

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISION: L 2312
ORDER TO DISPERSE**

DATE: June 18, 2021

APPROVED

Memo# 2021-019

BACKGROUND

On April 20, 2021, POST released the [POST Guidelines on Crowd Management, Intervention, and Control \(link\)](#). In this publication, POST provided direction on best practices for dispersal orders. Duty Manual section L 2312 ORDER TO DISPERSE is being revised to comport with POST guidelines.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

L 2312 ORDER TO DISPERSE: *Revised 06-18-21*

A dispersal order must be given before a person can be guilty of remaining at a place of a riot, rout, or unlawful assembly. If the supervisor in charge at the disturbance scene decides to declare an unlawful assembly, such supervisor shall ~~should go as near to the crowd as is safe and~~ make an audible statement having the following form:

• ~~"This is (rank and name), a peace officer of the State of California and a police officer of the City of San Jose. I do hereby declare this an unlawful assembly, and in the name of the People of the State of California, I command you to immediately disperse." A reasonable time must be allowed for compliance. Orders for arrest may then be given.~~

"I am (rank and name), a peace officer for the San Jose Police Department. 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 (specify 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 which 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 I just described, you will be in violation of Penal Code section 409. The following

ALL DEPARTMENT PERSONNEL

SUBJECT: DUTY MANUAL REVISION: L 2312 ORDER TO DISPERSE

June 18, 2021

Page 2

routes of dispersal are available (specify routes). It is now (specify time) and you have (specify amount of time) to disperse."

The statement may be made by loud speech, amplified sound, or pre-recorded message. The dispersal order must be given in a manner reasonably believed to be heard and understood by the intended audience. Signage may be used to assist in the dispersal order or to provide additional information. Consideration should be given to providing the dispersal order in multiple languages and from multiple locations, as appropriate to the intended audience.

Reasonable time must be given for compliance with the dispersal order. The announcements should continue during that time. Once a reasonable amount of time has elapsed, orders for arrest may then be given.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.

A handwritten signature in black ink, appearing to read 'A. Mata', is positioned above the printed name and title.

Anthony Mata
Chief of Police

AM:SD