

Unlawful Assembly Dispersal Order (A)

“I am (name and rank), a peace officer for the City and County of San Francisco. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, command all those assembled at (specific location) to immediately disperse, which means to break up this assembly.

If you do not do so, you may be arrested or subject to other police action. Other police action could include the use of force, including kinetic energy projectiles and chemical agents, which include foam batons, pepper ball, pepper spray, OC and CS, which may inflict significant pain or result in serious injury.

Penal Code §409 prohibits remaining present at an unlawful assembly, which means you must leave the area I just described. If you remain in the area just described, regardless of your purpose, you will be in violation of Penal Code §409. The following routes of dispersal are available (routes).”

“You have (state the current time and the reasonable amount of time to disperse, e.g., it is now 9:30 pm and you have 15 minutes to leave the area to disperse.”

Leave now.

Unlawful Assembly Dispersal Order (B)

“I am (name and rank), a peace officer for the City and County of San Francisco. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, command all those assembled at (specific location) to immediately disperse, which means to break up this assembly. Return onto the sidewalk and stop all criminal activities.

If you do not do so, you may be arrested or subject to other police action. Other police actions could include the use of force, including kinetic energy projectiles and chemical agents, which include foam batons, pepper ball, pepper spray, OC and CS, which may inflict significant pain or result in serious injury.

Penal Code §409 prohibits remaining present at an unlawful assembly, which means you must leave the area I just described. If you remain in the area just described, regardless of your purpose, you will be in violation of Penal Code §409. The following routes of dispersal are available (routes).”

Continuous Broadcasting Once Officers “Move Out”

This is an unlawful assembly. Immediately disperse, which means, break up this assembly.

Get back onto the sidewalk, stop all criminal activities and disperse or you will be subject to arrest.

Guideline

5.2

Dispersal Orders

Establish procedures for declaring unlawful assemblies and issuing dispersal orders.

Discussion: Law enforcement agencies should understand the law as it pertains to an unlawful assembly. The decision to declare a crowd unlawful must be based upon reasonable and articulable facts. California Penal Code section 407 states, "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.*].

Dispersal orders for the purpose of ordering people to leave an area, must satisfy the legal requirements and convey the importance of compliance. 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. Law enforcement should provide sufficient time to disperse after the order with clear directions and visible and ample means of egress.

With regard to dispersal orders **pertaining to objectively 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**. The announcements shall be made from various locations, if necessary and delivered in multiple languages, if appropriate.

Dispersal order considerations (not in priority order):

- Purpose and anticipated action necessitating the dispersal order
- Should be delivered thoughtfully, deliberately and strategically
- Need for repeated announcements, from various locations and potential multiple language concerns
- Must be communicated in a manner reasonably believed to be heard and understood by the intended audience
- Voice inflection and tone of voice should be considered in an attempt to portray calm and to encourage an orderly dispersal
- Provide sufficient time to disperse after the order
- Communicate clear, visible and ample means of egress
- Law enforcement should record the name of the individuals making the announcements and the date and time each order was administered



Guideline

5.2

Establish procedures for declaring unlawful assemblies and issuing dispersal orders.

Dispersal Orders

(continued)

- Use of amplified sound may elevate the formality of the announcements
- May have an unintended escalation affect
- Intent to permanently disperse a crowd where unlawful activity is occurring, not to merely relocate the problem
- Should be used when communications have failed and restoration of order does not appear possible, absent enforcement action

Methods of delivering and documenting dispersal orders and alternatives (not in priority order):

- Loud audible speech
- Amplified sound
- Ensuring that the order is heard in remote areas
- Confirming and documenting that the orders are transmitted sufficiently to be received by those intended
- Using unmanned aircraft equipped with amplified sound flown to inaccessible areas
- Pre-recorded unlawful assembly messages in multiple languages as appropriate
- Display of signage, including electronic signage and billboards, indicating unlawful assembly, dispersal and clearly identified routes of egress
- Gaining the attention of the crowd and documenting affirmative responses of crowd members prior to the declaration of unlawful assembly
- Position law enforcement personnel to confirm and document the receipt of the transmission of the dispersal order to those intended
- Consider multiple-language capability
- Community alert systems
- Provide clear directions with regard to crowd dispersal
- Using video/audio recording equipment for documentation of the dispersal order, the crowd response and their ability to hear
- Use of social media platforms to send out alerts to specific areas

Methods that may be used to deliver and document dispersal orders include (not in priority order) *(continued)*:

- Positioning law enforcement personnel to the rear of a crowd to confirm and document hearing the transmission of the dispersal order
- Acquiring multiple-language capability
- Community alert system(s)

Guideline

5.2

Establish procedures for declaring unlawful assemblies and issuing dispersal orders.

Dispersal Orders

(continued)

- Provide easy to understand directions that help the crowd disperse so that they clearly understand the desired response
- Using video/audio recording equipment for documentation of the dispersal order, the crowd response and their ability to hear
- Use of social media platforms to send out alerts to specific areas

UNLAWFUL ASSEMBLY DISPERSAL ORDER

Dispersal Order Example: *"I am (peace officer's name and rank), a peace officer for the (name of jurisdiction). I hereby declare this to be an unlawful assembly and in the name of the People of the State of California, order all those assembled at (specific location) to immediately disperse, which means to break up this assembly. If you do not do so, you may be arrested."*

INSERT REQUIRED WHEN KINETIC ENERGY PROJECTILES/CHEMICAL AGENTS TO BE DEPLOYED (FOR OBJECTIVELY DANGEROUS AND UNLAWFUL SITUATIONS)

You may also be subject to other police action including the use of kinetic energy projectiles and chemical agents, which include: _____

(Insert here type to be used e.g., rubber bullets, plastic bullets, beanbag rounds, foam tipped plastic rounds, tear gas, CN, CS, pepper balls, pepper spray or OC). Use of these devices could result in serious injury.

Penal Code section 409 prohibits remaining present at an unlawful assembly, which means that you must leave the area I just described. If you remain in the area just described, you will be in violation of Penal Code section 409. The following routes of dispersal are available (routes). "You have (state the current time and the reasonable amount of time to disperse, e.g., it is now 9:30 pm and you have 15 minutes to leave the area) to disperse."