



SAN DIEGO COUNTY SHERIFF'S DEPARTMENT
SPECIAL INVESTIGATIONS DIVISION
CRIMINAL INTELLIGENCE UNIT
INFORMATION BULLETIN

**EXPRESSIVE ACTIVITY/
PROTESTORS ON PRIVATE PROPERTY**

DISTRIBUTED: January 2020

CONTACT:

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

SYNOPSIS

This information bulletin is being provided to assist deputies when responding to "calls for service" of expressive activity, protests and/or solicitors on private property.

Generally, a store manager or security (loss prevention) will make a call for service complaining of a group of protestors refusing to leave and/or creating a disturbance. The reporting party will state the group is being aggressive, intimidating customers, and the groups' actions are affecting business. A request will be made of the deputy to make the group leave or place members of the group under arrest for trespassing.

DETAILS

Hand billing, bannering, signature collecting, soliciting funds, and protesting are all considered expressive activity. Expressive activity is considered free speech, protected by the First Amendment of the United States and thus legal.

If a group is engaging in First Amendment-related activities, however inflammatory, and are in a place open to the public, deputies have the responsibility to protect life and property and to ensure that all privacy, civil rights, and civil liberties are upheld. In some instances a court may place reasonable restrictions (injunction) on the time, place and manner of the peaceful assembly. Time, place and manner restrictions accommodate public convenience and promote order by regulating traffic flow and preserving property interests. Injunctions are **NOT** applicable to law enforcement unless directed to the Sheriff or Chief of Police by name, ordering enforcement. Management is advised to follow up with the court that issued the injunction. The following information should serve as a guideline for deputies in dealing with First Amendment-related activities:

[REDACTED]
[REDACTED]
[REDACTED]

Impartiality/Cooperation - Decisions made by peace officers at the scene of a demonstration must be based on sound judgment and the law. Any enforcement action taken will be quickly assessed by the demonstrators to its impartiality and reasonableness. Every effort should be made to obtain the cooperation in controlling the demeanor of the demonstrators. Experience has shown that tensions are reduced when deputies explain their position at an expressive activity event and if enforcement action will need to be taken.

It is their right - The right to demonstrate peacefully must be upheld by law enforcement. Demonstrating is not a violation of law. If illegal acts result from demonstrators, corrective action should be taken. When a demonstration is conducted in a congested area where pedestrians are deprived of the normal use of sidewalks, the public inconvenience should be brought to the attention of the demonstration coordinator. Peace officers have no legal authority to establish a demonstration perimeter or limit the number of demonstrators. A tactful suggestion to use a particular portion of the sidewalk or other public property is usually accepted.

Picket Signs - Law enforcement cannot prohibit the use, nor limit the size, of placards carried by demonstrators. However, the size of the post on which the placard is attached is regulated by law in unincorporated areas (no larger than 1/4 inch by 2 inches, per County Ordinance 32.1102).

Obstruction of Sidewalks - The general public has a right to the free and immediate use of public sidewalks where a demonstration is being conducted. Demonstrators are pedestrians and, as such, may delay the ingress of persons and vehicles at a demonstration. The question to be answered is whether the delay is "reasonable." Since the courts have not defined "reasonable," each incident must be evaluated individually. Any delay that creates a safety hazard should be considered unreasonable.

To establish an obstruction violation on the part of demonstrators, the intent of the person to enter the location must be shown and the intent of the demonstrators to prevent the entrance must likewise be evident, either verbally or physically. During such confrontations, law enforcement personnel should be in a position to prevent violations of the law.

Potential Problems - Officers at the scene of a dispute must be alert and in a position to recognize potential problems. It is possible that alcoholic beverages may be consumed at the demonstration. When management employs security personnel, it should be suggested that management limit their use to company property. The arming of security personnel is discouraged. Management and labor should be advised of the liabilities that may be incurred in the event a weapon is used inappropriately or unlawfully.

Commonly Used Statutes - The following is a list of Penal Code, Vehicle Code, and San Diego County Ordinance sections that may be applicable in connection with demonstrations. This list is not intended to be all-inclusive and should not inhibit law enforcement personnel from taking appropriate action should other violations be present. Deputies engaged in policing labor

disputes must be familiar with Penal Code Section 552.1, "Exemptions: Union Activities," which grants specific exemptions to officers and members of a union or any other employee group "for the purpose of carrying out the lawful activities of labor unions or members thereof," and Penal Code Section 555.2, "Loitering; Labor Dispute," which "does not prohibit picketing in such immediate vicinity (of property posted against trespassing pursuant to P.C. 554)."

CALIFORNIA PENAL CODE

69	Resisting Officer
148	Resisting, Delaying, Interfering with Officer
148.1	False Explosive Report
240	Assault
242	Battery
245	Assault with Deadly Weapon
403	Disturbance of Public Meeting
404	Riot
404.6	Urging Riot
405a	Lynching
406	Rout
407	Unlawful Assembly
409	Remaining Present at Place of Riot
415	Disturbing the Peace
417.2	Firearm Replica (Brandishing)
417.4	Exhibiting Firearm on a Highway (Felony)
422	Terrorist Threats
451	Arson

CALIFORNIA PENAL CODE CONTINUED

453	Possession of Flammable Materials
588a	Throwing Injurious Substances on a Highway
594	Vandalism
602(o)	Trespassing – Labor Union exemption
647(c)	Obstruction of Street, Sidewalk or Other Place Open to the Public
647f	Disorderly Conduct, Drunk
653m	Annoying-Threatening Phone Calls
17510	Carrying Any Deadly Weapon on Picket Line
18715	Possession of a Destructive Device
25400	Carrying Concealed Weapon within Vehicle or Person
25850	Carrying Loaded Firearms
26350	Openly Carrying an Unloaded Handgun

CALIFORNIA VEHICLE CODE

- 20001(a) Felony Hit/Run
- 20002(a) Misdemeanor Hit/Run
- 21950(b) Crosswalks, Pedestrians
- 21954(a) Pedestrian Yield
- 21955 Jaywalking
- 21956 Walking on Roadway
- 23152 Driving Under the Influence
- 23110(a) Throwing Substance at Vehicle (Misdemeanor)
- 23110(b) Throwing Substance at Vehicle with Intent (Felony)
- 23112(a) Depositing Glass, Nails or other Substance on Highway
- 23112(b) Depositing Rocks, Refuse, or Dirt on Highway
- 23221 Drinking in Motor Vehicle upon Highway
- 23223 Possession of Open Container on Highway
- 23224 Possession by Alcohol by Minor in a Vehicle
- 23225 Storage of Open Container on Highway

SAN DIEGO COUNTY ORDINANCE

- 32.1102 Size of picket post or stake must be 1/4 inch by 2 inches or less