

San Diego Police Department

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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ABATEMENT OPERATIONS

I. PURPOSE

Familiarize Department members with their roles and responsibilities during City of San Diego Environmental Services Department (ESD) waste abatement operations associated with unattended homeless personal property.

II. BACKGROUND

A. Isaiah Project, Inc. v. City of San Diego

In 2009, the City of San Diego was sued in a class action lawsuit by homeless individuals claiming the City failed to provide adequate notice prior to abatement of unattended homeless personal property and failed to adequately separate waste from property of value which must be retained and stored.

The lawsuit was settled in 2011. The settlement agreement contained three main features:

1. A one-time payment to the class of plaintiffs;
2. A one-year pilot program to provide storage to homeless individuals for their personal belongings; and
3. Updated abatement procedures for unattended homeless personal property, including 72-hour notices and a detailed property sorting procedure.

In 2018, the settlement was amended to allow a 3-hour minimum abatement notice period under certain circumstances, including:

1. Storage space is available for homeless individuals to store their belongings. If storage space is not available, the notice period must be at least 72 hours;
2. Abatements will not be conducted between 9:00 p.m. and 5:30 a.m.;
3. If notice is posted during nighttime hours for a morning abatement, homeless individuals will be given a meaningful opportunity to see the posting and move their belongings.

B. ESD Waste Abatements

1. ESD has primary responsibility for waste abatements involving homeless personal property found on the public right-of-way. ESD Code Compliance Officers perform waste abatements involving unattended homeless personal property throughout the City of San Diego, including the downtown area.
2. ESD will investigate waste complaints involving unattended homeless personal property. If, during its investigation, ESD determines unattended homeless personal property is to be removed, ESD will post notices in the area to be abated from a minimum of 3 hours, or at least 72 hours in advance if storage space is not available, prior to the beginning of the abatement process so that individuals may remove their belongings. The same area is posted after the abatement so that individuals will know how to retrieve any impounded property.

C. SDPD's General Role During ESD Waste Abatements

1. The San Diego Police Department's role during ESD waste abatement operations involving homeless personal property is limited to preserving the peace and enhancing the safety of ESD personnel, and their contractors, while they are conducting the abatement process. San Diego Police officers will be present during the abatement process for these purposes.
2. Safety risks may include confrontations with individuals attempting to retrieve waste from refuse packers, attempting to prevent collection of abated property or otherwise interfering with ESD personnel. The Isaiah settlement allows individuals who return to the abatement site during the operation to claim their belongings and retrieve them. For safety reasons, retrieval is not allowed once the items are in the refuse packer.

III. ABATEMENT PROCEDURES

The following procedures shall be followed when assisting ESD during a waste abatement involving homeless personal property:

- A. At least one officer will be assigned to each ESD crew to enhance safety during abatement operations. The officer(s) assigned will meet with ESD crews at a predetermined location prior to the start of the abatement. The officer(s) assigned shall take into account officer safety considerations during abatement operations and request additional units as necessary.
- B. The officer(s) assigned to the abatement operation shall remain with the ESD crew(s) until advised by an ESD Supervisor the abatement operation has been completed.
 1. **Exception:** if the abatement is taking place near the area of an urgent call for cover or a high priority “crime in progress” call, the officer(s) will evaluate the need to respond.
 2. If the officer(s) determine they should respond, they will first advise the ESD crew.
 3. When the priority incident has been resolved, the officer(s) shall return to their assigned abatement crew without delay.
- C. If there are structures or tents erected in the area to be abated, the following procedures shall be followed:
 1. For the safety of ESD personnel, and prior to ESD commencing its abatement of the area containing the structure or tent, officers shall contact anyone associated with the structure or tent and advise the person to gather his or her belongings and leave the area, or be subject to citation or arrest.
 2. This will be considered an enforcement interaction and officers shall follow all Department Policies and Procedures with regard to enforcement, including the activation of their body worn cameras.
 3. If, upon visual observation of the structure or tent, the officers conclude the structure or tent is unoccupied, and there is no apparent safety risk to ESD personnel, the officers will inform ESD personnel.
 4. If the structure or tent is closed, and the officers are unable to clearly determine whether the structure is occupied, the officers shall do the following:

- a. From the exterior of the structure or tent, call out to the potential occupants, identify themselves as San Diego Police Officers, and announce their purpose.
 - b. If the officers receive no response after identifying themselves and announcing their purpose, the officers shall open the structure or tent, announcing themselves as San Diego Police Officers while doing so.
 - c. The officers will visually inspect the interior of the structure or tent for occupants. Property within the structure should be moved only to the extent necessary to determine whether the structure or tent is occupied. Officers should be mindful that this inspection is conducted for the safety of the occupants and ESD personnel.
 - d. When the officers conclude the structure or tent is unoccupied, they will inform ESD personnel.
- D. Enforcement during abatements should be balanced with the need for ESD to complete the abatement operation.
- E. If a physical arrest is made, officers shall request a Neighborhood Policing Team (NPT) unit not assigned to the abatement to assist with the arrest. If an NPT unit is not available, another clear unit assigned to a Neighborhood Policing detail should be requested to respond and take custody of the arrestee to allow the abatement to continue uninterrupted.
- F. Occasionally, officers assigned to work the abatements are asked by ESD Staff to impound identifiable items, as required by ESD procedures. Department Policies and Procedures shall be followed for the impounding of such identifiable found property.