

DOWNTOWN SERVICES UNIT GUIDELINES



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1 UNIT MISSION

The Downtown Services Unit (DSU) is responsible for addressing quality of life issues in the Downtown core area and the managing of events associated with the Downtown Entertainment Zone (EZ). This includes regulatory enforcement of drug, gang, graffiti, other street level crimes, municipal code violations, City's Entertainment and Conditional Use Permits, Alcoholic Beverage Control violations, cruise management traffic diversions, and patrol checks at parking garages in the Entertainment Zone. The Unit is responsible for the staffing and management of overtime officers in the Entertainment Zone (EZ), Garage Services Detail (GSD), and the Downtown Foot patrol Detail (DFD). The Downtown Services Unit will accomplish the mission by working cooperatively with other units and organizations.

The Downtown Services Unit is responsible for creating and maintaining a downtown environment that is safe and crime free.

- The Downtown Services Unit's goal is to create an environment downtown that is welcoming to all ages, cultures and ethnicities, where each group can collectively feel protected and where police presence can discourage criminal activity. This may include: narcotic enforcement, quality of life issues, graffiti enforcement, STOP program enforcement, cruise management, curfew management and traffic diversions.

The Downtown Services Unit (DSU) is responsible for the management of nightclubs associated with the Downtown Entertainment Zone.

- DSU personnel will maintain a positive and professional working relationship with all businesses in the EZ. DSU will seek the cooperation of the nightclub management and staff through advisement and warnings when appropriate. Management of nightclubs includes: enforcement of the City's Entertainment Permit and Conditional Use Permit, enforcement of Alcoholic Beverage Control (ABC) violations, enforcement of the Promoters Permit, and all other applicable codes.

The Downtown Services Unit additionally will:

- Provide training to all EZ personnel
- Provide training to nightclub employees.
- Assist Special Operations and/or Patrol during special events.
- Provide technical assistance to units within the department, other city departments, and other outside agencies as necessary.
- Provide direct support to Divisional Commanders as necessary.

2 ASSIGNMENT OF OFFICERS

Selection of officers and sergeant will be in accordance with guidelines established by the MOU and the department transfer policy.

New members assigned to the unit will be closely supervised during the first 6 months; this is also known as the probationary period. The purpose of this probationary period is to evaluate the new officer's ability to work in the unit and adapt to a structured team setting and the ability to learn the new skills necessary to function in this unit.

3 DSU OFFICER SCHEDULE AND UNIFORM

DSU personnel will be flexible and may be required to change their hours as dictated by the needs of the Unit.

The standard working schedule will be:

- Wednesday 1200-2200
- Thursday 1700-0300
- Friday 1700-0300
- Saturday 1700-0300

The unit will brief for the first half hour of the shift. Topics will include assignments for the day, current crime trends, debriefs of current investigations, events downtown, nightclub events, BOL's, and other pertinent information.

Officers may work in both plainclothes and in uniform. Enforcement inside the nightclubs often requires officers to wear plainclothes and blend in. The uniform of the day will be plainclothes unless otherwise directed by the Captain, Sergeant or work type. Officers expecting to conduct enforcement outside of the nightclubs will wear the unit issued DSU tactical vest which clearly identifies the officer as a police officer.

4 ADMINISTRATIVE PROCEDURES

• WEEKLY SUMMARY

At the end of each week, the DSU sergeant or assigned DSU officer will complete a weekly summary report. The weekly summary will be updated on a daily basis by each individual officer. They will document citations and/or arrests and Entertainment Zone incidents. Upon completion of the weekly summary, a copy of the weekly summary will be e-mailed to an established distribution list. The DSU sergeant or assigned DSU officer will ensure that the Vice Unit is notified of any necessary information.

- **PHONE MESSAGES**

The DSU sergeant or assigned DSU officer will be responsible for checking the unit answering machine at the beginning of each shift. The DSU sergeant or assigned DSU officer will be responsible for relaying the message to the appropriate officer and/or returning the call if needed.

- **TIME OFF**

There will be a minimum staffing of **two DSU officers** working each night unless approved by Sergeant or Captain. Scheduled time off will be written on the unit calendar.

- **TRAINING**

- After each training session, all involved officers are held responsible for updating their training log to include all pertinent information. There will also be a team training folder located on the (Department Server) G-Drive in the Downtown Services Unit folder. It is the responsibility of the officer and/or sergeant to complete the training sheet.
- DSU officers will attempt to complete the following classes:
 - EZ training class
 - METRO bike academy
 - Plain Clothes Enforcement
 - METRO Academy
 - Confidential Informant Management
 - Surveillance school
 - LEADS
 - Fraudulent ID class
 - ABC Training
 - Tactical Med

5 **EQUIPMENT**

- Each DSU officer will be assigned a tactical vest. The officer is responsible for maintaining their own tactical vest and equipment. The vest will clearly identify the officer as a police officer. The officer will ensure that "POLICE" lettering is visible to the front and the rear of the vest. The vest will also contain a name plate, badge number, and badge.

- Each DSU officer will be assigned a unit radio (MOTOROLA APX-900). The officer is responsible to keep the radio in good working order with one recharged battery prior to each shift.
- DSU officers are responsible for the maintenance of vehicles assigned to DSU. Keys of all vehicles will be kept in the DSU office. DSU currently has 4 unmarked vehicles.
- DSU equipment inventory will be completed every shift by the DSU sergeant or assigned DSU officer.
- DSU officers will be responsible for having professional business cards with the officer's name, badge, e-mail, unit name, and phone number.

6 NARCOTIC ENFORCEMENT

- **Informants**
 - Informants or special employees can be a substantial source of valuable information for DSU members. The development of S/E's by officers is strongly encouraged.
 - All informants must be thoroughly debriefed prior to being utilized. This includes taking the following steps:
 - Obtain a complete criminal history. The following circumstances will require approval by the district attorney before the S/E can be used:
 1. History of violence
 2. History of sex crimes
 3. Suspect is on probation or parole
 4. Suspect has pending case(s)
 - Make an accurate assessment of the informant's motivation and reliability.
 - Make a thorough assessment of the target(s) mentioned by the informant including:
 1. Complete identification/description
 2. Violence potential and methods for dealing narcotics
 3. Description/status of the relationship between the informant and the target
 4. Detailed information about associated locations/vehicles
 - Checking with CRU (or outside agency)
 1. See if the informant has "worked" before and is therefore reliable
 2. Ascertain whether or not CRU will utilize their option to use the informant
 - Complete a Special Employee folder in CRU

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7 SURVEILLANCE OF NARCOTIC STREET SALES

Historically, the downtown core has been a magnet for street level narcotic dealers. The dealers make the downtown core an unsafe and unsavory place for those law abiding customers who wish to visit the downtown area's nightlife. DSU officers may conduct surveillance of street level narcotic sales, as necessary, to provide a safe environment for nightlife customers.

The surveillance and arrest of narcotic dealers downtown is an enforcement technique employed by officers in patrol and Metro. The officers must gather intelligence about the suspect(s), location(s), and methods of dealing prior to conducting surveillance. Based upon the intelligence gathered, a plan should be established [REDACTED]

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If a foot pursuit occurs, the following steps will be taken:

- If sufficient DSU officers are present, they may opt to remain on the back up channel and handle it without the assistance from the district units. The DSU sergeant should switch to the district channel and advise of the foot pursuit for information only. This should be done in order to avoid potential confusion to district sergeants and officers.

- If additional assistance is necessary, all operational personnel should switch to the district channel. The DSU sergeant and/or case officer should advise the district channel/personnel of the foot pursuit and coordinate response.

8 PROSTITUTION CASES

- **Applicable Laws**

- | | |
|--|-----------|
| ○ Indecent Exposure | PC 314.1 |
| ○ Soliciting Indecent Exposure | PC 314.2 |
| ○ Keeping House of Ill-Fame | PC 315 |
| ○ Visiting a Place of Prostitution | PC 318 |
| ○ Lewd Act in Public | PC 647(a) |
| ○ Prostitution | PC 647(b) |
| ○ Loitering w/ Intent to Commit Prostitution | PC 653.22 |
| ○ Pimping / Aiding Prostitution | PC 653.23 |
| ○ Pimping | PC 266h |
| ○ Pandering | PC 266I |

Prostitution Enforcement Operations

- **Recognizing Prostitutes**

- Officers will recognize a prostitute based on a combination of the prostitute's activity, where the activity is occurring, prior personal knowledge of the prostitute and his/her appearance.
- It is important that the officer include the actions which indicate the prostitute is actively loitering with intent to commit prostitution in the offense report:
 - Watching passing traffic intently, specifically lone male drivers
 - Smiling, waving, making eye contact, nodding his or her head at cars, or suggestive body actions to attract attention to his/herself
 - Approaching stopped cars to talk to occupants at the curbside
 - Continuing to sit at bus bench as one or more buses pass by
 - Loitering and pretending to use a phone
- If DSU officers are unable to make a "date" or a loitering case with the suspect, every effort will be made to FI the suspect by uniformed officers.

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- **In progress Acts of Prostitution**

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- **Preparing the Case**

- Document exact sexual activity observed, and condition of clothing on both suspects.
- If the “John” has given money to the prostitute, document it and either return it to the prostitute or book it into evidence.

- Report Writing
 - Document exact sexual activity observed and condition of clothing on both suspects.
 - Record spontaneous statements as well as Mirandized statements.
 - Note and record location, lighting, surrounding neighborhood, any pedestrian traffic, or anything else that supports how “public” the area is. Documenting this will help the case.
- Enforcement Action
 - Book or Cite the “John” and/or prostitute for PC 647(a), Lewd Act in Public, and PC647(b), Engaging in an act of Prostitution. If she was undressed and exposed, then add PC 314.1, Indecent Exposure.
- **Processing**
 - Upload recordings of conversation/statements/etc into DCS.
 - US Currency used during investigation: Document it, return it to the prostitute, or book it into evidence.
 - Do not book the prostitute until you have done everything possible to establish the suspect’s true identity.
 - Talk to the prostitute about turning drugs or other felonies in exchange for a citation.
 - Note in report any condoms found (brand and number) in suspect’s possession, but return them.
- **Reporting**
 - Include in the report the actions that led you to believe the suspect was a working prostitute.
 - Include exact transcript of tape recording to fulfill the elements of the offense
 - If there is no recording, include statements that you recall exactly
 - Paraphrase lengthy portions of conversation not related to the event.
 - Define terms, i.e., “lay” is street term for sexual intercourse
 - Include unusual activity of the suspect in your presence.
 - The element of **furtherance** must be described in detail.
 - Priors – list the number of prior convictions in the last paragraph, specifically mentioning multiple recent arrests...”Subject arrested for prostitution three times in the last two weeks on the following dates and under the following case numbers...”

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10 ENTERTAINMENT ZONE (EZ)

- **Watchlist Schedule**
 - The assigned DSU officer will be responsible for posting and collecting the EZ sign up sheet.
 - The assigned DSU officer will be responsible for creating the EZ watchlist for the day and notifying each officer scheduled to work EZ via Netviewer, MDC or phone. If the officer is unable to work or is heldover in the district due to a late call or arrest, the assigned DSU officer will attempt to find a replacement officer. The EZ watchlist will be saved in the DSU database which is located in the DSU folder (department server: G-drive)
 - The assigned DSU officer will update the watchlist if a replacement is found or if the officer does not show up.
 - The assigned DSU officer will walk two copies of the watchlist to Communications (one copy to channel 5 and one copy to the Bridge). A copy of the EZ watchlist will also be given to the DSU Sergeant, each EZ sergeant, and any other supervisor that may request one.

- **Officer Eligibility**
 - Officers that are interested in working the Entertainment Zone (EZ) must attend the mandatory EZ class prior to working EZ.
 - Officers who have attended the EZ class and have completed their probationary period are able to work the Entertainment Zone.

- **EZ Schedule**
 - EZ officers will meet at 0030 hours for assignments/briefing.
 - When officers receive their assignments they will go directly to their assigned locations.
 - EZ officers will not return to the police department until relieved by a Downtown Services Unit (DSU) officer (usually 0230 hours) or by the EZ supervisor in that zone.

- **Number of EZ officers**
 - The Entertainment Zone will be staffed as follows on Thursday, Friday and Saturday nights:
 - Thursday: 5 Sergeants and 18 Officers
 - Friday: 6 Sergeants and 28 Officers
 - Saturday: 6 Sergeants and 32 Officers
 - Staffing is subject to change based on nightclub attendance and special events.

- **Communication with Nightclubs/ Bars**
 - EZ officers should establish a professional line of communication with club owners/employees. This could help identify potential problems and resolve them before they escalate. This practice may aid in the investigation of crimes and may encourage nightclub/ bar employees to step forward as witnesses.

- **Patrolling the Entertainment Zone**
 - *Before Closing Time:* EZ officers should conduct foot patrol of the perimeter and surrounding area of their assigned zone to increase the perception of police presence and avoid ambush scenarios.
 - *Closing Time:* As the nightclubs close it is the responsibility of the nightclub security to usher patrons out of the club, usually to an adjacent parking lot. Officers should parallel nightclub security so that they are in eyesight in the event that security requests assistance.
 - *After Closing Time:* EZ officers should respond to food establishments and parking lots where patrons tend to congregate and cause problems.

- **Public Intoxication Cases**

Officers assigned to an incident or observing an incident involving a person who is intoxicated while in a public place will process the incident in accordance with the following procedures:

 - When the degree of intoxication is such that the person is not able to stand without assistance, or the degree of staggering or weaving indicates that the individual is drunk beyond a reasonable doubt, the officer need not conduct any field tests.
 - When the circumstances indicate that coordination tests should be conducted, the line walking and standing balance test will be administered by the assigned officer (See Section L 6604).
 - Officers will, when necessary, record the events and conduct which indicated the degree of intoxication.
 - EZ officers will offer a Preliminary Alcohol Screening Device (PAS). PAS refusals will be documented as well as PAS results (BAC, starting temperature, PAS serial number, time).
 - All Entertainment Zone related reports should include:
 - The name of the establishment the subject was drinking at

- How long ago the subject left the establishment
- **Completing/Turning in Entertainment Zone Related Reports**
 - If an EZ officer has a use of force that requires documentation, an EZ sergeant must respond to supervise the incident. EZ officers should get the sergeant from their zone (when available) to sign off the report.
 - Officers that have completed an Entertainment Zone related investigation will ensure that their respective zone sergeant is aware of the incident to ensure that it is documented on daily EZ activity report.
- **Sergeant's EZ Responsibilities:**
 - EZ Sergeants will turn in completed activity reports at the end of shift to the drop box located on the right side of the DSU office door.
- **Recording Overtime:**
 - EZ Officers must use the first two EZ hours worked for paid overtime using VIS code 001-000595. If EZ officers have to stay longer than their scheduled two hour EZ shift, the remaining overtime will be documented as overtime without use of the EZ VIS code.

11 GARAGE SERVICES DETAIL

- The Garage Service Detail is responsible for enforcement of various codes inside of parking garages downtown. The standard GSD team will patrol in either two or three marked units. They will consist of one sergeant and either one or two, 2-officer cars. The detail is a pay car and funding for the detail is provided by the Department of Transportation. The schedule can be adjusted due to the needs of the DSU or the Department of Transportation. The standard working schedule is:
 - Wednesday 0700-1200 1 Sergeant and 2 Officers
 - Friday 2130-0230 1 Sergeant and 4 Officers
 - Saturday 2130-0230 1 Sergeant and 4 Officers

12 MANAGEMENT OF NIGHT CLUBS

Enforcement and education of nightclubs and bars:

- This is accomplished by inspections to ensure that state and local regulations are followed. The intent being that if the nightclubs abide by their regulations, they in turn will have their customers do the same, thus reducing crime and calls for service.

- Nightclub violence is a continual problem for the entertainment zone. There are several factors which contribute to nightclub violence. Over-crowding, excessive alcohol consumption, illegal drug usage, and poor club management are some of those factors.
- By encouraging nightclubs to provide a secure environment, violence can be reduced. This encouragement comes through education, collaboration and enforcement of regulations.
- To effectively regulate alcohol establishments, some unique knowledge will be required. The below listed topics are often encountered while working in the Downtown Services Unit.

- **Entertainment Permits:**

- Entertainment permits are issued by the Vice Unit. They are generally required of businesses that provide entertainment and serve alcoholic beverages. These permits regulate various aspects of the licensed premise. The entertainment permits may regulate occupancy, security staffing requirements, noise, and other issues which affect public safety.
- While the entertainment permits have similar language, it is important that before action is taken, the entertainment permit be reviewed for a particular business. Businesses with entertainment permits are required to show the permit to a police officer upon demand.
- Nightclub management is regulated by the entertainment permit. Most entertainment permits require that while on premise, management carry their management cards. Management permit cards are issued by the SJPD permits unit.
- San Jose Municipal Code Titles 6 and 20 define the requirements related to entertainment permits.
- DSU will document the violations on a General Offense Report, which will be routed to Vice for administrative action.

- **Conditional Use Permit (CUP):**

- Conditional Use Permits are issued by the City of San Jose Planning Department. They are issued for the property and regulate occupancy, noise, and hours of operation.
- DSU will document the violations on a General Offense Report, which will be routed to the Vice Unit for administrative action.

- **Alcohol Beverage Control (A.B.C.) License Violations:**

- Nightclubs, bars and restaurants which serve alcoholic beverages are regulated by ABC laws. These laws are mostly found in the California Business and Professions Code (B&P).
 - Businesses that serve or sell alcoholic beverages must have an ABC license. These licenses restrict the type of alcohol that may be sold, hours when it can be sold, age of persons allowed on the premise, and other items.
 - There are several different types of ABC licenses. The most commonly encountered by DSU are Type 47 and Type 48 licenses:
 1. A Type 47 license authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premise and authorizes the sale of beer and wine for consumption off of the premises. Type 47 licenses are for premises which are “bona fide eating places”. **Minors are allowed on premise per ABC, but minors on premise could be an entertainment permit violation.**
 2. Type 48 authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premise and authorizes the sale of beer and wine for consumption off of the licensed premise. Type 48 licenses are for bars and nightclubs. **Minors are not allowed on premise (see 25663.5 B&P for exceptions, musicians).**
 - Some licenses have additional conditions on them. The licensee must maintain a copy of the conditions on the premise.
 - For additional information on ABC licenses see the ABC enforcement manual. Licensee information may also be found at www.abc.gov.
- **Security Staff:**
- Entertainment permits require each security staff member to wear a shirt and name tag that identifies them as security.
 - In addition to uniform requirements there are also licensing requirements per the Business and Professions code (7574 B&P). Security staff often falls under the definition of a Proprietary Private Security Officer (PSO).
 - PSO’s are generally defined as an unarmed individual who is employed exclusively by a single employer (bar, restaurant etc.). Their primary duty is to provide security services for that employer. Their employment requires them to wear a distinctively marked uniform and they are likely to interact with the public, while performing their duties.
 - PSO’s are required by state law to register with the California Department of Consumer Affairs Bureau of Security and Investigation Services (BSIS). The registration process involves a fingerprint and background investigation. The intent of the law is

to safeguard the public by keeping the criminal element out of a position of trust.

- Security guards who are employed by a security company are regulated by the Business and Professions Code. Security guards are required to have a guard card, which are issued by BSIS. The security companies are required to have a PPO (Private Patrol Operator) license and are also regulated by BSIS.
- The Business and Professions Code makes it illegal for PSO's to not be registered. Most entertainment permits require all security personnel to be registered and maintain a valid registration with BSIS. The PSO regulation may be enforced as an entertainment permit violation against the business.
- For security guard regulations refer to the Business and Professions Code. Information may also be found at www.bsis.ca.gov.

○ **Reports Related to Alcohol Establishments:**

- Police reports are a valuable tool for regulating alcohol establishments. A compilation of reports can be used to build a disorderly house allegation. DSU maintains copies of reports involving nightclubs in the entertainment zone.
- The Business and Professions Code requires the police department to notify ABC within 10 days of any arrest which involves a licensed premise or licensee. The Vice Unit is responsible for forwarding the reports to ABC.

13 COMMON DSU NIGHTCLUB ENFORCEMENT INVESTIGATIONS

● **ABC inspection**

- Premise inspections at ABC licensed bars, night clubs, and restaurants in the entertainment zone are a proven method for gaining compliance from these businesses and reducing crime (including violent crimes and quality of life crimes). Ignoring ABC licensed locations tends to develop a feeling in owners and patrons that the police do not have a right to inspect the premises. Lack of police presence will generally cause an increase in crime and administrative violations at these ABC regulated premises.
- It is a primary goal of DSU to gain voluntary compliance of ABC laws, and SJMC laws and regulations from business owners, managers and employees. DSU accomplishes this goal by providing formal and informal training and education to owners, managers and staff.

- A key mission of DSU is to conduct premise inspections of ABC regulated premises in the entertainment zone. It must be understood that peace officers are required by state law to enforce the laws, rules and regulations of the Alcohol Beverage Control Act, and failure to do so is a misdemeanor (25619 B&P).
 - Types of common violations that DSU officers are to be aware of:
 - Minor on Premise/in possession of alcoholic beverages
 - Obviously Intoxicated Persons on Premise
 - Contaminated Bottles
 - Violation of special conditions (Special condition documentation available at the local ABC office).
 - The primary guide for conducting premise inspections and ABC enforcement shall be the most current ABC Enforcement Manual printed by the State Department of Alcoholic Beverage Control.
- **False Identification Investigations**
 - Downtown Service Officers may encounter several issues in and around nightclubs, bars, and other alcohol related establishments, in which fraudulent or false identification cards are used by individuals.
 - These investigations may be initiated by the officer or by personnel associated to the alcohol establishments themselves.
 - Officer initiated investigations are often the result of premise checks inside bars and nightclubs. These checks often yield minor on premise investigations, which ultimately develop into cases, in which, false or fraudulent identification crimes are discovered.
 - Once contact is made with the individual(s), DSU officers should attempt to determine the following:
 - Is the individual a minor?
 - Is the identification card bona fide?
 - Is the identification card real or fraudulent?
 - Does the identification card belong to the suspect or another real person?
 - Did they use the ID to attempt entry, or make successful entry into the establishment?
 - Did they purchase or attempt to purchase alcoholic beverages?
 - Appropriate laws should be applied if it is determined the identification is false or fraudulent. These laws include, but are not limited to, the California Penal Code, the California Vehicle Code, and the California Business and Professions Code.
 - The primary guide for conducting false and fraudulent identification inspections and ABC enforcement shall be the most current ABC

Enforcement Manual printed by the State Department of Alcoholic Beverage Control.

- DSU officers are strongly encouraged to develop information, from suspects in possession of fraudulent identification. This information may lead to individual(s) who manufacture, distribute, sell, or furnish fraudulent identification. If such information is developed, DSU officers should continue their investigations in accordance with all laws, the duty manual, unit guidelines, and with supervisor approval.

- **Minor On Premise Investigations**

- DSU officers may encounter or observe suspected minors inside licensed premises during the course of their shifts. It is important that DSU officers are aware of the type of licensed establishments they are entering prior to contacting patrons suspected of being a minor or possessing false or fraudulent identification.
 - For example, to successfully investigate a suspected minor on premise consuming alcohol (in a type 47 licensed premise); DSU officers should monitor the suspected minor(s) in possession of a suspected alcoholic beverage and consume a portion of that drink. Once such probable cause is established, DSU officers should make contact and inspect the suspected beverage. Officers should initiate an investigation of all applicable crimes, administrative violations, and ABC investigations.
 - It should be noted that minors are allowed inside type 47 establishments until entertainment begins (per San Jose entertainment permit rules and regulations).

- **Disorderly Conduct (Drunk in Public), Urinating in Public and Drinking in Public Incidents, Disturbing the Peace/Fighting**

- Quality of life issues in the downtown area is a core mission of DSU.
- DSU officers will be familiar with disorderly conduct (drunk in public), urinating in public, and drinking in public statutes. DSU officers will also maintain expertise in the investigation, reporting, and enforcement procedures of these violations.
- The following code sections are applicable to these violations:
 - 10.12.010 SJMC, Drinking in Public
 - 10.12.110 SJMC, Urinating in Public
 - 647(f) P.C., Disorderly Conduct/Drunk in Public
 - 415 (1), (2), & (3) P.C., Fighting in Public/ Disturbing the Peace/ Offensive Words

- **Common ABC Violations**
 - **25602 B&P** Serving an Obviously Intoxicated Person
 - **25658(a) B&P** Selling/Furnishing alcohol to minor
 - **25658(b) B&P** Minor purchasing an alcoholic beverage
 - **25661(a) B&P** Minor in Possession of False ID
 - **25655 B&P** Minor on Premise

14 ENFORCEMENT TACTICS

- DSU enforcement activities are unique from other in the Bureau of Field Operations. The following are some conditions that make enforcement dissimilar to other areas of the city during late night evening hours:
 - Large volume of bars and night clubs
 - Large crowds of people often under the influence of alcoholic beverages
 - Interaction between business owners, staff, customers, and suspects often in one single event
 - Perceptions that police are “harassing” or “reacting excessively”, which has caused interfering, assault on officers and lynching of suspects
 - Many patrons, who are not “stakeholders” to the downtown area, have committed quality of life/disorderly conduct violations they would not normally commit in their home communities
 - Known areas of street level narcotic activity
 - Plain clothes enforcement is a valuable tool. It has been demonstrated that officers conducting premise inspections in plain clothes are less disruptive to businesses, and customers often do not even realize police presence. Plain clothes officers often witness criminal activity, which would normally not be detected in a marked unit or in uniform. Often criminals observing a uniformed officer will wait for the officer to leave, before conducting their illegal activity.
 - When conducting plain clothes enforcement and other activities, basic officer safety tactics, such as contact and cover should always be utilized.
 - Officers contacting suspects in enforcement situations must always verbally identify themselves as police officers and display a badge.
 - Other officers not immediately in contact with the suspect may remain in a non-identifiable status to perform a more covert area security. (Observing suspect associates and other persons who may interfere with an investigation/arrest).
 - Utilize marked units/uniformed officers for contacts and arrests when practical.
 - Safety in numbers has been demonstrated to be effective method in investigative and enforcement activities in the downtown area. DSU officers working plain clothes must also recognize that a “blue on blue” incident is a possible reality. To minimize a “blue on blue” incident, DSU officers should consider the following:

- Be familiar with beat officers and E.Z. officers.
- Wear identifiable vests/clothing when conditions permit.
- Log on as “plain clothes”, and advise when in plain clothes during events.
- A “rear security officer” function is to identify DSU officers as “police” to other incoming officers.
- Be aware that other agencies patrol the downtown area including VTA Sheriff’s Patrol, and SJSU Police.

15 **TRAFFIC CONTROL & DIVERSIONS**

- Traffic congestion (vehicular and pedestrian) and emergencies occur at a higher frequency in the entertainment zone, impacting this more densely populated area. It is a challenge to manage emergencies and congestion safely and efficiently.
- It is a function of DSU to control, direct, and divert traffic when there is an emergency or traffic congestion in the entertainment zone.
- DSU officers will have an understanding of applicable traffic control/diversion authorities and be able to recognize congestion and emergency situations.
- Upon determining an emergency event or congestion, DSU officers will report the event to a DSU supervisor and/or implement traffic direction or diversion.
- Historically cruising, congestion, and emergencies have occurred in the Santa Clara Street corridor. An effective and efficient method has been to detour/direct traffic in the following manner utilizing cones:
 - Place an A-frame barricades with signage.E/B traffic at Santa Clara/Market St directed N/B and S/B only.W/B traffic at Santa Clara/3rd St directed N/B only.
- Listed below are applicable San Jose Municipal Code traffic direction and diversion authorities:
 - **11.12.030 Police department officers - Traffic direction authority.**

Officers of the police department, or such officers as are assigned by the chief of police, are authorized to direct all traffic by visible or audible signal in conformance with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

○ **10.46.010 Definitions.**

For purposes of this chapter, "congested traffic" or "congestion" shall mean traffic on any public street or highway which is delayed to the point that motor vehicles in any given lane of said street or highway either:

Cannot move through an intersection with a traffic light after two changes of light at said intersection where said delay in forward movement is due to the position of other motor vehicles at or near said intersection and not to any emergency at or near said intersection; or

Cannot move through an intersection with a yield or stop sign after the expiration of a reasonable period of time, which shall be not less than five minutes, where said delay in forward movement is due to the position of other motor vehicles at or near said intersection and not to any emergency at or near said intersection; or

Cannot move forward on portions of public streets or highways between intersections because little vehicular flow is occurring and said delay in movement is due to the numbers of vehicles on said portion of a public street or highway, and not to any emergency at or near said location.

○ **10.46.020 Diversion of traffic.**

Upon a determination by a peace officer of the police department that traffic upon a portion of public street or highway is congested such that little or no vehicular flow is occurring and, additionally, if said peace officer finds that a significant number of vehicles are not promptly moving when an opportunity arises to do so, then said peace officer may divert traffic from said congested portion or portions of said public street or highway at any intersection leading to the congested portion or portions of said public street or highway, excepting public safety or emergency vehicles, or persons residing along said public street or highway, until such time as reasonably flowing traffic is restored.

○ **10.46.030 Failure of a driver or operator of a motor vehicle to obey a lawful order to divert or detour from a congested public street or highway.**

Any person who, while driving or operating a motor vehicle on a public street or highway, fails to divert or detour from said street or highway upon a lawful order of a peace officer to do so, shall be in violation of this chapter.

16 CROWD CONTROL

At the discretion of the unit commander or by the uniformed officer in charge, plain-clothes DSU officers may be tasked with monitoring crowd issues that may arise in the downtown corridor. This may include festivals, concerts, holiday celebrations, demonstrations, civil disturbances or a large exodus of nightclub patrons from alcohol related establishments.

DSU officers will attempt to maintain visual contact with all team members while intermingling in crowd situations.

Individual DSU members should not stray from their teammates during these types of operations nor should they act alone.

When tasked with an intelligence or surveillance assignment, the DSU officer's primary function should be to report on conditions to uniformed personnel in charge of the scene, as appropriate.

DSU officers should report individuals involved in criminal activity to the appropriate uniformed personnel during crowd control situations.

17 APPLICABLE DUTY MANUAL SECTIONS

C 1449 APPROACHING OFFICERS WORKING UNDERCOVER

Officers working undercover frequently conduct operations in full view of the general public. Since it is difficult to ascertain when an officer is on such an assignment, whether on or off duty, avoid communicating with or acknowledging the officer working undercover, unless the undercover officer initiates the contact.

L 2205 RISKS DURING ENFORCEMENT ACTION:

The purpose of assigning officers to the scene of a crime is to arrest the perpetrator of the attempted or consummated crime; however, since that objective is subordinate to the protection of life, officers should not subject themselves or other innocent persons to unreasonable risks.

L 2206 ON-DUTY NON-UNIFORMED ENFORCEMENT:

In the interest of officer safety, non-uniformed officers should utilize uniformed officers for backup during probable cause car stops whenever possible. This will eliminate unnecessary escalation of the enforcement action due to undercover police identity being challenged or ignored. Indiscriminate enforcement actions by undercover officers require more frequent reassignment of officers as a result of their undercover capability being reduced.

L 2207 EMERGENCY RESPONSES BY NON-UNIFORMED DEPARTMENT MEMBERS:

Non-uniformed Department members will not respond to in-progress crimes unless one of the following circumstances exists:

- The emergency is life threatening and uniformed officers are not available or have an estimated time of arrival that is extended.
- A non-uniformed Department member's assistance is requested.
- Non-uniformed Department members are working in an assignment which makes their response necessary or required, or their response is clearly in the best interests of the Department or the public.

L 2208 PROCEDURES FOR NON-UNIFORMED DEPARTMENT MEMBERS AT IN-PROGRESS CRIMES:

If it is necessary for non-uniformed Department members to respond to an in-progress emergency, the following procedures will be used:

- Advise Communications of their response and arrival at the scene.
- Briefly describe their clothing and the method of identification they are using.
- Ensure that their identification is clearly visible (yellow raid jacket, badge being carried or worn in a clearly visible manner).

If uniformed officers are already on the scene, non-uniformed officers who respond will observe the above procedures in addition to the following:

- Advise the ranking uniformed officer at the scene of their presence and availability as a resource.
- Act as backup to the uniformed officer and stay on the perimeter, unless deployed on an intelligence or surveillance assignment by the uniformed officer in charge.

L 7717 ENTERING CAMPUS ON OFFICIAL BUSINESS:

To assist in coordinating activities between the University Police Department and the San Jose Police Department, officers in uniform or in plainclothes going onto the San Jose State University campus on official business will adhere to the following procedure when possible: Notify the California State University Police Department on-duty watch commander at (408)924-2222, and indicate the nature and business.

S 1118 WEARING OF BADGES WHEN IN PLAINCLOTHES:

Plainclothes officers at the scene of a search and arrest situation in progress will identify themselves by wearing their badge on their outermost garment in a visible location.

S 1138 HOLSTERING FIREARMS:

Handguns will be worn in holsters on or off duty, except when working plainclothes and when such an exception has been approved by the Chief of Police. Cocked and holstered sidearms will have a safety strap between the hammer and firing pin with the safety engaged.

S 1144 CHEMICAL AGENTS:

Officers assigned to or functioning in a uniformed capacity, either on-duty or off, may only carry chemical agent canisters issued by the Department.

Officers functioning in a plainclothes capacity, or members in an off-duty status, may carry either the Department-issued chemical agent canister or the smaller variety by the same manufacturer containing the same agent.

S 1148 HOLSTERING TASERS:

Tasers will be worn in holsters on or off duty, except when working plainclothes and when the Chief of Police has approved such an exception.

S 1149 EXPOSING TASER WHEN IN CIVILIAN CLOTHES:

If authorized to carry a Taser when off duty or when on duty in civilian clothes, officers will not wear or carry the Taser in such a manner that it is conspicuously exposed to view.

S 1150 BICYCLE PATROL OFFICER SAFETY EQUIPMENT:

Officers assigned to uniformed bicycle patrol, while working on duty or at a secondary employment assignment, will maintain and use the following uniform and equipment while performing a uniformed bicycle officer's function:

- Helmet: (ANSI approved) black with white "POLICE" lettering on each side
- Glasses: appropriate for day and night use
- Gloves: bicycle riding gloves, dark in color (the gloves should allow for the proper use of a firearm)

Additional uniform requirements are outlined in the San Jose Police Department Uniform and Equipment Manual.