



## Joint Response to Public Comment Pursuant to DGO 3.01.04(D)

### DGO 8.03 Crowd Control

August 28, 2024

SFPD Department General Order (DGO) 3.01 requires that all policies under development be posted publicly to provide members of the public thirty (30) business days to submit policy recommendations.

Pursuant to DGO 3.01.04 (D), the Department and the Department of Police Accountability (DPA) jointly prepare a public response, which shall be posted on the Department's website, outlining the recommendations included and not included in the DGO draft submitted to the Police Commission.

Joint responses are captured in the following recommendation grid which captures the original recommendation, whether the recommendation was included or not included in the draft DGO, and the explanation relating to the decision to include or not include the recommendation into the draft DGO.

The Department reserves the right to remove or not respond to comments if they are:

- Unrelated to the subject of the DGO
- Include private personal information (whether the commenter's or someone else's), including home address, home or cell phone number, personal e-mail address, or personal identification.
- Include profanity or obscene language.

The Department received six (6) recommendations for *DGO 8.03 Crowd Control* from the public. The Department and DPA agreed on the response to four recommendations, partially agreed to the response on one recommendation, and DPA declined to comment on one recommendation.

The Department and DPA extend gratitude to all who took the time to contribute recommendations to this policy.

#	Public Comment	DKO SEC	Date Received	Required Response	SFPD Explanation	DPA Explanation
R1	Does crowd control also include side shows? In addition, 4th of July groups lighting off illegal fireworks continues to get worse yearly. If so, I am all for it. My hope is that the officers in the neighborhood will adhere to this policy.	N/A	5/10/24	Recommendation will not be included in Draft DGO	The purpose of DKO 8.03 (Crowd Control) is to establish general policies and procedures for the Department's response to public assemblies. It outlines acceptable crowd control techniques and levels of force to safeguard both the First Amendment rights of the crowd and the safety of the entire community. However, it's important to note that side shows and illegal fireworks are not protected under the First Amendment.	DPA agrees w/ SFPD response.
R2	SFPD should not apprehend people, especially minors, for skateboarding. The way dozens of teenagers were treated at the Dolores Hill bomb event is outrageous. Focus on real crime and dangerous drivers like the west portal killer.	N/A	5/17/24	Recommendation will not be included in Draft DGO	According to California Penal Code Section 726, law enforcement has the authority to disperse unlawful assemblies and riots on behalf of the state. Additionally, California Penal Code 409 specifies that anyone who remains present at the site of a riot, rout, or unlawful assembly after being lawfully warned to disperse (except for public officers and those assisting them) is guilty of a misdemeanor. Therefore, individuals, including teenagers, who remain at an unlawful assembly after a lawful warning may be subject to arrest by law enforcement officers.	DPA declines to comment based on ongoing investigation.
R3	Why is this DKO necessary? It is easy to conclude that it is motivated by the disruptive but peaceful encampments and protests against Israel's genocidal campaign in Gaza. The impact of the DKO will be to silence unpopular dissent.	N/A	6/15/24	Recommendation will not be included in Draft DGO	<p>In accordance with the San Francisco Police Department's (SFPD) Department General Order (DKO) 3.01, it is the SFPD's policy to provide the highest level of service to all community members. The SFPD issues written directives that encompass best practices and ensure the rights of individuals as defined in the United States Constitution, federal, state, and local laws. DKOs serve as authoritative and permanent directives, setting the organization's direction consistent with legal requirements and the overall objectives of the City and County of San Francisco. These directives are reviewed and updated as necessary.</p> <p>For the calendar year 2023, the Chief of Police and the Police Commission approved the "DKO Update List," which included DKO 8.03 (Crowd Control). This particular DKO was last updated on August 3, 1994. The recent update was necessary to align with changes in the law and current best practices related to crowd control issues in law enforcement.</p> <p>Importantly, as stated in Updated Draft DKO 8.03, SFPD Members shall not be influenced by the content of opinions being expressed or by factors such as race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental or physical disability, or political affiliation when individuals exercise their lawful First Amendment rights.</p>	DPA agrees w/ SFPD response. DKO is an update and not a response to specific event.
R4	This DKO uses the language of protecting free speech when in reality it is a mechanism to silence it by criminalizing gatherings whose messages are unpopular. Any protest that could successfully comply with the DKO would become invisible.	N/A	6/15/24	Recommendation will not be included in Draft DGO	As outlined in Updated Draft DKO 8.03, the law enforcement objective during crowd control is to strike a balance between respecting the group's First Amendment rights to free speech and assembly while also preventing and reasonably enforcing observed violations of the law. Additionally, it emphasizes that SFPD Members shall not be influenced by the content of opinions expressed or 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.	DPA agrees w/ SFPD. This DKO provides guidance to officers after an event is declared an unlawful assembly.

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R5	This DGO is a frightening attempt to control speech, not protect it, and introduces onerous restrictions on gatherings, such as being able to categorize only two people acting in concert as being a riot, with all the repercussions of that categorization.	N/A	6/15/24	Recommendation will not be included in Draft DGO	As outlined in Updated Draft DGO 8.03, the law enforcement objective during crowd control is to strike a balance between respecting the group's First Amendment rights to free speech and assembly while also preventing and reasonably enforcing observed violations of the law. Additionally, the definition of "Riot" in this DGO directly aligns with California Penal Code 404(a), which states that any use of force or violence, disturbing public peace, or threatening such actions by two or more persons acting together, without legal authority, constitutes a riot.	DPA agrees with SFPD's response. The definitions come from California Penal Code and the DGO applies after an event becomes an unlawful assembly.
R6	This DGO starts with the premise of criminalizing gatherings. It does not deserve to be rewritten, only rejected. If no definitions and policy guidelines already exist that address crowds, then creating something that protects crowds is worthwhile.	N/A	6/15/24	Recommendation will not be included in Draft DGO	As per Department General Order (DGO) 3.01, the San Francisco Police Department (SFPD) regularly reviews and updates its DGOs. DGO 8.03, specifically addressing crowd control, underwent its last update on 08/03/94. This revision ensures alignment with recent legal changes and incorporates current best practices for managing crowd-related situations in law enforcement.	DPA partially agrees with comment. This DGO only applies once there is an unlawful assembly but does not criminalize gatherings. However, a DGO protecting crowds (such as a Crowd Management DGO) is a valid request. The information is currently maintained in a manual but aspects of it should be public and expressed in a DGO.