

Policy # Responding to Complaints from Owners/Managers of Stores Located in Shopping Centers or Malls related to Potential First Amendment Rights Issues.

The following outlines the Mendocino County Sheriff Office's approach to responding to complaints regarding trespass and the potential interference with free speech activities in shopping centers and/or malls open to the public, located in the County's unincorporated area. *The Mendocino County Sheriff's Office shall operate from the presumption that free speech activities are constitutionally protected in shopping centers and/or malls within the unincorporated area and that these are civil matters to be resolved by the judicial system.* This approach is to ensure that Mendocino County Sheriff's Office handles all such complaints regarding potential interference with constitutionally protected rights, from either the public or property owners, with uniformity and diligence. The intent of this policy is to comply with all local, state & federal laws.

- 1) Upon arrival at the scene the responding personnel shall contact the involved parties, namely the person or persons engaged in the alleged First Amendment activities and the person responsible for the complaint or representing the property owner or store manager. Personnel will operate under the presumption that free speech activities are constitutionally protected in shopping centers/and or malls. This presumption shall not apply to stand alone stores.
- 2) Personnel shall gather all information from all parties involved in order to determine if there are any violations of the California Penal Code Section 602(k), violations of Mendocino County Code Section 8.44.010. If there are documented violations of these provisions, personnel shall take appropriate action using your discretion.
- 3) Absent any violations of these provisions, personnel should explain the options to the store manager/ property owner and the petitioners in an attempt to come to a mutual agreement and keep the peace. In many circumstances these disputes can be resolved by discussion and the explanation of the laws and a reasonable compromise, such as the movement of the petitioners or their equipment away from store entrances. Obstruction of access or egress or interference with normal business operations is not permitted.
- 4) Absent any violations of the law, either penal code or local ordinance, the burden is on the property owner to take action as follows.
- 5) The property owner may wish to proceed with a citizen's arrest. Personnel must explain to the property owner the protocols to be followed in making a citizen's arrest.
- 6) Personnel shall further advise the property owner of their right to seek a temporary restraining order, an injunction or other civil remedy to remove petitioners through the judicial process.
- 7) If the activities are part of a labor dispute, and lawful activities related to a labor dispute, inform the property owner that a judicial order will be required prior to taking any action.
- 8) If there is evidence that a member of the public enters a commercial property with the intent to interfere with legitimate business operations, an arrest and conviction may be based on PC § 602(k). Again, this policy does not apply to labor disputes, picketing, or demonstrations.