

DGO 8.03 - SFPD Policy Working Group Recommendations and Discussion Tracking as of 2/15/24

#	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 DGO 8.03.	1	12/12/23	Recommendation requires further discussion/analysis	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 DGO 8.03 Working Group Meeting.	Open
R2	A working group member requested clarification between lawful assembly and unlawful assembly.	1	12/12/23	Recommendation requires further discussion/analysis	Penal Codes defines the difference between a lawful and unlawful assembly. This will be discussed at the 1/11/2024 DGO 8.03 Working Group Meeting.	Open
R3	A working group member asked whether the DGO 8.03 should reference the use of Surveillance tools.	N/A	12/12/23	Recommendation requires further discussion/analysis	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.	Open
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 DGO	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 DGO, including unlawful assembly, mass arrests, dispersal orders, and use of barricades.	1	1/11/24	Recommendation requires further discussion/analysis	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.	Open
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 requires further discussion/analysis	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.	Open
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 requires further discussion/analysis	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.	Open
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 requires further discussion/analysis	A new section 8.03.02, "Definitions" was created and the definition of "Crowd Control - DGO 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.	Open
R9	The working group worked together to change the language for the "Purpose" section of the DGO 8.03 Crowd Control.	1	1/11/24	Recommendation has been completely included in draft DGO	<p>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.</p> <p>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.</p>	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 DGO	"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 DGO 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 DGO 8.03.	2	1/23/24	Recommendation included in training, Department Manual, or other procedural or guidance document	The Department is open to potentially add the definition of "Duly Authorized Representative of the Media" in DGO 8.09 (Media Relations) which is slated for an update in the Calendar Year 2024, and adding it as a reference within DGO 8.03. This recommendation has been forwarded to the Executive Sponsor of DGO 8.09 revision.	Closed
R12	A working group member suggested to also add a reference to the rights of onlookers (non-members of media) in DGO 8.03.	2	1/23/24	Recommendation has been partially included in draft DGO	The rights of onlookers are already addressed in DGO 5.07, which was last updated in September 2023. DGO 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 DGO 5.07 in DGO 8.03.	Closed

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R13	DPA shared the concern that the draft for DGO 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 DGO	This recommendation violates DGO 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 DGO, and the Department has already agreed to update the Crowd Control Manual once DGO 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 DGO	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 DGO 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 DGO for Crowd Management in addition to the one for Crowd Control.	1	1/23/24	Recommendation requires further discussion/analysis	The Working Group agreed to keep the focus of DGO 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 DGO. In response, the definition of Crowd Management was already added to DGO 8.03 during the working group meeting held on 1/11/24 and the language regarding nexus between Crowd Control and Crowd Management will be discussed in the future working groups.	Open
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 DGO 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 DGO	This recommendation is addressed in two parts. First, the purpose statement of DGO 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 DGO 8.03.	Closed

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R17	A working group member suggested to add language from the POST LD-24 Page 5-7 stating "Law Enforcement Objective" as DGO Section 8.03.03 A. and that can potentially replace the previous DGO Sections 8.03.02 A, B, and C.	1	1/23/24	Recommendation has been partially included in draft DGO	<p>1. The previous DGO Section "8.03.02 A. Protection of Rights" was replaced with proposed new DGO 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".</p> <p>2. The previous DGO Section "8.03.02 B Restrictions" was not removed but re-numbered to a proposed new DGO 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".</p> <p>3. The previous DGO Section "8.03.02 Crowd Control Tactics" was removed as recommended.</p>	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 DGO Section 8.03.02 (Definitions) along with previously added definition of Crowd Control.	1	1/23/24	Recommendation has been completely included in draft DGO	<p>The proposed new language of DGO Section 8.03.02 "Definitions" is as follows:</p> <p>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.</p> <p>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.</p> <p>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.].</p> <p>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.</p>	Closed
R19	The working group decided to replace the previous DGO Section 8.03.02 A "Protection of Rights" with new DGO Section 8.03.03 A "Law Enforcement Objective".	1	1/23/24	Recommendation has been completely included in draft DGO	<p>Previous language:</p> <p>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.</p> <p>Proposed New Language:</p> <p>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.</p>	Closed
R20	The working group decided to change the verbiage, "The San Francisco Police Department" to "Members" in the proposed new DGO Sections 8.03.03 B 1 and 2.	2	1/23/24	Recommendation has been completely included in draft DGO	"The San Francisco Police Department" was replaced with "Members" as the proposed new language within DGO Sections 8.03.03 B 1 and 2.	Closed
R21	The working group decided to take out the previous DGO Section 8.03.02 C, Crowd Control Tactics" to avoid redundancy with the language of the proposed new DGO Section 8.03.03 B 2, "Restrictions/Control".	2	1/23/24	Recommendation has been completely included in draft DGO	The previous DGO 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 DGO 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 DGO	<p>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.</p> <p>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.</p>	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 DGO	DGO 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 requires further discussion/analysis	This recommendation will be discussed during the future working group sessions when the section of "Dispersal Orders" is discussed.	Open
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 DGO 8.03.	2 and 3	1/23/24	Recommendation requires further discussion/analysis	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.	Open