

Coalition Concerns with Dispersal Procedures and Requirements in CPD Special Order S03-22

<p>Prohibitions on general dispersal orders</p>	<p>The DC order contains a requirement that, to the extent reasonably possible, MPD officers seek to disperse, control, or arrest <i>individuals</i> engaging in disorderly conduct or violence rather than issuing general dispersal orders, “thus allowing the 1A assembly to continue.” 331-07(c).</p> <p>The DC order contains a prohibition on issuing general dispersal orders on 1A activity unless one of three factors are met (described below.)</p>	<p>The Chicago Order does not prohibit general dispersal orders on 1A activity, and does not prioritize the dispersal of <i>individuals</i> beyond a mention of “targeting specific violent disruptive individuals for enforcement activities” before ordering the dispersal of a crowd or civil disturbance, only “when safe and feasible to do so.” VB2d.</p>
<p>Standards for when dispersal orders are appropriate</p>	<p>The DC order only allows dispersal orders if: 1) a “significant number or percentage” of the assembly fails to adhere to TPM restrictions and other police intervention hasn’t worked or wouldn’t work; 2) a “significant number or percentage” of participants are engaging in or about to engage in unlawful disorderly conduct or violence; or, 3) the Mayor has declared a public safety emergency (with an independent assessment that the declaration is not solely based on 1A activity) AND the Chief of Police determines that the public safety concerns require dispersal. 331.07(d).</p>	<p>The Chicago Order does not contain standards for when it is appropriate to issue dispersal orders, instead stating that they should be used to “provide lawful orders to the crowd and its leaders” and “obtain voluntary compliance to lawful direction and orders.” (VB1)</p>
<p>Requirement to use lesser restrictive methods before dispersal</p>	<p>The DC order only authorizes general dispersal orders of 1A assemblies if efforts to seek voluntarily compliance, issuance of citations, and arresting specific non-compliant persons (with probable cause) have not resulted in substantial compliance, or there is no reasonable likelihood that those efforts would result in substantial compliance. This is a requirement to try lesser restrictive methods before issuing a general dispersal order. 331.07(1)(1).</p>	<p>The Order requires that the incident commander determine whether lesser alternatives may be effective before issuing a dispersal order, but it does not <i>require</i> the actual implementation of any of those alternatives, or specify that they must be used. The section on alternatives also includes the “when safe and feasible” framework, and relies on “containment,” which might be</p>

		another euphemism for kettling. (VB2)
Method of issuing dispersal orders	The DC order requires that dispersal orders are clearly audible and understandable and are given using an amplification system or device. 331.07(e)(1).	The Chicago Order only mentions amplification of the order “when safe and feasible to do so,” and even then, only specifies that that dispersal order <i>may</i> be issued using amplified sound. VB7c.
Designated routes	The DC order requires that MPD “shall provide the participants a reasonable and adequate time to disperse and a clear and safe route for dispersal.” 331.07(e)(1).	<p>The Chicago order only requires incident commanders to ensure that dispersal routes have been designated “when safe and feasible to do so” prior to authorizing a dispersal order (VB4c), but it also requires all dispersal orders to include designated dispersal routes (VB6b). This creates a confusing standard and interferes with supervision and accountability. <i>As an example, an incident commander may determine that it is not safe and feasible to ensure that a dispersal route has been designated, leaving an officer on the street to select a potentially inappropriate or unsafe dispersal route without supervisor review.</i></p> <p>The Chicago Order does not reference time being given for crowds to disperse, or the clarity or safety of the route. Provides no real guidance on the designation of a dispersal route.</p>
Multiple orders given	The DC order requires MPD to issue multiple orders and, if appropriate, to issue the orders from multiple locations, “except where there is imminent danger of personal injury or significant damage to property.” 331.07(e)(2).	<p>The Chicago order does not contain a requirement for dispersal orders to be issued multiple times.</p> <p>The Chicago order only contains an acknowledgement that, when safe and feasible, the audibility of orders <i>may</i> be</p>

		confirmed from multiple locations, but does not require or mention issuing the order from multiple locations. VB7c.
Dispersal of unauthorized and/or unplanned assemblies	The DC order requires that MPD handle unplanned 1A assemblies in substantially the same manner as it handles assemblies with approved plans, and states that it will not base orders to disperse solely on the fact that the assembly has not been approved. 331.07(f)(1)-(2).	The Chicago Order is silent on whether the presence of an unauthorized assembly constitutes unlawful conduct sufficient to support a dispersal order. However, this reading is likely given other mentions of unplanned assemblies: “No permit is required to conduct a demonstration on public sidewalks. While it has been the Department's practice to accommodate planned or unplanned marches whenever possible so as to protect the demonstrator's right to free expression, marchers may be arrested if the march results in a substantial disruption of traffic or disruption of public order.” IIC2b.
Encirclement, containment, kettling	The DC order bans encirclement on 1A assemblies or subparts thereof unless “there is probable cause to believe that a significant number or percentage of the persons located in the area or zone have committed unlawful acts (other than a failure to have an approved assembly plans) and the police have the ability to identify those individuals and have decided to arrest them.” 331.08.	The Chicago Order relies on “containment” and “encirclement” as appropriate crowd responses. VC3c. “Containment” is explicitly authorized as a lesser restrictive alternative to dispersal orders. VB2.
Use of OC spray	The DC order prohibits chemical irritants for the purposes of dispersal of 1A assemblies unless participants or others are committing acts of public disobedience endangering public safety and security. 331.16(b)(2).	The Chicago Order authorizes the use of OC spray on “non-compliant groups, crowds, or an individual taking part in a group or crowd,” and does not explicitly ban its use for dispersal purposes. VII.C2d1.