

# TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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21-10

DECEMBER 23, 2021

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## IMPLEMENTATION OF SENATE BILL 98 RELATING TO MEDIA RELATIONS AT FIRST AMENDMENT ACTIVITIES

### **I. PURPOSE**

The purpose of this bulletin is to provide information on section 409.7 of the California Penal Code relating to media at demonstration and protest events.

### **II. BACKGROUND**

Senate Bill 98 added section 409.7 to the California Penal Code and establishes new laws relating to interactions between law enforcement and duly authorized representatives of news services at events where individuals are engaged in activities that are protected pursuant to the First Amendment to the United States Constitution and the California Constitution.

The legislative intent of 409.7 PC is to provide access and protections for journalists and news media consistent with 409.5 PC, which allows for a “duly authorized representative” of any news service, newspaper, or radio or television station, or network to enter areas closed for public health and safety reasons.

### **III. SCOPE**

This Training Bulletin applies to all sworn members of the Department.

### **IV. DEFINITIONS**

Journalists and News Media: refers to a duly authorized representative of any news service, online news service, newspaper, or radio or television station or network.

**V. PROCEDURES**

Section 409.7 of the California Penal Code reads:

**409.7**

(a) If peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in activity that is protected pursuant to the First Amendment to the United States Constitution or Article I of the California Constitution, the following requirements shall apply:

- (1) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed areas described in this section.
- (2) A peace officer or other law enforcement officer shall not intentionally Assault, interfere with, or obstruct the duly authorized representative of any news service, online news service, newspaper, or radio or television station or network who is gathering, receiving, or processing information for communication to the public.
- (3) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network that is in a closed area described in this section shall not be cited for the failure to disperse, a violation of a curfew, or a violation of paragraph (1) of subdivision (a) of Section 148, for gathering, receiving, or processing information. If the duly authorized representative is detained by a peace officer or other law enforcement officer, that representative shall be permitted to contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.

(b) This section does not prevent a law enforcement officer from enforcing other applicable laws if the person is engaged in activity that is unlawful.

(c) This section does not impose, and shall not be used as the basis for, criminal liability.

## VI. Frequently Asked Questions

- A. **Identification of Journalists and Media:** When seeking access to areas closed to the public, journalists and news media must identify themselves to an officer or supervisor at the event. Acceptable forms of identification may include, but are not limited to, valid media credentials issued by any bona fide law enforcement agency, or other suitable identification establishing regular news media affiliation or employment (identification from the agency for whom the individual works).

In the absence of these credentials, identification may also be determined if the person is readily known as a member of a news organization, possesses substantial news equipment or letters of assignment on media letterhead, or credentials from school news publications.

The inability to produce identification does not preclude an individual from being or acting as a member of the media, and decisions related to their identification and access to closed areas should be determined by the circumstances presented and an understanding of 409.7 PC.

- B. **Exclusions:** The provisions of 409.7 are inapplicable to a person(s) who lacks verifiable proof of association or employment with legitimate news service, online news service, newspaper, or radio or television station or network (items such as business cards, broadcast media level equipment, news organization logoed clothing or visible news organization credentialing), as well as those engaged in disseminating information on private social media accounts.

- C. **Role of Supervisors, Public Information Officers (PIO) and Incident Commanders (IC):** If officers are unable to determine whether someone is a journalist or member of the news media entitled to protections established by 409.7 PC, they should request assistance from a supervisor, PIO, or the IC.

A duly authorized representative detained by a peace officer is permitted to contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.

- D. **Additional Considerations:** Persons with a known history of participating and coordinating activities at events as participants and not news media, interfering with police operations, or engaging in criminal conduct should be referred to a supervisor if they identify themselves as a journalist or member of the media and request access to closed areas.
- E. If access is granted to closed areas, members of the media are not permitted entry into a command post or allowed to move through police lines and interfere with police actions. These violations may be cause for removing a journalist from a closed area or charging an offense not precluded by 409.7 PC.

Department members should refer to DP 1.30, 1.31, 4.17, and 8.09, for more information on media relations.

If you have any questions, please contact San Diego Police Lieutenant (~~Deleted – records of security~~).

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Please read at squad conferences and post.