumstances that lead to an unlawful assembly order
SDPD referred to 1.49 and 3.26, generally stating officers should refrain from video recording or photographing lawful 1st Amendment activities.
- 6b. BWCs shall be activated to record dispersal order
SDPD felt that this was already addressed by VII. C. 3. 5 and 6.
- 6c. Procedure stated two different things. Script was provided, but not required to be used.
SDPD clarified VII. C. 2. referred to state law, VII. C. 7. referred to SDPD procedures.
SDPD felt their procedure was more restrictive; however also stated that any verbiage can be used and still within legal guidelines even if out of compliance with department procedures.
- 6d. Dispersal order to be given 3 times, with 1 minute between orders.
SDPD indicated they couldn't find established best practices with our recommendation and believes the procedure is more restrictive than law and POST guidelines.

Recommendation Already Exists

9. Reiterate use of OC Spray is prohibited during “passive resistance” at protests. (First sentence only)
 - SDPD simply restated the existing 1.06 Use of Liquid Chemical Agent procedure.
10. Specialty munitions usage.
 - SDPD restated 4.17 as revised per Assembly Bill 48 and 1.36 (Use of Specialty Munitions)
11. Replace flexcuffs should they tighten (First sentence only)
 - SDPD restated 4.17 and 6.01 (Handcuffing, Restraining, Searching & Transporting)
12. Body Worn Camera usage.
 - Add new category for retention
SDPD stated existing procedures already have a “demonstration/protest” category.
(As of March 2021, this category did not exist. There was only a “Civil Unrest” category.)
 - Add statement that BWC footage will not be used to create a database of participants
Procedure doesn’t explicitly state our recommendation, rather says officers should refrain from filming lawful activities.

Recommendation Already Exists

13. Officers shall not prohibit audio or video recordings

- SDPD updated 4.17 to include media references. Referenced 3.26 (Media Evidence Recovery and Impounding/Preserving), in general stating the public has a 1st Amendment right to recordings in public places, officers shall not discourage from recording police enforcement activities or intentionally block or obstruct cameras or recording devices. (However, they cannot cross police lines or enter places closed to the public.)

16. Prohibit obstructing badge, name or IDs and prohibit giving false ID details

- SDPD referred to 9.19 which states officers shall furnish their names and ID numbers to any person requesting it, except when withholding is necessary for the performance of duties or authorized by the proper authority.

17. Reconsider allowing ID number only notification during events.

- Essentially would not reconsider position. SDPD expressed concern that providing more than ID numbers exposes officers to “growing threats against them, which includes doxing.”

Recommendation Already Exists

18. Addressing civil disobedience response (using bikes as weapons or using follow cars)

- SDPD made a few comments in response to this recommendation. (Page 16 of response)
- The majority of this recommendation was paired with 1.04 (Use of Force), that officers may respond with the appropriate level of force.
- “The use of police bicycles to form a fence is not a reportable use of force.”
- “The use of a bicycle to push back a crowd is no different than the use of a baton to push back a crowd.”
- Follow cars were described as a new necessity after the Charlottesville car attack at a protest and stated “the purpose of follow-cars is to control vehicular traffic and prevent accidental and intentional physical harm to those exercising their First Amendment rights.”

Rejected Recommendations

8. Define “a reasonable time” for crowds to disperse

- SDPD stated that courts have never imposed a time limit to the reasonableness standard. SDPD also stated they must “be mindful not to establish “three minutes” as an absolute standard. (Page 18 of SDPD response.)

9. Reiterate use of OC Spray/impact weapons are prohibited during “passive resistance” at protests. (Remaining rec)

- SDPD responded that “these techniques are minimally-invasive, lesser controlling force options that result in temporary discomfort.” (Page 18 of SDPD response.)

11. Write ID number and mark flexcuff placement (Remaining rec)

- SDPD stated it would be impractical for officers to write IDs on flexcuffs during protest and said due to the material, writing would smear and become illegible. (Page 19 of SDPD response.)

Rejected Recommendations

14. Legal observer shall not be specifically targeted

- SDPD responded that POST does not provide any guidance, and this is a developing area of law.
- They indicated that anyone present at an unlawful assembly/rout/riot, becomes participant in that event. There is no special consideration for “non-participants” or “legal observers.”

15. Require officers to provide name/ID of commanding officer/incident commander

- SDPD stated that COs may change during events. If someone files a complaint, IA will determine who the commander of record was at the time of the complaint.

19. Require outside law enforcement agencies to adhere to SDPD procedures

- SDPD stated that under Mutual Aid agreements, each agency is responsible for their own employees and P&Ps. Further SDPD has no authority to discipline another agency’s officers.



Feedback Questions & Answers