

## 07-002 Loud Party Disturbances

Los Angeles County Sheriff's Department

### FIELD OPERATIONS DIRECTIVE

Field Operations Support Services



## LOUD PARTY DISTURBANCES

### PURPOSE

This directive establishes policy and procedure for handling "Loud Party Disturbances." It replaces FOD 86-30 which previously provided guidance for the handling of residential disturbances only. This directive provides expanded guidance for disturbances inside commercial locations and those occurring on unenclosed lands.

### BACKGROUND

In 2005, our Department received over 56,000 calls for service regarding party disturbances. Whether lawfully or unlawfully located in a private residence, commercial settings, or open areas, these incidents are often dangerous to approach and difficult to disperse when necessary. Although appropriate enforcement action may be undertaken when violations of the law are observed, deputies must be lawfully present to detain and/or arrest violators. Consideration must be given to both statutory law and case law which may limit the circumstances permitting lawful entry into a location or area.

This policy was significantly influenced by the case of *Talamaivao v. County of Los Angeles*. In this case several deputies responded to a loud party call and ultimately dispersed that party. While the exact facts of the case are disputed, the case resulted in a judgement against the County for \$15.9 million. Jurors in the case explained that they did not believe there was sufficient urgency to the disturbance to warrant its termination.

### POLICY AND PROCEDURE

This directive places Loud Parties/Disturbances into three categories:

- Residential Parties - These occur within a private residence. The occupants possess the highest level of privacy interests within their residence.
- Commercial Location Parties - These occur within a non-residential structure owned by a responsible person/entity. They may also occur on unenclosed lands that are under the control of a responsible party. These present a wide range of licensing, legal, and public safety issues. Privacy issues are also present.
- Open-Assembly Parties - These occur on unenclosed lands, or within abandoned structures that are not under the control of a responsible person/entity. These often present public safety issues, and do not

possess the same level of privacy concerns held by residential or commercial location parties.

## **Loud Party Disturbances (Residential or Commercial Location) - First Complaint**

### Desk Operations

Desk personnel shall attempt to obtain the name of the complainant, their address and telephone number. They shall determine the nature of the complaint and create an MDCS Incident Record (Tag). Every additional call for service on a particular incident, not including those from the same complainant, shall be entered as a separate Incident Record and referenced to the incident number of the original call.

### Action of Handling Unit

A complainant who requests to remain anonymous shall not be contacted by a field unit. Observe the disturbance, specifically identifying the following factors:

- Noise level at the street and neighboring residences
- Size and location of the crowd
- Age group of participants
- Observable violations of law
- Condition of participants (drunk, disorderly, etc.)
- The capacity of the facility to accommodate the number of participants
- Time of day and day of week
- Parking and traffic considerations

Contact the host or person in charge of the party/gathering and request cooperation in ending the disturbance. Advise the host of the complaints received, and of any applicable violations of the law. If the host cannot be located, proceed to Second Response procedures.

If the location is within the unincorporated area of the County, advise the host of Los Angeles County Code 13.42.010 and issue a "Loud Party" Disturbance Violation if appropriate (See Handling Parties in the Unincorporated Area of the County, on page #8).

If personnel note the potential for significant problems, the field sergeant shall be notified and, if available, assist with the first contact with the host. In these situations, the first contact with the host should be video and/or audio taped.

## **Continued Disturbance (Residential or Commercial location) - Second or Subsequent Responses**

### Desk Operations Procedures

Desk personnel shall ascertain if the complainant(s) desires to be named as a victim in a Complaint Report. This information shall be entered into the remarks section of the call format. Calls from additional complainants shall be entered as separate calls for service and referenced to the incident number of the

original call for service. A field supervisor shall be assigned to all subsequent calls.

#### Action of Handling Unit

Every effort shall be made to videotape the contact with the *host* and/or complainant on all “return-to”, second or subsequent responses. At a minimum, the contact with the *host and complainant* should be audio taped. Should the complainant wish to sign a private person’s arrest complaint, deputy personnel shall contact the complainant. A private person’s arrest for disturbing the peace should be discouraged to prevent hostilities between the parties. If a complainant insists on making a private person’s arrest and the handling deputy determines there is probable cause for the arrest, the deputy shall take custody of the person(s) arrested (Refer to FOD 02-06).

### **Entry into Residential or Commercial Party Locations**

#### Consent

If a host requests Department assistance to disperse a party, we will render that assistance which is objectively reasonable to abate the disturbance.

#### Search Warrant

As a tool to facilitate the dispersal of a loud party, if a host refuses to cooperate and will not allow deputy personnel entry into the home or grounds (or other structure housing the disturbance), deputy personnel may seek a search warrant. The prior approval of the watch commander is required. The purpose of the search warrant is to authorize entry by deputies to seize specified property (i.e., stereos, amplifiers, speakers, instruments) that are being used to commit the offense. Warrants shall be processed according to MPP Section 5-09/465.50. A warrant is not a judicial order to disperse the party, nor is it an order to arrest the host or participants.

Personnel are not restricted from seeking arrest (Ramey or Steagald) warrants in these matters.

#### Refusal by Magistrate to Issue a Warrant

Should a magistrate refuse to issue a search warrant, *the party/disturbance must be allowed to continue*, and a comprehensive Complaint Report prepared on the incident. In those rare instances where the situation later deteriorates to the point that “exigent circumstances,” as defined below, are present, the section on warrantless entries applies. In cases where department personnel take action subsequent to the magistrate’s refusal to issue a warrant, the watch commander must give prior approval to affect a warrantless entry and must ensure that the situation is markedly different and significantly more aggravated from that earlier presented to the magistrate. This significant change in circumstances must be explained in detail in the Complaint Report resulting from the incident.

#### Warrantless Entry

Department personnel are charged with the responsibility to preserve the peace and have a positive duty to do so. This duty must necessarily be balanced against the privacy rights of the involved parties. In most cases the harm resulting from a loud party is insufficient to permit a warrantless entry. In particularly extreme

cases, this balance may shift in favor of a warrantless entry.

In cases where the elements of a crime have not been established, either through a victim's complaint or a deputy's observation, deputies shall not make uninvited entry into private locations. In cases where the elements of a crime are present, uninvited entry may only be made where justified by the circumstances. The degree of the criminal violation must be balanced against the privacy rights of the locations occupants.

In an unpublished opinion, the California Court of Appeal (4th District) held that officers were justified in making a warrantless entry where music was so loud that "the neighbors could not bear it." Prior to making entry, the officers had attempted to contact the occupants by "pounding on the door" and by having their desk attempt a telephone call to the location. The officers then formed an opinion that the occupants may have been in danger and the officers forced entry to check on their welfare. (*People v. Weise*)

In a Sixth Circuit Court of Appeals case, the court upheld the actions of officers who made entry into the location of an extremely loud noise. The officers arrived in the early morning hours and were greeted by "between four and eight pajama-clad neighbors." The court stated its strong preference for a search warrant. It noted that the officers warrantless search did not fall into any traditionally recognized exception to the warrant requirement. The court did recognize that "the governmental interest in immediately abating an ongoing nuisance by quelling loud and disruptive noise in a residential neighborhood is sufficiently compelling to justify warrantless intrusions under some circumstances." (*People v Rohrig*) Departmental members may make warrantless entry into "loud noise" locations only as a last resort and only in particularly egregious cases.

The following specific policies apply:

- The entry must be specifically authorized by the watch commander. The watch commander must make a determination that a warrant could not be timely obtained.
- The field sergeant shall respond to the location, supervise the entry, and ensure the event is video recorded.
- Warrantless entries shall be considered only when less intrusive methods to quell a disturbance and bring peace have failed.
- Warrantless entries to end a disturbance shall be considered only when the location emanates a noise so loud and disruptive that it substantially interferes with the community's peaceful enjoyment of their homes and neighborhood, e.g., numerous verifiable complaints, neighbors outside their homes in night clothes, observed continual violations of law, etc.
- Warrantless entries in these situations shall be conducted with the limited intent of terminating loud and unreasonable disturbances and only when significant time delays make it impractical or unreasonable to obtain a warrant.

### **Response to Open-Assembly Parties/Disturbances:**

Deputies shall determine the right of the participants to be present at the location. In cases where the participants have committed an act of trespassing, the party shall normally be dispersed. Where participants are lawfully present at the location, deputies shall balance the rights of the community members with those of the participants prior to taking enforcement action.

## **Dispersal Procedures**

### **Tactical Control of the Immediate Area**

When personnel are actively involved in dispersing a large party/disturbance, seeking a search warrant for a large party, etc., consideration should be given to denying additional arriving party goers the ability to enter the location and preventing vehicles containing prospective participants from entering the location.

### **Considerations During Dispersals of Unlawful Assemblies**

In situations where the host of a large gathering and/or those persons attending the gathering have refused to cooperate with Department personnel and have demonstrated a clear, hostile and unlawful intent, personnel may elect to declare an unlawful assembly using the format indicated on SH-CR-551 (Refer to Penal Code Sections 726 and 727). All large party unlawful assembly dispersals shall be videotaped. Prior to dispersing a large gathering, deputy personnel shall develop an operations plan including:

- Sufficient manpower
- Alternatives to mass arrests
- Use of aero unit whenever possible
- Sufficient notice for people to leave the location
- Described exit routes - this may entail some form of traffic control
- Park radio cars off of street, if possible, to allow flow of traffic out of area

## **Code Violations**

Fire Department regulations impose a limit on the number of persons who may be present in a given structure at a given time. Many contract cities also maintain ordinances limiting the manner in which various properties may be used. Because these vary considerably throughout the County, units are required to establish local protocols for their enforcement (see “Unit Commander’s Responsibilities” below).

## **Los Angeles County Ordinances**

Los Angeles County Ordinances can only be utilized within unincorporated areas of the county and within incorporated cities which adopt the County Ordinances to be used within their specific city. Los Angeles County Code 13.42.010, Loud Party Disturbance Violation, provides for the recovery of funds for law enforcement officers responding to loud party incidents after the party provider has been admonished. To facilitate any court action, deputy personnel shall complete and issue a copy of the “Loud Party Disturbance Violation Notice” (SH-CR-623) to the host or person in charge of the disturbance. These forms may be issued for any disturbance (minor or major) within the unincorporated area of the County on the first response to the incident. A copy of the “Loud Party Disturbance Violation Notice” shall be retained at the unit of assignment for at least two years.

## **Pay Parties**

Los Angeles County Code section 13.41.020, Pay Party, prohibits charging an admission fee to parties held in a residential zone. The county ordinance only addresses parties where an admission fee for entry to

the party can be established through evidence or admission of the host or party-goers. Violation of this ordinance may be enforced through citation and/or arrest of the host. This violation alone does not authorize our personnel to order the remaining guests to disperse.

## **Unit Commander Responsibilities**

Unit Commanders are responsible for establishing liaison with their local magistrates and District Attorney's Offices, explaining the Department's loud party policy, and, where possible, gaining their support for the issuance of search warrants to abate loud parties/neighborhood disturbances, when such warrants are legally appropriate.

Unit Commanders are responsible for establishing unit orders which shall include the following content:

- Establish local protocols for the enforcement of relevant city ordinances. A reference document shall be created containing the names and contact numbers necessary to locate and request their assistance. Due to the days/times these incidents typically occur, it will be necessary to include contact information for on-call personnel who may be required to respond after business hours or on weekends.
- Guidelines shall be established to assist personnel in making decisions to call outside agencies for assistance and determining which agency(s) would be appropriate for the circumstances.
- Unit orders shall be created with the policies and procedures of the Fire Department(s) and Building & Safety (or their equivalent) in mind to ensure we are not in conflict with their regulations and/or capabilities.

## **AFFECTED DIRECTIVES/PUBLICATIONS**

Field Operations Directive 86-30, "Policing Neighborhood Parties/Disturbances" is rescinded.

Manual of Policy and Procedure, Section 4-07/030.00 (Disturbance of Peace) - Provides supplemental guidance for the handling of party related events.

Manual of Policy and Procedure, Section 5-07/080.00 (Warrantless Arrests inside Dwellings) - Provides supplemental definition of "exigency"

## **CITES/REFERENCES**

*Fea Talamaivao v. County of Los Angeles (#CV91-5763)* - Commonly referred to as the "Cerritos Bridal Shower" incident.

*U.S. v. Donald P. Rohrig (98 F.3d 1506 (1996))* - Decision of the Sixth Circuit Court of Appeals upholding the warrantless entry of police officers into the location of a disturbance.

*People v. Christopher Michael Weise (87 Cal. App. 4th 1265 (2001))* - Decision of the California Court of Appeal, Fourth District upholding the warrantless entry of police officers into the location of an egregiously loud disturbance and where the officers had concern for the safety of occupants.