



2019 Training Bulletins

- 19-001 Barking Dog Complaints

2018 Training Bulletins

- 18-001 – Not Used
- 18-002 Juvenile Miranda
- 18-003 Safe Handling of Narcotics
- 18-004 Interaction with Transgender Individuals

2017 Training Bulletins

- 17-001 Dwelling in Vehicles
- 17-002 Declaration of Unlawful Assembly
- 17-003 Amendment to Loitering

2016 Training Bulletins

- 16-001 Transportation of Injured Officers Via Patrol Car



OCEANSIDE POLICE DEPARTMENT
Support Operations Division
Community Policing & Support

#19-001
February 1, 2019

Barking Dog Complaints

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This bulletin is to provide Officers with information on the handling of barking dog complaints.

Historical

OCC Sec. 38.2: Declaration of policy

It is hereby declared to be the policy of the city to prohibit unnecessary, excessive, and annoying noises from all sources subject to its police power. At certain levels, noise is detrimental to the health and welfare of the citizenry and, therefore, it is in the public interest to systematically proscribe harmful noises.

OCC Sec. 38.17(e) Specific noises prohibited:

Animals, birds, etc. The keeping of any animal or bird which by causing frequent or long-continued and unreasonable loud noise shall disturb the comfort or repose of any person of normal sensitivity in the vicinity.

Procedures

Currently the City is contracted with the San Diego Humane Society to handle all animal noise complaints. As such the following will be the protocol for handling barking dog complaints.

Upon receipt of a barking dog complaint between the hours of 0700-1800 hours Dispatch will inform the reporting party to contact the San Diego Humane Society to file their complaint and provide telephone number **619-299-7012 ext. 1**. The San Diego Humane Society will begin their procedures by sending a letter to the complaint (dog location) address informing them of the nuisance and tips on how to deter the behavior. If complaints continue after a two week period from the initial complaint, The San Diego Humane Society will conduct a welfare check on the animal and speak to the responsible party about alternative methods of dealing with the nuisance. If the animal shows no signs of distress and noise complaints continue beyond the welfare check, the Humane Society can proceed with administrative enforcement action as needed.

If a complaint is received between the hours of 1800-0700 hours Dispatch will send an officer to the noise complaint. Contact will be made with the reporting party and provided with a San Diego Humane Society "Barking Dog Pamphlet" highlighting the telephone number for future complaints. If contact is made at the residence of the originating noise location the responsible party will be provided the San Diego Humane Society "Barking Dog Pamphlet" and advised of the violation. This first contact is informational to both parties and no enforcement action will be taken. If contact is not made the pamphlet will be left at the door.

The responding officer will then input the following information into CAD:

- If both parties were contacted and provided with pamphlets
- Whether or not an audible animal noise was heard
- Name of dog owner/responsible party
- Address of noise location
- The distinct verbiage of "Barking Dog Pamphlet" should be used by the officer when making the CAD notation in order to track which addresses were contacted by OPD.

Administratively, the CAD information for after hour complaints, 1800-0700 hours, will be obtained utilizing FirstWatch and reported to the San Diego Humane Society for their follow-up. The Humane Society advises that a small percentage of complaints result in punitive action and that satisfactory compliance is usually obtained. In the event that compliance is not met the Humane Society will work with Code Enforcement to proceed with citable remedy.

Distribution:

All Members

Reference/Sources:

Lt. Ignacio Lopez, Community
Policing & Support
OCC 38.2: Declaration of policy
OCC 38.17(e) Specific noises prohibited
San Diego Humane Society

HOW TO PREVENT Unnecessary Barking



San Diego
Humane
SOCIETY



San Diego Campus
5500 Gaines Street
San Diego, CA 92110
619.299.7012

Escondido Campus
3450 E. Valley Parkway
Escondido, CA 92027
760.888.2275

Oceanside Campus
2905 San Luis Rey Road (dogs)
572 Airport Road (cats, small animals)
Oceanside, CA 92058
760.757.4357

sdhumane.org



We Are Here to Help

If you have a pet behavior question or would like some training assistance, San Diego Humane Society is here to help! Visit our website at www.sdhumane.org to view our behavior and training options, or call our **Behavior Helpline** at **619-299-7012 ext. 2244** to speak with a trainer.

To report excessive dog barking in Oceanside or Vista, please call 760-757-4357. For Escondido, San Marcos or Poway, please call 760-888-2275.

WHY IS YOUR DOG BARKING?

Here are a few of the most common reasons why dogs choose to bark:

Watchdog

Watchdog barking serves the dual purpose of alerting pack members that there is an intruder and warning the intruder that they have been noticed.

Request

Request barking is the dog's way of telling the owner that he/she would like something now. Typical requests are "open the door now," "pay attention to me now," etc. Barking when alone is also a common form of request barking that happens when an owner leaves. Barking is the dog's way of requesting that the owner comes back.

Spooked

Spooked barking occurs when the dog is uncomfortable about something in the environment and barks to say "I am prepared to defend myself. Don't come any closer."

Boredom

Boredom barking happens when the dog's daily needs for exercise and social stimulation are not met.

HOW CAN YOU PREVENT YOUR DOG FROM BARKING UNNECESSARILY?

Watchdog

Have a friend or family member (a "fake" guest you will not have to attend to) ring the doorbell or knock on the door. Standby and wait until your dog defaults to another behavior, such as sitting or lying down on their bed. When they do, treat them immediately. This will take time and patience. But over time, your dog will learn that when someone is at the door, the only rewarded behaviors are sitting calmly or lying down - not barking.

Request

When your dog barks at you to request something, simply ignore this unwanted behavior. As soon as they are silent, treat them immediately by giving them what they want - letting them outside, petting them, etc. This teaches them that quiet behavior yields the rewards they want.

Spooked

Spooked barking is typically caused by under-socialization. Remedy this by exposing your puppy to plenty of places, people, experiences, sights and sounds and make it all fun with praise and treats.

If you have an adolescent dog, a helpful tool is to associate whatever your dog is spooked by with food. For example, if your dog is spooked by strangers, offer treats around new people. Over time, your dog will learn that there is a positive correlation between strangers and food. As such, they will start to display calm and neutral behaviors around the things that used to spook them.

Boredom

The only remedy for this is to ensure you are meeting your dog's basic needs for daily stimulation, exercise and companionship. Adequate walks outside and interaction time with humans and other friendly animals are crucial. In addition, enrichment toys, like stuffed kongs, are a great way to help keep your dog's brain stimulated and engaged. This not only prevents boredom, but also yields significant benefits to your dog's overall mental health!

Jenessa Morris

From: Adam Stingley
Sent: Monday, February 04, 2019 11:26 AM
To: Police - Patrol
Subject: Training Bulletin Animal Nuisance (barking dogs)
Attachments: Barking Dog Bulletin Official.pdf; Humane Barking Dog Brochure.pdf

Please see the attached barking dog training bulletin which addresses all nuisance animal complaints.

San Diego Humane Society will be responsible for enforcement of nuisance animal complaints and providing informational pamphlets during business hours. Their hours are expected to increase to 2000 hours with a dispatcher very soon. Business hours for San Diego Humane are currently 0700-1800.

OPD will still be dispatched for after hour complaints from 1800-0700. Officers should continue making contact with both parties, providing the new Humane pamphlet and making proper CAD notations (See the training bulletin for specifics) for Humane to follow-up on.

The processes of disputing a fine issued by Humane would be done through the Code Enforcement offices.

For questions, contact me.

Thank you,

Adam Stingley
Police Officer
Neighborhood Policing Team
Oceanside Police Department
3855 Mission Avenue
Oceanside, CA 92054
Tel: 760-435-4401
astingley@ci.oceanside.ca.us

OCEANSIDE POLICE



OCEANSIDE POLICE DEPARTMENT

Support Operations Division

Training Services Unit

Training Bulletin 18-002

February 28th, 2018

New Miranda Laws for Juveniles

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The purpose of this bulletin is to provide officers with information about the recent changes in the law regarding Miranda Advisements and juveniles. The new law does not alleviate you from reading any juvenile arrestee their Miranda rights, even when not questioning them.

Requirements of the New Law [WIC625.6]

- 15 years of age or younger
- **PRIOR** to any custodial interrogation; and
- **PRIOR** to a waiver of Miranda rights
- **YOU MUST** allow the juvenile to consult with an attorney in person, by telephone, or by video conference.
- The consultation **cannot** be waived.

Consultation Numbers:

Business Hours: (8am – 5pm) 858-974-5757

After Hours: 619-681-2923

- You still need a valid Miranda waiver prior to asking PC26.
 - Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

Exceptions [WIC625.6(c)]

- **IMMINENT THREAT** – no consultation is required when:
 - Officer **reasonably believed** the information sought was necessary to **protect life or property** from imminent threat, **AND**
 - The officer's questions were limited to those questions that were reasonably necessary to obtain that information.
- ***Do this prior to *Miranda admonishment* then seek *Miranda admonishment*.

Situations Where Miranda Does NOT Apply

- Obtaining blood samples
- Obtaining fingerprints
- Obtaining photographs of the juvenile (for purposes of gang documentation)
- Obtaining handwriting exemplars
- Standing in a live lineup
- Standing in a curbside lineup
- Collecting DNA
- Repeating words or phrases used by a perpetrator
- Asking for a minor's consent to search

Impact on PC26

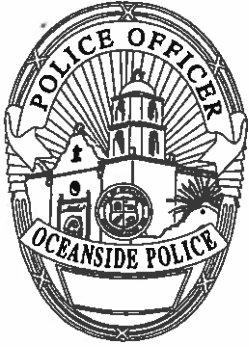
Without a valid *Miranda* waiver, officers **CANNOT** ask questions related to PC26. Establish PC26 **prior** to submitting a case by:

- Asking PC26 questions of parents
- Obtaining school records
- Obtaining behavior contracts
- Identifying prior instances of similar conduct

For questions regarding this training bulletin contact Sergeant Nate Brazelton

Distribution:
All Members

Reference/Sources:
Nate Brazelton, Sergeant
San Diego D.A. Juvenile Division



OCEANSIDE POLICE DEPARTMENT

Support Operations Division

Training Services Unit

Training Bulletin 18-003

FEBRUARY 7, 2018

SAFE HANDLING OF NARCOTICS

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With the influx of fentanyl into the county, this training bulletin serves as a reminder to utilize safe handling practices when in contact with narcotics. Because the presence of fentanyl or its analogues is not always obvious, it is important to utilize safe handling standards when handling all narcotics to include pills and medication.

Employ the following safety precautions when encountering all narcotics:

- Utilize personal protective equipment - nitrile gloves should be worn whenever handling any narcotics to include pills and medication.
- Avoid performing tasks or operations that may aerosolize the narcotic due to increased exposure risks.
- Do not eat, drink, smoke, or use the bathroom while working in an area with narcotics.
- Do not touch the eyes, mouth, and nose after touching any surface potentially contaminated with narcotics.
- Wash hands with soap and water immediately after a potential exposure and after leaving a scene where narcotics are known or suspected to be present to avoid potential exposure and to avoid cross contamination. Do not use hand sanitizers or bleach solutions to clean contaminated skin as they may increase the risk of absorption.
- Perform presumptive testing in a controlled environment (ie not in the field).
- Seal the narcotic in a kpak bag, even if not being submitted to the lab, to limit exposure to other department members.

Fentanyl and its analogues pose a potential hazard to a variety of responders who could come into contact with these drugs in the course of their work. Potential exposure routes of greatest concern include inhalation, mucous membrane contact, ingestion, and "needlesticks". Any of these exposure routes can potentially result in a variety of symptoms that can include the rapid onset of life-threatening respiratory depression. Skin contact is also a potential exposure route, but is not likely to lead to overdose unless large volumes of highly concentrated powder are encountered over an extended period of time. Brief skin contact with fentanyl or its analogues is not expected to lead to toxic effects if any visible contamination is promptly removed.

With all first responder operations involving hazardous materials, standard safe work practices must be followed when fentanyl or its analogues are known or suspected to be present. When arriving at a scene, all responders should analyze the incident, assess the risk for hazards, and determine whether fentanyl or other drugs are suspected to be present. First responders should familiarize themselves with the identification of fentanyl as fentanyl can be found in many forms: liquid, patches, lollipops, pills, crystals, and powder. Fentanyl, in powder form, is often mixed with other narcotics as it is inexpensive and potent. According to the San Diego County Sheriff's Department, the most commonly seen form of fentanyl in the county is pill form. The pills are realistic replicas of legitimate medication so safe handling practices should be utilized when handling all pills and medication. Recent investigations have revealed that users may not always know that the substance they are ingesting is laced with fentanyl.



Various forms of fentanyl

In addition to the safety precautions to be employed when handling narcotics, additional safety measures must be considered when encountering fentanyl or suspected fentanyl:

- Utilize personal protective equipment - nitrile gloves should be worn whenever handling any narcotics and is the minimal level of PPE recommended by the CDC for minimal exposure ¹.
- For moderate exposure ², the CDC recommends, in addition to nitrile gloves, the use of a mask, safety goggles, and wrist/arm protection.
- Avoid performing tasks or operations that may aerosolize fentanyl due to increased exposure risks.

¹ Minimal exposure is defined by the CDC as follows: a situation where it is suspected that fentanyl may be present but no fentanyl products are visible

² Moderate exposure is defined by the CDC as follows: a situation where small amounts of fentanyl products are visible

- Do not eat, drink, smoke, or use the bathroom while working in an area with known or suspected fentanyl.
- Do not touch the eyes, mouth, and nose after touching any surface potentially contaminated with fentanyl.
- Wash hands with soap and water immediately after a potential exposure and after leaving a scene where fentanyl is known or suspected to be present to avoid potential exposure and to avoid cross contamination. Do not use hand sanitizers or bleach solutions to clean contaminated skin as they may increase the risk of absorption.
- Do not perform a presumptive test and do not weigh the substance. Double Kpak the substance and clearly note on the outer packaging, the Kpak, and the lab request that it contains suspected fentanyl.
- As it will not be possible to obtain a net weight, it is important to note in your report if the amount seized is, in your opinion, a usable amount (.05grams or more)
- If suspected fentanyl is found at a scene in loose powder form (ie not in packaging), responding officers should retreat from scene, secure the location, and contact their supervisor. A determination will then be made if County Haz Mat will be called.

Distribution:

All Members

Reference/Sources:

Marissa McLain – Evidence & Property Supervisor

Centers for Disease Controls and Prevention:

<https://www.cdc.gov/niosh/topics/fentanyl/risk.html>



OCEANSIDE POLICE DEPARTMENT

Training Section

Training Bulletin 18-004

April 2, 2018

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Interaction with Transgender Individuals

BACKGROUND

The Oceanside Police Department is committed to working with the diverse community it serves. The Department endeavors to establish procedures that create mutual understanding, prevent discrimination and conflict, and ensure the appropriate treatment of transgender individuals. In the absence of exigent circumstances, the guidelines below apply to all Department employees.

KEY TERMS

Transgender. A term used to refer to a person who is born with the genetic traits and anatomy of one gender (i.e. male or female) but self-identifies as another gender (i.e., feminine or masculine). A transgender person can be pre-operative, post-operative, or non-operative.

Gender identity. A person's sense of being a man, a woman, both, or neither.

Gender expression. Quite apart from one's gender at birth as male or female, how a person represents or expresses one's gender identity to others; for example, external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine, or neutral in one culture may not be assessed similarly in another.

Biological Sex. Refers to the objectively measurable organs, hormones and chromosomes of an individual.

Sexual Orientation. A term describing a person's physical and/or emotional attraction to members of the same sex and/or a different sex.

GENERAL GUIDELINES

The following guidelines are established to ensure police contacts with transgender individuals are professional, respectful, and courteous:

- A. Avoid using language that a reasonable person would consider demeaning to another person, in particular, language that references a person's gender identity, gender expression, or sexual orientation;
- B. When referring to or talking about a transgender individual, the terms "Transvestite" and "Transsexual" are outdated and should not be used. The correct term is transgender;
- C. Treat transgender persons in a manner that reveals respect for the individual's gender identity and gender expression, which includes addressing them by their preferred name and using gender pronouns appropriate to the individual's gender self-identity and expression.

Determining How to Address a Transgender Individual

When a person identifies himself/herself as transgender, respect the expressed gender and do not question it. If the individual does not self-identify as transgender, the following guidelines apply:

- A. When the intention of a person's gender presentation is clear to a reasonable person (based on attire and other clues), use this as a basis for gender determination.
- B. When a person's sex is unclear or the officer is not certain of the person's gender identity, it is appropriate to inquire how the individual wishes to be addressed (e.g., Sir, Ma'am) and the name by which the individual wishes to be addressed. This name shall be noted as an (AKA) if it differs from the individual's legal name.
- C. If a transgender person is unwilling to provide information that enables the officer(s) to know what name and/or gender is preferable, then the officer(s) should make a determination about the person's gender based on the person's gender expression (i.e., clothing, language, demeanor, etc.) and any other evidence available to the officer(s). For example, if the person is clearly dressed like a woman and presenting as a woman, then the person should be recognized and addressed as a woman.
- D. A Department of Motor Vehicle Identification shall not be acceptable as an initial proof of gender identity as it can often reflect the gender the individual is transitioning from (as part of the transition process) and not the biological gender the individual possesses.
- E. Any other government-issued form of identification (such as a passport) shall only be acceptable as initial proof of gender identity in the absence of self-identification by the individual or some other obvious expression of gender identity.
- F. Any information obtained about an individual's transgender status (e.g., preferred name and pronoun) should be (when appropriate) documented

and provided to relevant Department employees for the purpose of ensuring continuity of appropriate treatment (e.g., in the narrative of the report put a line that says, "It should be noted that Victim Smith is a transgender woman and will be referred as female throughout this report").

- G. The mention of transgender status should be noted in the narrative of the report to avoid confusion if the individual's presentation may differ when appearing in court.
- H. Under no circumstances shall Department employees disclose to non-involved persons that an individual is transgender. As with other policies, a "need to know" basis should guide decisions about disclosure.

Field Searches Involving Transgender Individuals

- A. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender.
- B. Transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.
- C. When an individual is identified as a transgender person, Department employees shall respect the gender identification expressed by the individual and shall not question this identity.
- D. Officers should not inquire about intimate details of an individual's anatomy or surgical status to determine an individual's gender because no proof of an individual's gender is required. This requirement can change for purposes of booking, as addressed in policies on booking.
- E. Requests to remove appearance-related items, such as prosthetics, clothing that conveys gender identity, wigs, and cosmetics, shall be consistent with requirements for the removal of similar items for non-transgender individuals.
- F. When an arresting officer has reason to believe that the arrestee is a transgender person, the officer shall specifically inform the arrestee that, as with any other arrestee, he/she must be searched. Ask the arrestee if there is a preference to be searched by a male or female officer. If the arrestee's gender request can be reasonably and expeditiously accommodated without risk to officer safety, the request should be granted.
- G. When an immediate cursory search for weapons is necessary for safety, it may be conducted in the field by an officer of either sex.
- H. When frisking or searching a transgender person the frisk/search will be conducted in a way that reflects their gender identity. For example: Individuals who identify as female but are still biologically male should be frisked/searched as if the person was female, per existing Department procedures on searching

persons.

- I. Recognize that non-traditional gender identities and gender expressions do not constitute reasonable suspicion or prima facie evidence that an individual is or has engaged in prostitution or any other crime.

Arresting and Booking Procedures Involving Transgender Individuals

- A. An individual's lower anatomy or surgical status determines which jail facility the individual is booked into. No other changes or surgeries apply.
- B. For purposes of booking, it is necessary to inquire about details of an individual's anatomy or surgical status to determine the appropriate jail facility.
- C. Officers will accept a verbal response as accurate when determining which facility to book the suspect into. If, during the booking process, deputies determine the information provided to the officer was not accurate, the officer will transport the individual to the appropriate facility.
- D. Once the individual is booked into the appropriate jail facility the officer must alert the intake deputy that the individual is transgender or transitioning. The officer shall then document in the report the name of the deputy that was alerted and that the advisement was given to deputies.
- E. Often transgender individuals are taking a number of medications as part of their transition. Missing dosage or coming off those medications can be life threatening to the individual.
- F. The officer must make every reasonable attempt to recover medications for the individual and take those medications to the jail facility with their personal property.
- G. In the case when the officer cannot retrieve medications, a list of current medications should be gathered and given to the nurse at the jail facility.

Distribution:

All Members

Reference/Sources:

San Diego PD Training Bulletin 14-05



OCEANSIDE POLICE DEPARTMENT

Training Section

Training Bulletin 17-001

January 20, 2017

ENFORCEMENT OF OCEANSIDE CITY CODE 20.20 DWELLING IN VEHICLE

Enforcement of City Codes related to dwelling in vehicles has come under scrutiny in the past several years. This type of law can be perceived as targeting homeless persons and therefore punishing them for not having a permanent residence. The Constitutionality of these laws has come into question.

On June 19, 2014, in *Desertrain v. City of Los Angeles*, a three judge panel of the Ninth Circuit Court of Appeals held that a section of the Los Angeles Municipal Code prohibiting the use of a vehicle "as living quarters either overnight, day-by-day, or otherwise" was unconstitutionally vague under the due process clause of the Fourteenth Amendment. The court determined that the language used by the city provided insufficient notice of the conduct it penalizes. In particular, the court found fault with the fact that no definition of "living quarters" was included and there were no clear time limitations because of the use of the word "otherwise." The court ultimately found that the provisions appeared designed to allow selective enforcement against the homeless.

In this case, an internal memorandum had instructed officers to cite only when they observed overnight occupancy for more than one night or day-by-day occupancy for more than three days. However, the evidence showed that the Task Force Captain did not agree with these restrictions and, accordingly, did not instruct his task force to follow them. It was also shown that different officers interpreted and enforced the ordinance differently, which led the court to hold that it was not only unconstitutionally vague, but also invited arbitrary and discriminatory enforcement, particularly against the homeless.

This case prompted a review of our own city code prohibiting dwelling in vehicles. Oceanside City Code 20.20 Dwelling in a Vehicle provides:

No person shall camp, lodge, dwell in any camper, trailer or other vehicle which could be used for living purposes or use any vehicle as a dwelling place, place of abode, habitation or living quarters on any public street, highway, alley, sidewalk, parkway, public parking lot, the municipal pier or any other public place not heretofore provided by other provisions of law or ordinance in the city; provided, that nothing herein shall be construed to prohibit camping in public camp grounds under permit authorized by other provisions of law or ordinance.

Like the ordinance at issue in *Desertrain*, our ordinance does not define "living quarters" or any of the other phrases and terms used in the ordinance, nor does it contain time limitations. However, current practice has been only to cite individuals who 1) are observed sleeping in their vehicles during the nighttime and 2) have other indications, such as food, household items, blankets, pillows, etc., that suggest the individual has been dwelling in the vehicle,

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This issue is being reviewed by a Grand Jury to ensure municipalities are not enforcing ordinances in a way that would violate the holding in *Desertrain*. It is imperative that, when enforcing this City Code, you follow the guidance in this memo, rather than the arguably vague wording of the ordinance. Additionally, Officers that are citing for this section should take the time to include descriptive and thorough notes on the Officer's copy of the citation. This will aid Officers in the prosecution of these offenses and bolster the reason for the citation when in court.

Distribution:

All Members

Reference/Sources:

Annie Perrigo, Deputy City Attorney



OCEANSIDE POLICE DEPARTMENT

Training Section

Training Bulletin 17-002

January 20, 2017

DECLARING PROTESTS/GATHERINGS AS UNLAWFUL ASSEMBLIES

With the increased frequency of violent protest events across the country, it is important to review factors to consider when deciding if a protest/gathering has turned into an unlawful assembly. There is no standard checklist to follow and officers must incorporate the totality of the circumstances when evaluating the incident.

Unlawful assembly is prohibited under California Penal Code section(s) 408 & 409.

PC 408-Every person who **participates** in any riot or unlawful assembly is guilty of a misdemeanor.

- The suspect(s) must willfully participate and must know the assembly was unlawful when he/she participated.

PC 409-Every person **remaining present** at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, is guilty of a misdemeanor.

- The suspect must be present at an unlawful assembly, ordered to disperse and willfully remain.

What constitutes an unlawful assembly?

- Two or more people who assemble together to commit a crime or to do a lawful act in a violent manner. (Violence must actually occur or there must be a clear and present danger that violence will immediately occur)

PC 276 requires individuals in the area of an unlawful assembly be given commands to disperse:

- Order must come from an officer to **immediately** disperse

Factors to consider when declaring an assembly as unlawful

Violations of law

Trespassing is frequently cited as a law violation for unlawful assemblies; however there are **many exceptions** to this. Factors to consider include type /location of activity and if the group is engaging in a **protected activity**.

- Shopping centers, strip malls and even stand-alone stores, by virtue of their design, may be designated as a public forum creating a right to engage in expressive activity (protest). Areas with plazas, walkways or courtyards that are

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designed for the public to congregate have been recognized by courts as replacing the traditional "town center" where protests are typically allowed to take place. Stores can also create public forums if they have allowed expressive activity in previous incidents.

- Permissible and protected activities depend on the fact(s) of each incident. There is no bright line rule regarding protected activities, however courts have broken them down into three categories as it relates to trespassing.
 - Expressive activity related to the business – **more likely to be allowed**
 - Expressive activity unrelated to the business – **less likely to be allowed**
 - Other activity unrelated to the expressive activity that interferes with the business – **less likely to be allowed**

Trespassing should typically be used in conjunction with the totality of the circumstances and not relied upon solely as the reason for declaring an unlawful assembly.

Violent Acts

- Throwing items capable of inflicting injury i.e. rocks, sticks, unopened soda cans, concrete chunks
- Breaking windows
- Physical fighting with officers

Imminent violence (must be clear and present danger)

- Speech
- Harassment of others
- Participant actions i.e. wearing helmets, holding sticks, using radio communications
- Chants with threats to kill
- Protesters significantly outnumber officers

Established pattern of participants behavior which precedes violence

- Must be clearly established and sustained. One day of violence is not typically justification for banning protest the following day.

Oceanside Police Department responsibilities if a gathering is deemed an unlawful assembly

- Tactics and actions to clear the area will be implemented as soon as practical after the announcement is given. Time between the announcing of unlawful assembly and actions taken to clear the area should be minimal. If an unlawful assembly notice is given, OPD personnel should be ready to implement tactics and actions to clear the area. ***Too much time between the announcement and efforts to clear the area will diminish the probable cause for arrest, negatively impacting prosecution attempts and increasing agency and officer liability.***
- The supervisor who determined the assembly to be unlawful will write a report regarding the facts leading to the unlawful assembly determination. The report will set context including the groups actions, environment of the setting and all facts relied upon to determine the assembly as unlawful. The report shall be written in plain English, avoiding law enforcement jargon.

- Video should be utilized to capture the gathering, including any activity or conditions that influence the decision to declare the assembly unlawful and subsequent tactics to clear the area utilized by Law Enforcement after the declaration of unlawful assembly.
- Searches, lawful seizures and retention of social media postings regarding the incident.
- Searches and lawful seizures of any 3rd party surveillance video of the area which captured the incident.
- Officers/grenadiers who utilize force i.e. chemical agents, less lethal will write a report documenting the force and reason(s) why. These reports will be written only after the incident has subsided and or the officer(s) utilizing force are no longer engaged in operational duties related to the incident.
- Officer(s) who arrest a suspect will complete a report at the earliest opportunity. Supervisor(s) or officer(s) who identify suspect(s) for arrest in a crowd will be responsible for documenting the Probable Cause to arrest either by written report or statement given to reporting officer.

As stated earlier, there is no bright line rule to follow when declaring a gathering as an unlawful assembly. The totality of the circumstances will be used when assessing the situation.

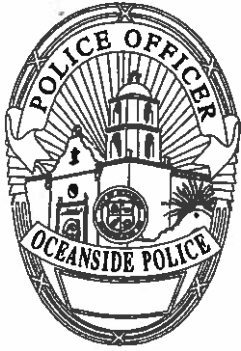
For questions regarding this training bulletin contact Lieutenant Adam Knowland

Distribution:

All Members

Reference/Sources:

Adam Knowland, Lieutenant
Annie Perrigo, Deputy City Attorney



OCEANSIDE POLICE DEPARTMENT

Training Section

Training Bulletin 17-003

July 13, 2017

AMENDMENT TO OCEANSIDE CITY CODE 20.11 & 20.12 LOITERING

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The purpose of this bulletin is to provide Officers with information about the amendments passed by Oceanside City Council on June 7, 2017 to Oceanside City Code sections 20.11 & 20.12 regarding **Loitering**. These amendments will be officially instated and enforceable **July 21, 2017**.

Currently, section 20.11 of the Oceanside City Code governs loitering while obstructing a public access, walkway, etc. while section 20.12 pertains to loitering for the purposes of drug activity.

Effective July 21, 2017:

Section 20.11 provide relevant definitions pertaining to loitering and the subsequent ordinances. A key change in this section incorporates a "specific intent" requirement. In summary, for an officer to enforce section 20.12, the officer must establish that the subject not only committed the act but also intended to commit the act in a harmful or illegal manner. This means that the officer should document (notes on citation, court testimony, crime report) if the subject:

- Had been warned that their action was unlawful
- The presence of clear signage prohibiting the act and its location
- The subject's actions showed that they were aware the act was unlawful
- Etc.

This new specific intent requirement puts the city code in-line with preexisting state law and case law, thus making it an enforceable ordinance.

Section 20.12 breaks down the enforceable ordinances into three separate subsections:
(a) Loitering to obstruct/annoy/molest
(b) Loitering for drug activity
(c) Loitering in or about a public restroom (**NEW**)

Subsection (c) prohibits loitering inside or within 15 ft of a public restroom and blocking the ingress/egress of anyone attempting to use a public restroom. The new subsection also prohibits a person from returning to the same public restroom within 24 hrs. (when asked to leave by OPD) or 72 hours after being cited for the section.

Signs will be posted on some locations throughout the city where this type of loitering has been an issue.

Until this newly amended OCC is officially enforceable, it is recommended that the public be educated about the OCC, which may then be used later to establish the new specific intent element.

Below is the specific wording of the amended OCC:

Sec. 20.11. – Definitions.

As used in this Chapter, the following terms have the following meanings:

(a) “Activity related to illegal drugs” includes, but is not limited to, selling, purchasing, transporting, manufacturing, distributing, or using of any drug declared illegal under state or federal law or any drug paraphernalia, or the soliciting or advertising for sale, purchase, transportation, manufacture, distribution or use of any drug declared illegal under state or federal law or any drug paraphernalia.

(b) “Intentionally” or “with intent.” All offenses defined in this Chapter in which the mental culpability requirement is expressed as “intentionally” or “with intent” are declared to be specific intent offenses. A person acts “intentionally” or “with intent” when a person’s conscious objective is to cause the specific result proscribed by the ordinance, regardless of whether or not the result actually occurred. Intent must be determined based on an evaluation of the particular circumstances of each case, and no specific circumstance or combination of specific circumstances are necessary in determining whether a person has the requisite intent.

(c) “Loiter” means to delay, linger, sit, lie, or stand without a lawful purpose for remaining on the property and

1) with the intent of committing a crime as opportunity may be discovered or

2) with the intent to use public property in a manner for which it is not intended.

(d) “Public restroom” means any restroom owned or maintained by the City of Oceanside for use by the general public. The intended use for a public restroom is a place for individuals to use the toilet facilities, change in or out of beach or sports attire, or wash one’s hands.

(e) “Public place” means an area open to the public or exposed to public view, including but not limited to highways, streets, sidewalks, bridges, alleys, plazas, parks, trails, paths, driveways, parking lots, and public buildings, including the grounds enclosing those buildings.

SECTION 2. Section 20.12 of the Oceanside City Code is amended as follows:

Sec. 20.12 – Loitering Prohibitions

(a). It is unlawful for any person to loiter in or upon any public highway, street, alley, sidewalk, trail, path, crosswalk, bikepath, or other public way open for bicycle or pedestrian travel or otherwise occupy any portion thereof in such a manner as to unreasonably annoy or molest any pedestrian thereon or as to obstruct or unreasonably interfere with the free passage of bicyclists or pedestrians.

(b) It is unlawful for any person to loiter in any public place with the intent to commit any activity related to illegal drugs or any offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400) of the California Health and Safety Code.

(c). It is unlawful for any person to intentionally 1.) loiter inside or within fifteen (15) feet of a public restroom or 2.) block the ingress or egress of anyone attempting to use a public restroom; It shall further be unlawful to return to the same public restroom within twenty-four (24) hours after having been asked to leave by a peace officer for violating this section or within seventy-two (72) hours after having been cited under this section.

(d). Each and every day and any portion of any day during which a violation of this section is committed, continued or permitted shall constitute a separate offense.

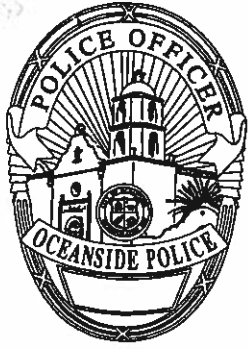
For questions regarding this training bulletin contact Ofc. Stephen Link or Senior Deputy City Attorney Annie Perrigo

Distribution:

All Members

Reference/Sources:

Ofc. Stephen Link, OPD
Annie Perrigo, Deputy City Attorney



OCEANSIDE POLICE DEPARTMENT

Training Section

Training Bulletin 16-001

AUGUST 31, 2016

TRANSPORT OF INJURED OFFICERS VIA PATROL CAR

With the increased frequency of officer deaths and injuries by gunfire, it is important that we review several factors to consider when deciding whether or not to transport an injured officer via patrol car post incident. Each situation is context dependent and will need to be evaluated based on the situation at hand. There is no checklist. Consider the following factors when making your decision:

- Evaluate the officer's injuries and immediately begin tactical emergency casualty care (TECC)
 - Conduct a wound sweep
 - Stop life threatening external bleeding.
 - Limbs – tourniquet application (high on the limb)
 - Mid-section- chest seal(s) application
- Evaluate transport options
 - How close is OFD?
 - If OFD Medics are staged nearby consider driving out of the hot zone and to the medic's staging area for transfer.
 - If the scene is code 4 and medics are staged, it will be clear for them to enter and transport the injured officer.
 - How close is TCMC?
 - TCMC is not a trauma center and not the only option that should be evaluated for transport via patrol car. Remember, Officers with severe injuries will need a trauma center.
 - If you drive to Scripps in La Jolla it is a 30-minute drive without traffic.
 - Consider Palomar Hospital as an option – this is a trauma center
 - A major consideration is the time of day due to traffic on SR-78.
 - How close is the Oceanside Airport?
 - Consider driving out of the hot zone to Oceanside Airport and direct medics to meet you there.
 - Once there, medics can give a higher level of care than we can provide prior to transport by REACH.
- If you transport to a hospital, have dispatch advise the hospital that you are en-route so they are waiting for your arrival.
- Whichever option you utilize, provide TECC while waiting for OFD or in the back of the patrol vehicle while evacuating the injured officer.

As a reminder, do not park in the middle of the roadway during a critical incident. Pull your patrol vehicle off to the side and leave room for follow on vehicles that will need rapid access to the scene. Parking issues are a common occurrence during these events and lead to serious problems such as fire and armor unable to reach the crisis site.

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If you have not received TECC training, please contact Sergeant Scott Garrett and he can arrange training for your work unit.

For questions regarding this training bulletin contact Sgt. Norton or Sgt. Kos.

Distribution:

All Members

Reference/Sources:

Sgt. Travis Norton, GSU
Firefighter/Paramedic Bryan Howell