



September 19, 2025

VIA E-MAIL

Interim Police Chief Paul Yep
San Francisco Police Headquarters
1245 3rd Street, 6th Floor
San Francisco, CA 94158

Re: Recommended Reforms to Prevent Future Interference with Press Rights at Protests

Dear Interim Chief Yep:

Thank you for meeting with us on July 11 to discuss our concerns about the officers' interference with lawful newsgathering at recent protests, as outlined in our previous [letter](#). We are writing to elaborate on the recommended reforms we made during our meeting with you and other department personnel that we believe are essential to ensure officers respect press rights at future protests.

We make the following recommendations:

1. **Dispersal orders:** When giving dispersal orders, officers should state that duly authorized representative of the media¹ are exempt from the order, pursuant to [California Penal Code section 409.7](#). Under [Department General Order 8.03.03\(D\)](#), officers are not required to use any particular words. The SFPD should issue a directive or otherwise inform officers that dispersal orders must state that they do not apply to those protected by Penal Code section 409.7.
2. **Radio communications:** When dispersal orders are given during assemblies, a periodic advisory should be issued over the radio stating the provisions of Penal Code section 409.7.
3. **Laminated cards:** The department should provide officers with laminated pocket cards containing the text of Penal Code section 409.7.
4. **Training:** Develop training materials, in collaboration with press rights stakeholders affiliated with or designated by our organizations, on the statutory and constitutional rights of the press at assemblies.
 - a. **Training refresher course:** Task the Training Division with offering refresher courses for sworn personnel on press protections at assemblies after any event

¹ For a detailed discussion of who qualifies as a protected journalist under Penal Code section 409.7, please refer to this memorandum on the First Amendment Coalition's website: <https://firstamendmentcoalition.org/wp-content/uploads/2025/08/Journalist-Definition-PC-409.7.pdf>.

at which press is detained or there are credible reports of officers interfering with lawful newsgathering.

5. **Directive:** Issue a directive, bulletin or other appropriate notice, created in collaboration with press rights stakeholders affiliated with or identified by our organizations, that provides guidance for ensuring crowd control tactics are in compliance with Penal Code section 409.7.
6. **Public statement:** We request the department issue a public statement committing to taking the necessary steps to take the above actions, to show your commitment to respecting press rights at protests and other assemblies.

We appreciated the dialogue about these concerns during our meeting with you, members of your command staff, media relations division and counsel. Reflecting on our conversation, we offer the following to help guide the city's response to this letter and future policymaking.

Penal Code section 409.7² provides:

(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.

² Penal Code section 409.7, like all statutes that further the people's right of access, must be construed broadly. (Cal. Const., Art. I, § 3(b)(2) ["A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access."].) Just as they do when they request, advocate for access to, and report on public records under the Public Records Act, news media organizations and their representatives act as "guardians of the public" when they report on protests and any response by law enforcement. (See *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774.) As the United States Supreme Court explained in a 1975 case about the news media's right to report truthful information that it obtained from public court records, "[I]n a society in which each individual has but limited time and resources with which to observe at first hand the operations of his government, he relies necessarily upon the press to bring to him in convenient form the facts of those operations." (*Cox Broad. Corp. v. Cohn* (1975) 420 U.S. 469, 491.) "Without the information provided by the press most of us and many of our representatives would be unable to vote intelligently or to register opinions on the administration of government generally" (*Id.* at pp. 492.)

(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 [intentional obstruction], 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.

Thus, as a general matter, (1) journalists must be permitted to enter the area of a protest or a police response to a protest, even if that area is closed or behind a police line and may not lawfully be ordered to leave, (2) law enforcement officers may not intentionally assault, interfere with, or obstruct journalists' news reporting, even if journalists are located in covered closed areas, and (3) journalists in covered closed areas may not be cited for failure to disperse, violating curfew, or under Penal Code section 148(a) (which prohibits, *inter alia*, "willful[] obstruction") for engaging in news reporting and, if detained, must be allowed to speak with a supervisor to challenge their detention "immediately" unless circumstances make that "impossible." (See also **Attachment A** at 18:4-10 [summarizing some of these requirements in an order analyzing and enjoining the City of Los Angeles to comply with sections 409.7].) SFPD's DGO 8.03.03(H), as we noted in earlier correspondence, appears to recognize these rules.

At our meeting, the city suggested that section 409.7 might not prevent officers from dispersing journalists from an area in which others are not complying with a dispersal order, because noncompliance by others would transform the area into a "crime scene" rather than the scene of covered First Amendment activity. We disagree. Section 409.7 says nothing about a crime scene exception and, to the contrary, prohibits citing journalists under Penal Code section 148(a)(1) for engaging in news reporting. Furthermore, as we explained at our meeting, reading a broad "crime scene" exception into section 409.7 would impermissibly swallow the law's protective rule. (See **Attachment A** at 20 n.12 [rejecting the argument that "the inner perimeter during a mass arrest" is a "crime scene from which the media must be excluded to preserve evidence" and is thus excepted from Penal Code section 409.7, stating, "Insofar as Defendants contend that this area is a 'crime scene,' from which media must be excluded to preserve evidence, such an interpretation would render section 409.7 a dead letter."].) A dispersal or closure order under Penal Code section 409 is only lawful if there is a riot, rout, or unlawful assembly in the area, each of which is itself a misdemeanor, so dispersal and closure orders occur at "crime scenes" by definition and recognizing a broad, freestanding "crime scene" exception would read section 409.7's protection against such orders out of existence. (See Pen. Code § 409 ["Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor."]; see also Pen. Code §§ 403-408.) Article I, section 3(b)(2) of the California Constitution confirms that there can be no freestanding "crime scene" exception to section 409.7, as it requires that

statutes be construed in favor of, rather than contrary to, the public's right of access. (See *supra* at fn.2.)

A court case that the city raised at our meeting, *Leiserson v. City of San Diego* (1986) 184 Cal.App.3d 41, does not support reading a broad, freestanding "crime scene" exception into Penal Code section 409.7. *Leiserson* recognized limited "interference" and "crime scene" exceptions to a different statute, Penal Code section 409.5, which grants journalists a right of access to fire and other disaster areas. However, the "crime scene" exception recognized in *Leiserson* could be reconciled with – and was certainly not irreconcilably at odds with – the language and purpose of section 409.5. The opposite would be true of a broad, freestanding "crime scene" exception to section 409.7. Also, *Leiserson* predated, and thus did not consider, Article I, section 3(b)(2) of the California Constitution when recognizing a "crime scene" exception to section 409.5. Accordingly, as noted above, the only court that, to our knowledge, has addressed the issue has rejected the proposition that there is a broad, freestanding "crime scene" exception to Penal Code section 409.7, *Leiserson* notwithstanding. (See **Attachment A** at 20 n.12.)

That stated, *Leiserson's* reasoning is instructive in other respects, especially given that section 1 of SB 98, which created Penal Code section 409.7, states that "It is the intent of the Legislature that this act achieve parity in the access and protections for journalists and news media as those established pursuant to Section 409.5 of the Penal Code." S.B. 98, § 1. First, the *Leiserson* court rejected the argument that section 409.5 "gives the press access to a disaster site only if police personnel determine that such access would be safe," because "the press access provision of subdivision (d) assumes the existence of an already-determined safety hazard. Notwithstanding such a safety hazard, the Legislature has concluded that the public's right to know is more important." (*Id.* at p. 50.) The same is true of Penal Code section 409.7, which likewise reflects the informed judgment of the Legislature that the right to know about protests and protest responses outweighs journalist safety concerns that accompany that right. (See also **Attachment A** at 19 n.10 [stating, citing *Leiserson*, that " 'safety' alone is not a permissible reason to exclude journalists from closed areas"].)

Second, the *Leiserson* court rejected the proposition that "the establishment of a cordoned-off 'press area' at one edge of the crash site" was sufficient to comply "with a statute which specifically authorizes representatives of the press to enter closed areas." (*Ibid.*) The court was not persuaded by the city's argument that "it is unrealistic to believe" that reporters "can have unrestricted access to the disaster area without interfering with the work of emergency crews" or that "the mere presence of large numbers of reporters and photographers will necessarily hamper police, medical and firefighting personnel." (*Ibid.*) The same analysis forecloses a reading of Penal Code section 409.7 that would by default allow the dispersal and exclusion of news media representatives from the area with the exception of a designated "press zone." (See **Attachment A** at 20:7-21 [holding, citing *Leiserson*, that instances in which Los Angeles police officers forced journalists covering protests into designated press areas "violate[d] section 409.7"].)

Finally, and importantly here, *Leiserson* recognized a limited "interference" exception to Penal Code section 409.5 that, in our view, applies to Penal Code section 409.7 as well and significantly mitigates the operational and officer safety concerns that the city expressed at our meeting. It held that "press representatives must be given unrestricted access to disaster sites" under section 409.5 "unless police personnel at the scene reasonably determine that such unrestricted access *will interfere* with emergency operations. If such a determination is made, the restrictions on media access may be imposed for only so long and only to such an extent as

is necessary to prevent actual interference.” (*Id.* at p. 51 [emphasis in original].) Then it held that the exclusion before it did not fall within this narrow “interference” carveout. It explained that the record failed “to demonstrate facts sufficient to justify Leiserson’s exclusion from the crash site on this theory. The defendants failed to show: (1) that unrestricted press access would have actually interfered with the emergency crews’ performance of their duties; and (2) that the designated press area was the maximum access possible under the circumstances,” especially where “Leiserson traversed the crash site for half an hour before his arrest – apparently without interfering with anyone. (*Id.* at p. 51 & n.11.) Earlier this month, a California district court recognized, citing this portion of *Leiserson*, an “actual interference” exception to section 409.7, holding:

Section 409.7 countenances dispersal of journalists from these closed areas only if “police personnel at the scene reasonably determine that such unrestricted access *will interfere* with emergency operations,” and even then the restrictions must be “for only so long and only to such an extent as is necessary to prevent actual interference.” *Leiserson*, 184 Cal. App. 3d at 51 (emphasis in original); Ass. Pub. Safety Comm. Analysis 6, Sen. Bill 98, 2021–2022 Reg. Sess. (citing same).

(**Attachment A** at 19:11-20:5 [emphasis in original]; see also **Attachment A** at 30:17-31:4 [enjoining the City of Los Angeles as follows: “journalists should be permitted to enter and remain in closed areas, notwithstanding a dispersal order, unless “access will interfere with emergency operations, in which case access may be denied for only so long and only to such an extent as is necessary to prevent actual interference.”].)

We take the operational and officer safety concerns expressed by the city at our meeting seriously. We note, however, that Penal Code section 409.7 expressly “does not prevent a law enforcement officer from enforcing other applicable laws if the person is engaged in activity that is unlawful.” (Pen. Code § 409.7(b).) This limitation, coupled with an “actual interference” exception similar to the “actual interference” exception recognized in *Leiserson*, in our view (and in the view of the Legislature in enacting Penal Code section 409.7, as we understand it), appropriately balances operational and officer safety concerns against journalists’ right to cover and the public’s right to know about protests and the response of law enforcement.

We note that an “actual interference” exception to Penal Code section 409.7 would allow a law enforcement agency to exclude journalists from a location in the area of a protest to the limited extent that the exclusion is actually necessary for forensic evidence preservation – and thus to temporarily close a “crime scene,” narrowly defined.³ Any such exclusion should be strictly limited, in distance and duration, to what is necessary to collect and forensically preserve evidence.

Regardless of how Penal Code section 409.7 is interpreted, the First Amendment also separately and independently protects journalists against being compelled to leave the area of a protest or a police response to a protest as part of a general dispersal or closure order, especially on public streets and sidewalks and in other public forums, unless doing so is narrowly tailored to an

³ Even if *Leiserson* supported recognizing a “crime scene” exception to section 409.7 of some kind, any such exception should be limited to circumstances in which closure is necessary to preserve forensic evidence given *Leiserson*’s facts. *Leiserson* involved the closure of the site of an airplane crash that officers testified, and the trial court accepted, “may have been caused by a bomb explosion” intended to assassinate the then-Lieutenant Governor – the sort of crime scene for which forensic evidence preservation may be needed. (*Id.* at p. 46.)

interest like public safety. (See **Attachment A** at 22:9-23:22 [applying this rule to the indiscriminate dispersal of journalists, along with protesters, by the City of Los Angeles in response to protests in Los Angeles this year].) As the Ninth Circuit Court of Appeals has held, “newsgathering is an activity protected by the First Amendment.” (*Leigh v. Salazar* (9th Cir. 2012) 677 F.3d 892, 897.) “Just as streets and sidewalks historically have been recognized as being open to the public, the press has long been understood to play a vitally important role in holding the government accountable.” (*Index Newspapers LLC v. United States Marshals Serv.* (9th Cir. 2020) 977 F.3d 817, 831.) Thus, in 2020, the Ninth Circuit upheld a federal court’s preliminary injunction which ordered, based on the First Amendment, that “journalists and legal observers” covering ongoing protests could “not be subject to arrest for not dispersing following the issuance of an order to disperse,” provided they do “not impede, block, or otherwise physically interfere with the lawful activities” of law enforcement officers. (*Id.* at pp. 823, 831.) It explained that dispersing journalists and legal observers is not “essential or narrowly tailored to serve the government’s interests” where “trained and experienced law enforcement personnel are able to protect public safety without dispersing journalists and legal observers and can differentiate press from protesters, even in the heat of crowd control.” (*Id.* at pp. 832-33.) Journalists “cannot be punished for the violent acts of others,” and the “proper response to potential and actual violence is for the government to ensure an adequate police presence, . . . and to arrest those who actually engage in such conduct, rather than to suppress legitimate First Amendment conduct as a prophylactic measure.” (*Id.* at p. 834 [citations and quotation marks omitted].)

At our in-person meeting, Chief Yep discussed the possibility of removing journalists from the center of a two-ringed police kettling formation while individuals in the center of that formation are brought under control and arrested. In some situations, a limited, temporary removal of journalists of this kind might be permitted under the “actual interference” exception to Penal Code section 409.7 and *Index Newspapers*. To the extent that officers expect to come into physical conflict with arrestees, as Chief Yep proposed at our meeting, and that the presence of journalists in the vicinity of that physical conflict would interfere with the arrests, then journalists could, under the “actual interference” test, be removed from the particular place in which physical conflict is expected to occur for the duration of the physical conflict. When the physical conflict ends, however, representatives of the news media must be allowed to re-enter, even if arrestees are being detained in the area or processed.

Given the fundamental rights at stake and importance of the free flow of information about newsworthy events, we ask that you provide a response to our request within 45 days. We look forward to continuing the conversation. As we hope you agree, the press must be allowed to do its job while officers do theirs.

FIRST AMENDMENT COALITION

Ginny LaRoe
Advocacy Director

Aaron Field
Senior Staff Attorney

SOCIETY OF PROFESSIONAL
JOURNALISTS, NORTHERN CALIFORNIA

Joe Fitzgerald Rodriguez
President

cc: Jennifer Huber, Deputy city attorney, San Francisco Police Department
Evan Sernoffsky, Director of Strategic Communications, San Francisco Police
Department
Daniel Lurie, Mayor, San Francisco
Members of the San Francisco Board of Supervisors
Members of the San Francisco Police Commission

ATTACHMENT A

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES PRESS CLUB et al.,

Case No. 2:25-cv-05423-HDV-E

Plaintiffs,

**ORDER GRANTING PLAINTIFFS’
MOTION FOR PRELIMINARY
INJUNCTION [56]**

v.

CITY OF LOS ANGELES et al.,

Defendants.

1 **I. INTRODUCTION**

2 It is déjà vu all over again.

3 Plaintiffs Los Angeles Press Club (“LA Press Club”) and Status Coup contend that, in the
4 wake of this summer’s protests against immigration raids in Los Angeles, the Los Angeles Police
5 Department (“LAPD”) dispersed or targeted Plaintiffs’ members and other journalists in violation of
6 state law and the First Amendment. In total, Plaintiffs have compiled at least 35 instances between
7 June 6 and July 4, 2025 in which the LAPD excluded members of the media from public areas or
8 subjected them to kinetic impact projectiles, tear gas, and other forms of physical force. As CNN
9 anchor Erin Burnett remarked, while being shoved by an advancing line of LAPD officers, “They
10 knew we’re media. They were just as happy to push me as to push anybody else.” Declaration of
11 Adam Rose (“Rose Decl.”) ¶ 38 [Dkt. 19], Ex. 49 [Dkt. 37]. Plaintiffs accordingly seek an order
12 prohibiting the City of Los Angeles and Chief Jim McDonnell (collectively “Defendants”) from
13 removing journalists from closed areas, detaining or arresting members of the press, and using
14 kinetic impact projectiles and chemical agents against them (“Motion”). [Dkt. 56].¹

15 The present action forms the latest chapter in a long and unfortunate saga of the LAPD’s use
16 of unlawful force against members of the media. In 2000, journalists were struck by projectiles, hit
17 by batons, and subjected to other force as they recorded the LAPD’s dispersal of protests
18 surrounding the Democratic National Convention. Declaration of Carol Sobel (“Sobel Decl.”) ¶ 16
19 [Dkt. 18], Ex. 21 at 1 [Dkt. 33]. The ensuing litigation produced the *Crespo* settlement, which set
20 forth the standards for the LAPD’s treatment of media. *See id.*

21 Then, in 2007, the LAPD “deployed a total of 146 less-lethal impact munitions and over 100
22 uses of the baton” against media and protestors, peaceful or not, at a May Day rally in MacArthur
23 Park. *Multi-Ethnic Immigr. Workers Org. Network v. City of Los Angeles*, 246 F.R.D. 621, 624
24 (C.D. Cal. 2007). In the aftermath, the LAPD acknowledged that the treatment of the media at the
25 rally failed to comply with previous settlements. Sobel Decl. ¶ 23, Ex. 22, at 10–11, 48 [Dkt. 33].

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28 ¹ Plaintiffs provided supplemental briefing in support of a preliminary injunction, which the Court
will construe as a Motion for Preliminary Injunction.

1 The death of George Floyd in May of 2020 sparked protests across the country. Again, the
2 LAPD deployed batons, bean bag shotguns, 37mm and 40mm munitions, and a stinger grenade,
3 including against individuals who were not engaged in criminal behavior. *Id.* ¶ 24, Ex. 23 at 8 [Dkt.
4 34] (acknowledging that this was attributable “at times [to] a lack of adequate training”); *Id.* ¶ 25,
5 Ex. 24 at 19 [Dkt. 35] (recognizing “journalists’ right to cover public protests even if an unlawful
6 assembly is declared and an order to disperse is issued”).

7 Less than a year later, the LAPD used 40mm and 37mm less-lethal launchers at close range
8 on peaceful demonstrators in Echo Park. *Black Lives Matter Los Angeles v. City of Los Angeles*, No.
9 CV-20-5027-CBM-ASX, 2021 WL 3163306, at *2 (C.D. Cal. Apr. 28, 2021). The LAPD took the
10 position that “the media [were] not exempt from the requirement to disperse after an unlawful
11 assembly has been declared.” Sobel Decl. ¶ 28, Ex. 26 at 53 [Dkt. 36].

12 At that point, the California Legislature stepped in. “[I]n response to the use of force against
13 journalists covering protests, marches etc,” the California Legislature enacted new protections for
14 media covering protests. Sen. Pub. Safety Comm. Analysis 5, Sen. Bill 98, 2021–2022 Reg. Sess.
15 Senate Bill 98, codified at California Penal Code section 409.7, clarified that “duly authorized”
16 members of the press may access areas closed due to a protest, march, or other demonstration. Cal.
17 Penal Code § 409.7(a)(1). Assembly Bill 48 (“AB 48”), codified at California Penal Code
18 section 13652, limited the use of kinetic energy projectiles and chemical agents—including kinetic
19 impact projectiles and tear gas—to “objectively reasonable” circumstances and only in accordance
20 with certain requirements. Cal. Penal Code § 13652(b), (d).² In summary, the California legislature
21 weighed the competing interests of local police departments, journalists, and the public and
22 concluded that the media must be exempt from dispersal orders and protected from indiscriminate
23 volleys of crowd control weapons.

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26 ² See also Sobel Decl. ¶¶ 30–31, Ex. 80 [Dkt. 37] (memorandum from then-LAPD Chief of Police to
27 the Board of Police Commissioners on December 8, 2021, outlining the new requirements set out by
28 SB 98 and AB 48).

1 This action tests whether these protections have any teeth. Plaintiffs maintain that the plain
2 language of sections 409.7 and 13652 prohibits Defendants' practices, and warrants injunctive relief
3 given the cannonade of evidence submitted here. The Court agrees. After a careful and thorough
4 review of the record presented, the Court concludes that the LAPD's heavy-handed efforts to police
5 this summer's protests violated state law, as well as the federal Constitution. If the rule of law is to
6 have any effect, it must protect Plaintiffs here. Plaintiffs' Motion is granted.

7 **II. BACKGROUND**

8 **A. Factual Background³**

9 **1. Dispersals and detentions of journalists**

10 Plaintiffs present numerous declarations (many with supporting video) attesting to dispersals
11 and/or detentions of journalists by LAPD officers. The Court summarizes the most salient examples
12 here.

- 13 • On June 8, LAPD officers held a group of approximately 20 to 30 journalists from MSNBC,
14 CNN, the AP, and other outlets in a "press area," behind their SUVs, from which the officers
15 retrieved equipment. Declaration of Constanza Eliana China Mercado ("China Decl.")
16 ¶¶ 12–21 [Dkt. 22], Ex. 43 [Dkt. 37]; Declaration of Officer Bryan Dameworth ("Dameworth
17 Decl.") ¶¶ 5–10 [Dkt. 69-68], Ex. C [Dkt. 69-6] (requiring members of the press to back up
18 behind LAPD vehicles). LAPD body worn video shows that the journalists did not interfere
19 with officers' access to their vehicles. *Id.*
- 20 • That same evening, photographer Montez Harris was kettled alongside a group of protestors.
21 Despite informing officers that he was press, LAPD officers pushed Harris and the group
22 against a wall. Declaration of Montez Harris ("Harris Decl.") ¶¶ 2, 4, 8 [Dkt. 27].

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25 ³ The Court denies Defendants' evidentiary objections. [Dkt. 69-2]. Because of the extraordinary
26 nature of a motion for injunctive relief, "a district court may consider evidence outside the normal
27 rules of evidence, including: hearsay, exhibits, declarations, and pleadings." *Nat'l Rifle Ass'n of*
28 *Am. v. City of Los Angeles*, 441 F. Supp. 3d 915, 926 (C.D. Cal. 2019) (citing *Johnson v. Couturier*,
572 F.3d 1067, 1083 (9th Cir. 2009). To the extent that declarants render improper opinion
testimony or legal conclusions, the Court does not consider them.

- 1 • On June 9, the LAPD detained CNN reporter Jason Carroll and his crew while they were live
2 on air, warning that he would be arrested if he returned to the area. Rose Decl. ¶ 39, Ex. 50
3 [Dkt. 37]. While Carroll and his crew were not arrested, they were nonetheless forced to
4 leave the area. Declaration of Commander Ryan Whiteman (“Whiteman Decl.”) ¶ 15d [Dkt.
5 69-47], Ex. N [Dkt. 69-12].
- 6 • On June 10, an LAPD officer forced Tina Berg, a journalist with Status Coup and a member
7 of the LA Press Club, from her position on an embankment, over 100 feet from protestors.
8 Declaration of Tina Berg (“Berg Decl.”) ¶¶ 2–4 [Dkt. 28]; Declaration of Jordan Chariton
9 (“Chariton Decl.”) ¶ 2 [Dkt. No. 25]. The officer advised that it was for her safety.
10 Declaration of Lt. Jasmin Gomez (“Gomez Decl.”) ¶ 21 [Dkt. 69-4], Ex. V at 20:26:58–
11 20:48:46 [Dkt. 69-69].
- 12 • On June 10, LAPD officers on the corner of Fourth and Olive chased away multiple people
13 wearing helmets clearly labeled “PRESS” and carrying large cameras, ordering them to leave
14 the area. Rose Decl. ¶ 43, Ex. 56 [Dkt. 37]. No protestors are visible in the vicinity. *Id.*
- 15 • On June 11, the LAPD kettled a group of press, including a Fox News journalist and
16 freelancers, in front of City Hall. Rose Decl. ¶ 48, Exs. 61–64 [Dkt. 37]. Though they
17 pointed out that they were credentialed media, the journalists were not permitted to leave. *Id.*
- 18 • On July 4, LAPD officers kettled Sean Beckner-Carmitchel, Lexis-Olivier Ray, and other
19 members of the press in the MOCA Geffen parking lot. Supplemental Declaration of Sean
20 Beckner-Carmitchel (“Supplemental Beckner-Carmitchel Decl.”) ¶ 4 [Dkt. 43-1];
21 Supplemental Declaration of Adam Rose (“Supplemental Rose Decl.”) ¶ 5 [Dkt. 43-2]. The
22 LAPD eventually escorted the press away after calling a commanding officer to request a
23 media escort. Gomez Decl. ¶¶ 19–20, Ex. T at 19:45:40–19:47:41 [Dkt. 69-18], Ex. U at
24 19:44:04–19:48:32 [Dkt. 69-19].

2. Use of Force

When journalists were able to remain among the protestors, they faced an onslaught of physical force. On multiple occasions, the LAPD used projectiles, tear gas, or other uses of force on individuals who bore markers distinguishing them as press and (in some cases) stood apart from protestors.⁴

- On June 8, freelance journalist and LA Press Club member Sean Beckner-Carmitchel and other journalists were forced to leave a parking garage, as the LAPD teargassed protestors throwing fireworks and other projectiles. Declaration of Sean Beckner-Carmitchel (“Beckner-Carmitchel Decl.”) ¶¶ 1, 5–6 [Dkt. 20], Ex. 37 [Dkt. 37]; Rose Decl. ¶ 30, Ex. 38 [Dkt. 37]; Gomez Decl. ¶ 39, Ex. LL at 19:31:15–19:32:29 [Dkt. 69-36]. In the aftermath, video evidence shows an LAPD officer pushing an unidentified woman photographer with press identification and multiple professional cameras as she attempts to disperse. Beckner-Carmitchel Decl. ¶¶ 5–6, Ex. 36 [Dkt. 37]. A mounted officer ran his horse into her from behind. *Id.* Video evidence does not show any violent activity near the photographer. Gomez Decl. ¶ 39, Ex. LL at 19:31:15–19:32:29.
- On the same day, Lauren Tomasi of 9News Australia was speaking into a professional TV camera, dozens of feet from the line of officers behind her. Rose Decl. ¶ 26, Ex. 30 [Dkt. 37] (news footage of the incident). Protestors are visible behind, but not immediately near her. *Id.* Despite this, an LAPD officer aims in Tomasi’s direction, hitting her leg with a rubber bullet. *Id.*; Gomez Decl. ¶ 9, Ex. J [Dkt. 69-8]. The officer shouts that the protestors are “throwing” objects, but this is not visible from the officer’s body worn video before or at the time he shoots Tomasi. *Id.* at 17:09:37.
- On June 9, Michael Nigro, a photographer whose work is regularly published by Getty Video, AP Wire, and others, stood on a pedestrian overpass, which offered views of the protest from above. Declaration of Michael Nigro (“Nigro Decl.”) ¶¶ 2, 5–6 [Dkt. 26].

⁴ LAPD uses three different types of LLMs: the 40mm less-lethal launcher, the 37mm less-lethal launcher, and the FN 303 less-lethal launcher. Whiteman Decl. ¶ 3. The Court collectively refers to these as “crowd control weapons.”

1 Though he was clad in a helmet and vest clearly reading PRESS and was far above the
2 protest activity, he heard projectiles hitting the bridge near him three times at approximately
3 5:43 p.m. *Id.* ¶¶ 5–7, 16. LAPD body worn video confirms Nigro is standing on the bridge
4 far from protest activity just before 5:43pm. Whiteman Decl. ¶ 15b, Ex. K at 17:41:56–
5 17:42:45 [Dkt. 69-9]; *id.* at 17:41:57 (three shots audible).

- 6 • On June 9, an LAPD officer shot Jeremy Lindenfeld, a Capital & Main reporter and member
7 of the LA Press Club, with a rubber bullet in the abdomen from approximately 25 feet away.
8 Rose Decl. ¶ 36, Ex. 46 [Dkt. 37]. Mr. Lindenfeld wore a press ID and a helmet emblazoned
9 with “PRESS.” *Id.*
- 10 • On June 11, Harris, who carried two large, professional cameras, informed an LAPD officer
11 on horseback that he was a member of the press. Harris Decl. ¶ 5. The officer stated that
12 Harris did not have a pass, so he would need to leave. Gomez Decl. ¶¶ 34–35, Exs. GG, HH
13 [Dkts. 69-31, 69-32]. Harris began to walk away, but the officer ran into him with his horse
14 and threatened to hit him with his baton for failing to disperse quickly enough. Harris Decl.
15 ¶ 6; Gomez Decl. ¶¶ 34–35, Exs. GG, HH. Another officer shot him in the back of the leg
16 with an LLM. Harris Decl. ¶ 6.; Gomez Decl. ¶ 36, Ex. II at 18:52:15–18:52:37 [Dkt. 69-
17 33].
- 18 • On June 14, photojournalist Héctor Adolfo Quintanar Perez was covering the aftermath of
19 the No Kings protest, wearing a large press badge and carrying two professional cameras.
20 Declaration of Héctor Adolfo Quintanar Perez (“Perez Decl.”) ¶¶ 2–3 [Dkts. 23–24]; Rose
21 Decl. ¶ 54, Ex. 13 [Dkt. 32]. While Perez was taking photos of the skirmish line, an LAPD
22 officer—standing close enough to see his press badge—shot him with an LLM in the knee.
23 Perez Decl. ¶¶ 7–8; Rose Decl. ¶ 54, Ex. 10 [Dkt. 32] (showing the distance from which the
24 LAPD officer fired); Gomez Decl. ¶ 24, Ex. Y [Dkt. 69-23]. As of the date of his
25 declaration, Perez lives with pain and walks with a cane. Perez Decl. ¶ 11.
- 26 • On the same day, ABC News chief national correspondent Matt Gutman was reporting live,
27 many feet from the protestors, when an officer shoved him from behind. Rose Decl. ¶ 51,
28 Ex. 68 [Dkt. 37]; Whiteman Decl. ¶ 15f., Ex. Q [Dkt. 69-61]. The LAPD avers that Gutman
interfered with their ability to form a skirmish line along that crosswalk. *Id.* Not long after,

1 officers yelled at and shoved Gutman for brushing past an officer's back, again many feet
2 from protestors. Rose Decl. ¶ 51, Ex. 69 [Dkt. 37]; Whiteman Decl. ¶ 15f., Exs. R, S
3 [Dkts. 69-16, 69-17].

4 On other occasions, the evidence presented credibly shows that the LAPD fired
5 indiscriminately at crowds that included members of the press. For example, on June 8, the LAPD
6 discharged "skip-fire" rounds into a group of protestors and journalists, hitting CalMatters reporter
7 Sergio Olmos.⁵ Rose Decl. ¶ 32, Ex. 40 [Dkt. 37]; Gomez Decl. ¶ 47, Ex. TT [Dkt. 69-44]. On June
8 14, LAPD officers fired rubber bullets into the crowd, hitting photographer Marshall Woodruff,
9 slicing open his right eye, and leaving him with potentially permanent vision loss. Rose Decl. ¶ 53,
10 Ex. 70 [Dkt. 37]. On the same day, an unidentified reporter for Agence France-Presse wearing a
11 helmet with AFP stickers and a press patch across their chest was shot in the face and leg,
12 approximately 90 feet from police. Rose Decl. ¶ 56, Exs. 73–74 [Dkt. 37]. And an LAPD mounted
13 officer charged 82-year-old photographer David Healy with his horse, knocking Healy to the ground
14 and breaking one of his ribs. *Id.* ¶ 55, Ex. 72. *See* Gomez Decl. ¶¶ 28–29, Ex. AA at 16:02:05–
15 16:05:35 [Dkt. 69-25] and Ex. BB at 16:05:00–16:05:30 [Dkt. 69-26] (showing LAPD officers
16 pushing Healy, who had no visible press pass but carried two professional cameras, and running into
17 him on horseback).

18 Other members of the media were tear gassed while among the crowds. *See, e.g.,* Rose Decl.
19 ¶ 44, Ex. 57 [Dkt. 37] (Lauren Day of ABC News reporting being tear gassed in Little Tokyo on
20 June 10); *id.* ¶ 57 [Dkt. 37] (photojournalist Tod Seelie teargassed multiple times on June 14);
21 China Decl. ¶¶ 25–28, Ex. 78 [Dkt. 37] (reporting being teargassed on June 14, without warning).

22 **B. Organizational Plaintiffs**

23 The LA Press Club is a 501(c)(3) nonprofit organization, offering scholarship and fellowship
24 opportunities, educational and professional networking events, and awards programs for 1,000
25 member journalists, as well as non-member journalists, in Southern California,. Rose Decl. ¶¶ 2, 5.
26

27 ⁵ "Skip-firing" refers to the practice of aiming munitions rounds at the ground in front of protestors
28 so that they bounce toward people rather than hitting them directly. Rose Decl. ¶ 32, n.11.

1 In the wake of the George Floyd protests in 2020, the LA Press Club created the role of Press Rights
2 Chair to track journalists' interactions with law enforcement, lobby for greater protections for press,
3 and engage law enforcement agencies and civic officials about the rights of journalists. *Id.* ¶¶ 6–10,
4 15–17, 22–23. For example, the LA Press Club worked with a coalition of press advocacy groups to
5 support SB 98 and AB 48. *Id.* ¶ 8. Since June 6, the LA Press Club has diverted significant time
6 and resources to assist injured journalists with medical and legal services, provide tips on safety and
7 access during protests, and document press rights violations, including the alleged violations here.
8 *Id.* ¶¶ 20–21, 24. Because of these efforts, Secretary and Press Rights Chair Adam Rose had to
9 divert time and resources from fundraising and award programs, including its annual Journalism
10 Awards Dinner, devoting over a 100 hours in the first month alone. Rose Decl. ¶¶ 1, 20.

11 Status Coup is a progressive, independent investigative reporting network and media outlet,
12 providing on-the-ground reporting to over 3,000 paying members. Chariton Decl. ¶ 1. In service of
13 its mission, Status Coup devotes significant resources to in-field and investigative reporting of
14 protests, strikes, political rallies, and other mass events. *Id.* ¶ 3. Status Coup's mission relies on its
15 journalists' ability to be in close proximity to police and protestors during these events. *Id.* ¶ 4; *id.*
16 ¶ 7 (noting that it derives a large portion of its income from licensing videos captured at protests and
17 other exigent events). The LAPD's response to protests since June 6 has frustrated Status Coup's
18 ability to provide the "on the ground" coverage on which it prides itself and on which its business
19 model depends. *Id.* ¶¶ 6–10. Instead, Status Coup has been forced to make and distribute content
20 advocating for its journalists' safety. *Id.* ¶ 8.

21 C. Expert Declarations

22 Plaintiffs produce declarations from Roger Clark, a police practices expert, and Dr. Rohini
23 Haar, a licensed physician specializing in Emergency Medicine. Declaration of Roger Clark ("Clark
24 Decl.") [Dkt. 56-2]; Declaration of Dr. Rohini Haar ("Haar Decl.") [Dkt. 56-3]. The Court finds
25 each is a qualified, credible, and persuasive expert witness, and considers their testimony herein.

26 1. Roger Clark

27 Clark draws on his twenty-seven year career at the Los Angeles County Sheriff's Department
28 ("LASD"). Clark Decl. ¶¶ 3–4. While staffed on the LASD Emergency Operations Bureau, Clark

1 wrote and trained personnel on procedures for natural disasters and civil disorders. *Id.* ¶ 4. He
2 applied these procedures when he held command responsibilities during the Rodney King Uprisings
3 of April and May 1992, and during the 1984 Olympics. *Id.* Since his retirement, Clark has provided
4 expert reports and testimony on litigation arising from police responses to civil disturbances in Los
5 Angeles, Long Beach, San Diego, and Davis, California. *Id.* ¶ 9.

6 Based on his expertise, Clark opines that the LAPD is amply capable of protecting civilians,
7 themselves, and property without deploying crowd control weapons against members of the media
8 who pose no threat of imminent harm. *Id.* ¶ 10. He further opines that the LAPD is capable of
9 permitting journalists in closed areas without sacrificing public safety or its own safety. *Id.* ¶ 11.

10 **2. Dr. Rohini Haar**

11 Dr. Haar is an attending physician in the Department of Emergency Medicine at Kaiser
12 Hospital in Oakland, California, and adjunct professor at the University of California, Berkeley
13 School of Public Health. Haar Decl. ¶¶ 3–4. Dr. Haar’s research focuses on the impacts of violence
14 and human rights violations on health, including the use and abuse of crowd control weapons like
15 tear gas and kinetic impact projectiles. *Id.* ¶¶ 4, 6–10, Ex. A.

16 Based on her research and experience, Dr. Haar concludes that crowd control weapons can
17 cause significant and long-lasting health harms—from respiratory damage to blunt force trauma to
18 serious injury, permanent disability and death—if they impact critical parts of the body. *Id.* ¶¶ 17–
19 28, 44–64. In particular, some kinetic impact projectiles can be as lethal as conventional live
20 ammunition. *Id.* ¶¶ 19, 22–28.

21 **D. Procedural Background**

22 LA Press Club and Status Coup initiated the instant action against the City of Los Angeles
23 and LAPD Chief Jim McDonnell in his official capacity. Complaint [Dkt. 1]. Plaintiffs allege that
24 the LAPD violated Plaintiffs’ First Amendment right of access and right to be free from retaliation;
25 violated Plaintiffs’ rights under Article I of the California constitution; violated California Penal
26 Code sections 409.7 and 13652; and violated the Tom Bane Civil Rights Act, Cal. Civil Code § 52.1.
27 *Id.* ¶¶ 45–53.
28

On July 3, 2025, Plaintiffs moved for a temporary restraining order enjoining Defendants from dispersing, citing, arresting, or assaulting journalists present at protests and from using crowd control weapons or other force against journalists who pose no imminent threat of serious harm. *Ex Parte* Application for Temporary Restraining Order 1 [Dkt. No. 16]. On July 10, 2025, the Court granted Plaintiffs’ Application and enjoined the LAPD from prohibiting journalists from entering or remaining in closed areas and from using crowd control weapons against journalists who are not posing a threat of imminent harm to an officer or another person (“TRO Order”). [Dkt. 44]. The Court ordered the LAPD to summarize the TRO Order and disseminate its contents to all LAPD officers within 72 hours. *Id.* at 13. The Court also set a briefing schedule for a hearing on a preliminary injunction. *Id.* at 14.

The parties twice stipulated to extend the TRO. [Dkts. 46, 59]. On August 13, 2025, Plaintiffs moved for contempt against Defendants. *Ex Parte* Application for Contempt [Dkt. 63]. The Court heard argument on Plaintiffs’ Motion for a Preliminary Injunction and Motion for Contempt. [Dkt. 78]. Following the hearing, the Court extended the TRO by 14 days or until the Court issues a decision on Plaintiffs’ Motion for a Preliminary Injunction. [Dkt. 79].

III. LEGAL STANDARD

To prevail on a motion for a preliminary injunction, the movant must establish that (1) it is likely to succeed on the merits, (2) it is likely to suffer irreparable harm absent the preliminary injunction, (3) the balance of equities tips in its favor, and (4) a preliminary injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Meinecke v. City of Seattle*, 99 F.4th 514, 521 (9th Cir. 2024). Where the non-movant is a government entity, “the third and fourth factors . . . merge.” *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 695 (9th Cir. 2023) (en banc).

In the Ninth Circuit, the *Winter* factors may be evaluated on a sliding scale such that “a stronger showing of one element may offset a weaker showing of another.” *Id.* at 684 (citing *Recycle for Change v. City of Oakland*, 856 F.3d 666, 669 (9th Cir. 2017)). “When the balance of equities tips sharply in the plaintiff’s favor, the plaintiff must raise only serious questions on the merits—a lesser showing than likelihood of success.” *Id.* (citation omitted).

1 **IV. DISCUSSION**

2 **A. Supplemental Jurisdiction**

3 Defendants first contend that this Court does not have supplemental jurisdiction over
4 Plaintiffs' section 409.7 claim. Opposition at 5 (citing 28 U.S.C. § 1367; *Pell v. Procunier*, 417 U.S.
5 817, 833–34 (1974)). More specifically, Defendants argue that the California claim shares no
6 common nucleus of operative facts with the federal First Amendment claims since the former, but
7 not the latter, gives journalists a right to enter areas closed to the public. *Id.* The Court disagrees.

8 Claims that arise from the same “transaction or occurrence” undoubtedly share a “common
9 nucleus of operative fact,” but the common nucleus test is broader than that: it “requires only that the
10 jurisdiction-invoking claim and the supplemental claim have some loose factual connection.” *See*
11 *Elements Spirits, Inc. v. Iconic Brands, Inc.*, No. 15-cv-02692-DDP-AGR_x, 2015 WL 5470297, at
12 *4 (C.D. Cal. Sept. 17, 2015); *Pac. Steel Grp. v. Commercial Metals Co.*, 600 F. Supp. 3d 1056,
13 1079 (N.D. Cal. 2022); 13 Wright & Miller’s Federal Practice & Procedure § 3567.1 (3d ed. 2025).
14 Plaintiffs’ claims under section 409.7 certainly share this loose factual connection and arise out of a
15 common nucleus of operative facts with their federal First Amendment claim. The alleged
16 violations of both sources of law occurred at the same protests, on the same days, involving the same
17 people—both journalists and officers.

18 Moreover, while section 409.7 does grant journalist a right of access to areas closed to the
19 public, Cal. Pen. Code § 409.7(a)(1), it also protects them from assault and interference with
20 newsgathering, *id.* § 409.7(a)(2), and from certain penalties for failure to disperse, *id.* § 409.7(a)(3).
21 These latter provisions are even more closely aligned with the First Amendment’s protections.
22 Indeed, many of the same facts that establish violations of section 409.7(a)(2) will also support an
23 inference of First Amendment retaliation. And injunctions guaranteeing the rights protected by
24 409.7(a)(3) have been issued and upheld on First Amendment grounds. *See Index Newspapers*
25 *LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 823, 831 (9th Cir. 2020) (denying Defendants’ motion for
26 a stay). To draw a line between section 409.7(a)(1) on the one hand and sections 409.7(a)(2) and (3)
27 and the First Amendment on the other and say they rest on different facts is to slice the salami too
28 thin. The Court has supplemental jurisdiction over Plaintiffs’ section 409.7 claims.

1 Defendants next ask this Court to decline supplemental jurisdiction over Plaintiffs’ state law
2 claims, on the basis that they require novel interpretation of state law and predominate over
3 Plaintiffs’ federal claim. Opposition at 6–7; *see* 28 U.S.C. § 1367(c)(1), (2). The Court refuses to
4 do so. While Defendants correctly note that no other court has analyzed and applied either section
5 409.7 or 13652 (both of which have only been in effect since 2022), this does not justify a rejection
6 of the Court’s responsibility to apply state law. Here, the Court need not advance a novel or
7 complex application of state law because the plain meaning of the statute and the legislature’s clear
8 intent suffices to resolve the question before it.⁶ As discussed, *infra*, section 409.7 parallels section
9 409.5, which *has* been interpreted, answering many of the open questions troubling Defendants. *See*
10 *Leiserson v. City of San Diego*, 184 Cal. App. 3d 41 (1986); 67 Cal. Op. Att’y Gen. 535 (1984). In
11 short, this Court is competent and able to adjudicate Plaintiffs’ state law claims.

12 The Court similarly finds that Plaintiffs’ state law claims do not predominate in a way that
13 justifies declining supplemental jurisdiction. As already discussed, the claims are likely to overlap
14 in terms of proof and in terms of the scope of relief. *See United Mine Workers of Am. v. Gibbs*, 383
15 U.S. 715, 726–27 (1966) (“[I]f it appears that the state issues substantially predominate, whether in
16 terms of proof, of the scope of the issues raised, or of the comprehensiveness of the remedy sought,
17 the state claims may be dismissed without prejudice and left for resolution to state tribunals.”). The
18 Court will therefore exercise its discretion to assert supplemental jurisdiction over Plaintiffs’ state
19 law claims.

20
21
22
23 ⁶ The Court applies the California Supreme Court’s clear guidance:

24 [O]ur task is to ascertain the intent of the Legislature so as to effectuate the purpose
25 of the enactment. We look first to the words of the statute, which are the most reliable
26 indications of the Legislature’s intent. We construe the words of a statute in context,
27 and harmonize the various parts of an enactment by considering the provision at issue
in the context of the statutory framework as a whole. If the statutory language
supports more than one reasonable construction, then we may look to extrinsic aids,
including the ostensible objects to be achieved and the legislative history.

28 *Rodriguez v. Superior Ct.*, 15 Cal. 5th 472, 496–97 (2023) (cleaned up).

1 **B. *Pullman* Abstention**

2 Defendants also assert that the Court should abstain from hearing this case pursuant to
3 *Railroad Comm’n of Tex. v. Pullman Co.*, 312 U.S. 496 (1941). A court has discretion to abstain
4 under *Pullman* only in very limited circumstances where: (i) a case touches on a sensitive area of
5 social policy that is best left to the states; (ii) a federal constitutional issue could be avoided (or
6 mooted or narrowed) by a definitive state court ruling on state law issues; and (iii) proper resolution
7 of the state law issue is uncertain. *Fireman’s Fund Ins. Co. v. City of Lodi*, 302 F.3d 928, 939–40
8 (9th Cir. 2002). The Ninth Circuit has further cautioned that abstention is generally inappropriate in
9 First Amendment cases, since (1) there is a risk that the delay that results from abstention will chill
10 the exercise of the rights the plaintiffs seek to protect, and (2) the guarantee of free expression is
11 always an area of particular federal concern. *See Chula Vista Citizens for Jobs and Fair*
12 *Competition v. Norris*, 782 F.3d 520, 528 (9th Cir. 2015); *Wolfson v. Brammer*, 616 F.3d 1045, 1066
13 (9th Cir. 2010).

14 *Pullman* abstention “is intended . . . to avoid a collision between the federal courts and
15 state . . . legislatures,” as well as “to prevent the premature determination of constitutional
16 questions.” *Porter v. Jones*, 319 F.3d 483, 492 (9th Cir. 2003) (citations omitted). In the
17 paradigmatic case, courts may abstain to enjoin state or local officers from enforcing an allegedly
18 unconstitutional state law, on the theory that the state courts may cabin a statute to moot the federal
19 constitutional concern. Here, the Court is presented with the reverse situation—*i.e.*, where
20 California’s state law is more protective of Plaintiffs’ rights than the federal constitution. In this
21 instance, there is no argument that sections 409.7 and 13652 are unconstitutional, and there is no risk
22 of conflict between this federal court and the California Legislature.

23 As the Court has already explained, the fact that the state courts have not yet interpreted and
24 applied these particular statutes does not leave this Court completely rudderless. *See Fireman’s*
25 *Fund*, 302 F.3d at 940 (“The fact that a state court has not ruled on the precise issue at stake in this
26 case does not mean that the proper resolution of the state law issue is ‘uncertain.’”); *see also Pearl*
27 *Invest. Co. v. City & Cnty. of San Francisco*, 774 F.2d 1460, 1465 (9th Cir. 1985) (“Uncertainty for
28

1 purposes of *Pullman* abstention means that a federal court cannot predict with any confidence how
2 the state’s highest court would decide an issue of state law.”).

3 Finally, abstention is particularly inappropriate here, where Plaintiffs present First
4 Amendment issues—an area of particular federal concern—and where any delay will chill the
5 exercise of those same rights.

6 C. Standing

7 To establish the “irreducible constitutional minimum of standing,” a plaintiff must have
8 suffered an “actual or imminent” injury in fact, such that the injury is “fairly trace[able]” to the
9 defendant’s challenged conduct and the injury is likely to be “redressed by a favorable decision.”
10 *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (citations omitted). Plaintiffs establish standing
11 for prospective injunctive relief when they allege “either ‘continuing, present adverse effects’” of a
12 defendant’s past illegal conduct, “or ‘a sufficient likelihood that [they] will again be wronged in a
13 similar way.’” *Villa v. Maricopa Cnty.*, 865 F.3d 1224, 1229 (9th Cir. 2017) (first quoting *O’Shea v.*
14 *Littleton*, 414 U.S. 488, 495–96 (1974), and then quoting *City of Los Angeles v. Lyons*, 461 U.S. 95,
15 111 (1983)). Moreover, Plaintiffs may show that an injury is likely to recur in “at least two ways:”
16 they may show that the injury “stems from” the defendant’s written policy, or that the harm is “part
17 of a ‘pattern of officially sanctioned . . . behavior, violative of the plaintiffs’ [federal] rights.’”
18 *Nordstrom v. Ryan*, 762 F.3d 903, 911 (9th Cir. 2014) (first quoting *Armstrong v. Davis*, 275 F.3d
19 849, 861 (9th Cir. 2001) and then quoting *LaDuke v. Nelson*, 762 F.2d 1318, 1324 (9th Cir. 1985)).

20 An organization may sue on behalf of its members when: “(1) its members would otherwise
21 have standing to sue in their own right; (2) the interests it seeks to protect are germane to the
22 organization’s purpose; and (3) neither the claim asserted nor the relief requested requires the
23 participation of individual members in the lawsuit.” *Am. Unites for Kids v. Rousseau*, 985 F.3d
24 1075, 1096 (9th Cir. 2021) (citing *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343
25 (1977)). Absent a member with standing, an organization may still have standing to vindicate its
26 own interests if it was injured in its own right. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379
27 n.19 (1982). Direct organizational standing can be satisfied if the organization alleges that a
28 defendant’s actions “affected and interfered with [a plaintiff organization’s] core business

activities[.]” *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 395 (2024). The Ninth Circuit has “further specified that an organization has direct standing to sue where a defendant’s behavior has ‘frustrated its mission and caused it to divert resources in response to that frustration of purpose.’” *Immigrant Defs. L. Ctr. v. Noem*, 145 F.4th 972, 987 (9th Cir. 2025) (quoting *East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 663 (9th Cir. 2021)).

Here, LA Press Club and Status Coup have standing on behalf of their members as well as for their own injuries. Both organizations have members who suffered injuries sufficient to confer standing in their own right. *See* Beckner-Carmitchel Decl. ¶¶ 1, 5–6, Ex. 36 (member of LA Press Club dispersed from closed area); Berg Decl. ¶¶ 2–4 and Rose Decl. ¶ 40 (Status Coup journalist and member of LA Press Club dispersed from closed area); Rose Decl. ¶ 36, Ex. 46 (member of the LA Press Club shot in the abdomen); *id.* at ¶ 19 (at least seven LA Press Club members affected since June 6). Both organizations seek to protect the right of journalists to safely “cover and report news without government interference,” an interest clearly germane to their purposes. *Cal. First Amend. Coal. v. Calderon*, 150 F.3d 976, 981 (9th Cir. 1998); Rose Decl. ¶¶ 2, 5; Chariton Decl. ¶¶ 3–7. And “neither the First Amendment claim nor the injunctive relief requested requires the participation of individual members” not already named in the instant action. *Cal. First Amend. Coal.*, 150 F.3d at 981 (9th Cir. 1998).⁷

Insofar as Defendants challenge injury, Plaintiffs’ showing suffices to establish that their injuries are likely to recur. Where, as here, “actual repeated instances are documented,” the likelihood of recurrence “ceases to be speculative.” *Index Newspapers*, 977 F.3d at 826 (quoting *Thomas v. Cnty of Los Angeles*, 978 F.2d 504, 507 (9th Cir. 1992)). Plaintiffs proffer evidence that some journalists faced repeated violations. *See* Nigro Decl. ¶¶ 5–7, 10–11 (averring that he was

⁷ Both Plaintiffs have also established organizational standing. If journalists lack access to hotspots of protest activity, media outlets like Status Coup cannot fulfil their “core business activit[y]” of delivering content from the frontlines of exigent events. *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. at 395; Chariton Decl. ¶¶ 3–10. Similarly, the Defendants’ assault on journalists defeats LA Press Club’s core mission of “support[ing], promot[ing] and defend[ing] quality journalism.” Rose Decl. ¶¶ 2, 6–10, 17, 21–23 (describing how DHS actions have frustrated the LA Press Club’s longstanding efforts to expand press rights and to fundraise to maintain its programming).

1 targeted on a bridge and later shot in the head by a projectile); Beckner-Carmitchel Decl. ¶¶ 1, 5–6
2 and Supplemental Beckner-Carmitchel Decl. ¶ 4 (dispersed on June 8 and kettled again on July 4).
3 And Defendants’ conduct has “persisted for weeks and [is] ongoing,” as Plaintiffs moved for
4 contempt on August 13, contending that the LAPD again denied journalists access. *Ex Parte*
5 Application for Contempt.

6 Protests are certain to continue in the weeks and months to come. LA Press Club members
7 and Status Coup journalists intend to cover these events, placing themselves in the LAPD’s line of
8 fire. Rose Decl. ¶ 61; Chariton Decl. ¶¶ 3–4, 6; Berg Decl. ¶ 5 (“To do my job I need to be close to
9 the protests.”). In light of the LAPD’s history, *see supra* Part I, Defendants are unlikely to
10 spontaneously comply with statutory and constitutional requirements. *Multi-Ethnic Immigr.*
11 *Workers*, 246 F.R.D. at 628 (“Although steps were taken in the immediate aftermath of previous
12 litigation, nevertheless new instances of misconduct occurred.”). And unlike in *City of Los*
13 *Angeles v. Lyons*, 461 U.S. 95 (1983)—where plaintiff could avoid further injury by
14 “avoid[ing] . . . illegal conduct”—Plaintiffs were injured engaging in newsgathering. *Hodgers-*
15 *Durgin v. de la Vina*, 199 F.3d 1037, 1041 (9th Cir. 1999) (citing *Spencer v. Kemna*, 523 U.S. 1, 15
16 (1998)). Taken together, “no string of contingencies [is] necessary to produce an injury.” *Id.* at
17 1041–42.⁸

18
19 ⁸ The Court is cognizant of the discussion of standing in Justice Kavanaugh’s very recent
20 concurrence in *Noem v. Vasquez Perdomo*. 606 U.S. ___, 2025 WL 2585637, at *2–3 (Kavanaugh,
21 J., concurring) (discussing *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983)). Plaintiffs’ theory of
22 standing here is distinguishable from that in *Vasquez Perdomo* and in *Lyons*. There, plaintiffs
23 alleged that they were stopped by law enforcement—in *Vasquez Perdomo*, without reasonable
24 suspicion of unlawful presence, and in *Lyons*, that he was subsequently subjected to an unlawful
25 chokehold. The Court in *Lyons* and Justice Kavanaugh in *Vasquez Perdomo* found that plaintiffs
26 “ha[d] no good basis to believe that law enforcement will unlawfully”—or imminently—“stop them
27 in the future.” 2025 WL 2585637 at *2. There was thus not a “sufficient likelihood” that the
28 plaintiffs, as opposed to “any other citizen of Los Angeles,” would “again be wronged in a similar
way.” *Id.* (quoting *Lyons*, 461 U.S. at 111).

26 The same is not true here. Plaintiffs’ injuries recurring does not depend on them happening to be in
27 the wrong place at the wrong time, such that they, as opposed to someone else, encounter law
28 enforcement’s unlawful actions. Instead, Plaintiffs aver that they intend to continue covering the
protests where these very actions are happening. *See* Rose Decl. ¶ 61; Chariton Decl. ¶¶ 3–4, 6;
Berg Decl. ¶ 5. And they are well within their rights to do so; indeed, they are protected by the First

D. Likelihood of Success

1. State law claims

a. Section 409.7

As discussed, California Penal Code section 409.7 codifies specific protections for journalists and the news media when officers close the areas surrounding command posts or establish a police line or rolling closure at a protest. It provides that duly authorized representatives of news services may enter closed areas without being cited for failure to disperse, curfew violations, or obstruction. Cal. Pen. Code § 409.7(1), (3). It also provides that officers shall not intentionally assault, interfere with, or obstruct such representatives in the gathering, receiving, or processing information for communication to the public. *Id.* § 409.7(2).

Plaintiffs have presented credible (and persuasive) evidence of numerous instances in which LAPD officers appear to aim at individuals easily identifiable as members of the press. Jeremy Lindendorf, for example, was shot in the abdomen from approximately 25 feet away while he was wearing a press ID and a helmet emblazoned with “PRESS.” Rose Decl. ¶ 36, Ex. 46. Michael Nigro was shot at while he stood on a pedestrian overpass far from the protest activity, clad in a helmet and vest clearly reading PRESS.⁹ Nigro Decl. ¶¶ 2, 5–7, 16; Whiteman Decl. ¶ 15b, Ex. K at 17:41:56–17:42:45; *id.* at 17:41:53 (three shots audible). Héctor Adolfo Quintanar Perez, wearing a large press badge and carrying two professional cameras, was shot with a projectile in the knee by an LAPD officer standing close enough to see his press badge. Perez Decl. ¶¶ 2, 7–8; Rose Decl. ¶ 54,

Amendment. *Leigh v. Salazar*, 677 F.3d 892, 898 (9th Cir. 2012) (“[T]he Supreme Court has long recognized a qualified right of access for the press and public to observe government activities.”); *Askins v. U.S. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018) (“The First Amendment protects the right to photograph and record matters of public interest.”).

Because Plaintiffs intend to continue to be present at ongoing protests, protests at which Defendants target or fire indiscriminately upon the press, the risk of recurrence of their injuries is not speculative in the way it was in *Lyons* or *Vasquez Perdomo*.

⁹ The Court acknowledges, however, that Nigro averred that he saw both LAPD and National Guard officers carrying crowd control weapons. Nigro Decl. ¶ 6.

1 Exs. 13, 10; Gomez Decl., Ex. Y.¹⁰ This is strong evidence of “intention[al] assault[s]” by LAPD
2 officers on “duly authorized representative[s]” of “news service[s]” who are “gathering, receiving, or
3 processing information for communication to the public.”

4 On other occasions, LAPD officers forced journalists to leave closed areas, as they did to
5 CNN reporter Jason Carroll and his crew while they were live on air. Rose Decl. ¶ 39, Ex. 50;
6 Whiteman Decl. ¶ 15d, Ex. N. Tina Berg, a Status Coup journalist who was forced from her position
7 on an embankment over 100 feet from protestors purportedly for her own safety, Berg Decl. ¶¶ 2–4;
8 Gomez Decl. ¶ 21, Ex. V at 20:26:58–20:48:46, and a group of multiple people wearing “PRESS”
9 helmets and carrying large cameras were dispersed from the corner of Fourth and Olive. Rose Decl.
10 ¶ 43, Ex. 56. This violates Penal Code section 409.7, which expressly permits journalists to be in
11 areas closed to the public. Cal. Pen. Code § 409.7(a)(1).¹¹ Section 409.7 countenances dispersal of
12 _____

13 ¹⁰ To be sure, these are not isolated instances: Montez Harris, who carried two large professional
14 cameras, was run into with a horse, threatened with a baton, and shot in the back of the leg with an
15 LLM while walking away. Harris Decl. ¶¶ 5–6; Gomez Decl. ¶¶ 34–36, Exs. GG, HH, II at
16 18:52:15–18:52:37. An unidentified woman photographer with press identification and multiple
17 professional cameras was pushed and run into by a horse while walking away from officers.
18 Beckner-Carmitchel Decl. ¶¶ 5–6, Ex. 36; Gomez Decl. ¶ 39, Ex. LL at 19:31:15–19:32:29. Officers
19 shoved both Matt Gutman and Erin Burnett while they were reporting on live TV. Rose Decl. ¶ 51,
20 Ex. 69; Whiteman Decl. ¶ 15f, Exs. R, S; Rose Decl. ¶ 38, Ex. 49.

21 ¹¹ The legislative history answers several of the questions the City raises regarding 409.7 and renders
22 irrelevant many of their factual disputes regarding the application of that section to these facts.

23 It is clear, for example, that the question of who counts as a “duly authorized representative” of the
24 news media is decided by the news media, not the officers on scene. Opposition at 2. See 67 Cal.
25 Op. Att’y Gen. 535, 539 (1984) (interpreting the same phrase in section 409.5 to refer to “the news
26 station, newspaper, or radio or television station or network having ‘duly authorized’ the individual
27 to be its representative at the site,” not “someone authorized to be in the area by the law enforcement
28 officer”); compare Sen. Bill 98, 2021–2022 Reg. Sess. (May 20, 2021) (“A duly authorized
representative of any news service . . . may enter the closed areas described in this section *upon
receiving authorization from a commanding officer on scene.*” (emphasis added)) with Cal. Pen.
Code § 409.7 (which does not include the italicized).

26 The legislative history also clarifies that “safety” alone is not a permissible reason to exclude
27 journalists from closed areas. Gomez Decl. ¶ 21, Ex. V at 20:26:58–20:28:46 (telling Berg to leave
28 the location for her and the LAPD’s safety). Indeed, *Leiserson*, in interpreting the adjacent section
409.5—which the legislature intended to guide the application of section 409.7—reasoned that
journalists’ access *could not* be limited by safety arguments, as the Legislature contemplated the

1 journalists from these closed areas only if “police personnel at the scene reasonably determine that
2 such unrestricted access *will interfere* with emergency operations,” and even then the restrictions
3 must be “for only so long and only to such an extent as is necessary to prevent actual interference.”
4 *Leiserson*, 184 Cal. App. 3d at 51 (emphasis in original); Ass. Pub. Safety Comm. Analysis 6, Sen.
5 Bill 98, 2021–2022 Reg. Sess. (citing same). Defendants proffer no evidence here that these
6 journalists were interfering with emergency law enforcement operations.¹²

7 In other instances, the LAPD forced journalists to remain within certain areas. Harris was
8 kettled and pushed against a wall with a group of protestors. Harris Decl. ¶¶ 2, 4, 8. Another group
9 of press, including a Fox News journalist and freelancers, were kettled in front of City Hall and not
10 permitted to leave. Rose Decl. ¶ 48, Exs. 61–64. Yet another group of press was kettled in the
11 MOCA Geffen parking lot and was not permitted to leave for some time. Supplemental Beckner-
12 Carmitchel Decl. ¶ 4. All of these people identified themselves as press to the relevant officers. In
13 another instance, LAPD officers held a group of approximately 20 to 30 journalists from MSNBC,
14 CNN, the AP, and other outlets in a designated “press area” behind their SUVs. Chinae Decl. ¶¶ 12–
15 21, Ex. 43; Dameworth Decl. ¶¶ 5–10, Ex. C. This, too, violates section 409.7. Cal. Pen. Code
16 409.7(a)(1), (2); *Leiserson*, 184 Cal. App. 3d at 50 (“We [] have serious concerns about how a
17 designated press area . . . comports with a statute which specifically authorizes representatives of the
18 press to enter closed areas.”). Yet again, Defendants proffer no evidence that journalists were
19 interfering with police operations. Indeed, in the last incident, body worn video shows that the
20 journalists did not interfere with officers’ access to their vehicles. Chinae Decl. ¶¶ 12–21, Ex. 43;
21 Dameworth Decl. ¶¶ 5–10, Ex. C.

22
23 existence of a safety hazard and “concluded that the public’s right to know is more important.” 184
24 Cal. App. 3d at 50. *See* July 12, 2021 Assembly Committee on Public Safety Report, at 6 (citing
25 *Leiserson*, 184 Cal. App. 3d at 51) (“In regards to access, the author submits that case law
adequately addresses an[y] potential problems that may arise.”).

26 ¹² Commander Whiteman avers that Carroll and his crew were in “an inner perimeter during a mass
27 arrest,” but the Court can evince no evidence that they were interfering with the officers’ operations.
28 Whiteman Decl. ¶ 15.d. Insofar as Defendants contend that this area is a “crime scene,” from which
media must be excluded to preserve evidence, such an interpretation would render section 409.7 a
dead letter. *Id.* ¶¶ 11, 15.d., Ex. I.

1 **b. Section 13652**

2 Penal Code section 13652 permits the use of “kinetic energy projectiles” or “chemical
3 agents” to disperse protests “only . . . if the[ir] use is objectively reasonable to defend against a
4 threat to life or serious bodily injury to any individual . . . or to bring an objectively dangerous and
5 unlawful situation safely and effectively under control, and *only* in accordance with *all* of the
6 following requirements:”

7 (2) “Repeated, audible announcements are made announcing the intent to use kinetic energy
8 projectiles and chemical agents . . . when objectively reasonable to do so.”

9 (4) “[K]inetic energy projectiles or chemical agents are targeted toward those individuals
10 engaged in violent acts. Projectiles shall *not* be aimed indiscriminately into a crowd or group
11 of persons.”

12 (6) “Officers shall minimize the possible incidental impact of their use . . . on [*inter alia*]
13 journalists[.]”

14 Cal. Pen. Code § 13652(b) (emphases added).

15 The evidence before the Court establishes a substantial likelihood that the LAPD has violated
16 several of these provisions. As noted *supra*, far from minimizing the impact on journalists, the
17 LAPD appeared to target journalists. On other instances, LAPD officers aimed projectiles
18 “indiscriminately into [] crowd[s] or group[s] of persons.” Cal. Penal Code § 13652(b)(4). For
19 example, LAPD discharged “skip-fire” rounds into a group of protestors and journalists, hitting
20 CalMatters reporter Sergio Olmos. Rose Decl. ¶ 32, Ex. 40; Gomez Decl. ¶ 47, Ex. TT. An LAPD
21 officer shot a rubber bullet with Lauren Tomasi of 9News Australia—reporting live on air—directly
22 in his sightline. Rose Decl. ¶ 26, Ex. 30; Gomez Decl. ¶ 9, Ex. J. In another instance, LAPD
23 officers fired rubber bullets into the crowd, hitting photographer Marshall Woodruff, slicing open his
24 right eye and leaving him with potentially permanent vision loss. Rose Decl. ¶ 53, Ex. 70.

25 Insofar as the impact on journalists was purportedly “incidental,” Defendants provide no
26 evidence that they attempted to minimize the impact on these occasions. *Id.* § 13652(b)(6). On at
27 least one instance, LAPD officers deployed LLMs and tear gas without warning, even when such
28

warnings would have been feasible and objectively reasonable. *Id.* § 13652(b)(2). *See* China Decl. ¶¶ 25–28, Ex. 78.

Plaintiffs have thus shown a strong likelihood of success on the merits of their claims arising out of California Penal Code sections 409.7 and 13652.¹³

2. Federal claims¹⁴

In the alternative, Plaintiffs advance two federal constitutional claims: that Defendants retaliate against journalists and that Defendants impinge upon their right of access. Motion at 11–14. The Court finds that these two federal constitutional claims also support the requested relief.

a. First Amendment right of access

In asking “whether plaintiffs have a constitutionally protected right to access the public forum where the protests [were] staged,” the Ninth Circuit applies the two-step *Press-Enterprise II* test. *Index Newspapers*, 977 F.3d at 829 (citing *Press-Ent. Co. v. Super. Ct. of Cal.*, 478 U.S. 1 (1986)). First, courts ask “whether the place and process has historically been open to the press and general public” and “whether public access plays a significant positive role in the functioning of the particular process in question.” *Id.* (quoting *Press-Ent.*, 478 U.S. at 8). If a qualified right of access exists, the government can overcome that right if it demonstrates “an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” *Id.* (quoting *Press-Ent.*, 478 U.S. at 9).

As an initial matter, each of the alleged incidents took place on the City’s public streets and sidewalks, “the archetyp[ical] . . . traditional public forum.” *Snyder v. Phelps*, 562 U.S. 443, 456 (2011). *See supra* Part II.A. As the Supreme Court has recognized, the public has a strong interest in ensuring access for the press, who serve as “surrogates for the public.” *Richmond Newspapers*,

¹³ Because Plaintiffs’ First Amendment and California Penal Code sections 409.7 and 13652 claims justify awarding the complete relief they seek, the Court need not address Plaintiff’s claims under the Bane Act.

¹⁴ The Court notes that its analysis under the California Constitution is identical to its analysis of Plaintiffs’ federal constitutional claims. The California Constitution’s protections for speech in a public forum are at least as extensive as those of the First Amendment. *Cuviello*, 944 F.3d at 827.

1 *Inc. v. Virginia*, 448 U.S. 555, 572–73 (1980). This role is particularly critical where, as here,
2 journalists sought to cover sudden and secretive immigration raids, which the public has limited
3 opportunity to observe firsthand and must “rel[y] necessarily upon the press to bring to [it] in
4 convenient form the facts of those operations.” *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 490–91
5 (1975). Such situations are also especially vulnerable to repression of the press. “When wrongdoing
6 is underway, officials have great incentive to blindfold the watchful eyes of the Fourth Estate.”
7 *Leigh v. Salazar*, 677 F.3d 892, 900 (9th Cir. 2012). If the “free press is the guardian of the public
8 interest,” then the independent judiciary is the guardian of the free press.” *Id.*

9 Defendants do not dispute that on numerous instances, LAPD officers dispersed media
10 alongside protestors. *See supra* Part IV.D.1.b. Accordingly, the burden shifts to Defendants to
11 establish that the dispersal of journalists was narrowly tailored to preserve public safety.

12 Defendants do not meet this burden. Defendants justify dispersing Carroll and his crew, for
13 example, by pointing out that they were in the vicinity of a group being arrested for violating
14 California Penal Code section 409 (unlawful assembly following an order to disperse). Rose Decl.
15 ¶ 39, Ex. 50; Whiteman Decl. ¶ 15d, Ex. N. But Defendants make no showing that Carroll and his
16 crew’s presence hindered their ability to arrest the remaining protestors, that they feared protestors
17 may pose as press to avoid arrest, or any other specific justification requiring the dispersal of press
18 as well as protestors. In other instances, like the dispersal of multiple media members from the
19 corner of Fourth and Olive, Defendants proffer no explanation at all.¹⁵ Plaintiffs’ expert Roger
20 Clark convincingly opines that the LAPD is capable of permitting journalists in closed areas without
21 sacrificing public safety or its own safety. Clark Decl. ¶ 11.

22 Plaintiffs have (at a minimum) raised serious questions as to their right of access claim.
23

24
25 ¹⁵ Defendants correctly point out that, in other instances, they did permit journalists behind skirmish
26 lines. *See* Gomez Decl. ¶¶ 30–31, Ex. CC at 15:31:17–15:32:00, 15:39:10–15:39:20, 15:46:50–
27 15:47:20; Ex. DD at 14:25:30–14:27:05, 14:46:15–14:48:15, 14:54:45–14:58:55 (“They’re press.
28 They’re good.”).). The Court agrees that their behavior in those instances comports with California
Penal Code section 409.7 and the First Amendment. But these instances also prove that permitting
journalists’ access behind closed lines does not (even in tense situations) tactically or logistically
hinder law enforcement operations.

1 **b. First Amendment retaliation**

2 The First Amendment also prohibits government officials from subjecting individuals to
3 retaliation for engaging in protected activities. *Hartman v. Moore*, 547 U.S. 250, 256 (2006). To
4 establish a retaliation claim, a plaintiff must show that: (1) they were engaged in a constitutionally
5 protected activity; (2) [Defendants’] actions would “chill a person of ordinary firmness from
6 continuing to engage in the protected activity”; and (3) “the protected activity was a substantial or
7 motivating factor in [Defendants’] conduct.” *Index Newspapers*, 977 F.3d. at 827.

8 Defendants do not—and cannot—meaningfully dispute that journalists were engaged in
9 constitutionally protected activities. *Leigh v. Salazar*, 677 F.3d 892, 898 (9th Cir. 2012) (“[T]he
10 Supreme Court has long recognized a qualified right of access for the press and public to observe
11 government activities.”); *Askins v. U.S. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir.
12 2018) (“The First Amendment protects the right to photograph and record matters of public
13 interest.”). Neither can Defendants contest that “being shot with less-lethal munitions,” being
14 exposed to tear gas, or “being shoved by a law enforcement officer” would deter individuals of
15 ordinary firmness from continuing to engage in the protected activity. *Lacey v. Maricopa County*,
16 693 F.3d 896, 917 (9th Cir. 2012); *Index Newspapers*, 977 F.3d. at 827 n.4

17 Rather, Defendants contend that the LAPD’s uses of force do not evince retaliatory animus.
18 Opposition at 14–22 (contending that in each instance, any harm to journalists was incidental to
19 officers’ efforts to target protestors engaging in acts of violence). But Defendants cannot explain
20 multiple instances where LAPD officers apparently targeted journalists who distinguished
21 themselves as journalists. *See supra* Part IV.D.1.a.; *Index Newspapers*, 977 F.3d at 829 (finding that
22 injuries to journalists and legal observers “standing nowhere near protestors” constitute
23 “exceptionally strong evidentiary support” for retaliation).

24 And even accepting that LAPD officers were at times unable to distinguish journalists from
25 protestors, officers (at the very least) appeared to use near-lethal force against nonresistant and non-
26 assaultive subjects recording their actions. Clark Decl. ¶ 12 (noting that use of crowd control
27 devices are only necessary in face of resistant or assaultive subjects); *id.* ¶ 19, Ex. D (Directive No.
28 17.1) (“Less-lethal force options shall not be used on a suspect or subject who is passively resisting

1 or merely failing to comply with commands.”). For example, officers pushed and ran a horse into a
2 woman carrying multiple professional cameras who was evidently attempting to walk away from
3 officers. Beckner-Carmitchel Decl. ¶ 6, Ex. 37. Harris was attempting to comply with orders to
4 leave when officers ran into him with his horse and shot him in the back of the leg with a projectile.
5 Harris Decl. ¶ 6; Gomez Decl. ¶¶ 34–35, Exs. GG, HH, II at 18:52:15–18:52:37. An LAPD
6 mounted officer charged Healy, a 82-year-old carrying two large professional cameras, with his
7 horse, knocking Healy to the ground and breaking one of his ribs. *Id.* ¶ 55, Ex. 72; Gomez Decl.
8 ¶¶ 28–29, Ex. AA at 16:02:05–16:05:35, Ex. BB at 16:05:00–16:05:30. This alone suffices to raise
9 an inference of retaliation. *See Anti Police-Terror Project v. City of Oakland*, 477 F. Supp. 3d 1066,
10 1088 (N.D. Cal. 2020) (“ . . . [A]ggressive conduct . . . such as shooting a reporter with a rubber
11 bullet even though it does not appear she was engaged in illegal activity or posed a threat of any
12 kind, raises a serious question as to [retaliation].”).

13 At a minimum, Plaintiffs have raised serious questions as to their First Amendment
14 retaliation claims.

15 **c. Monell liability**

16 To prevail on their municipal liability claims, Plaintiffs must establish not only constitutional
17 injuries, but must also prove that (1) the city employee committed the alleged constitutional
18 violation pursuant to a formal policy or longstanding practice that constitutes the standard operating
19 procedure of the governmental entity; (2) the individual who committed the constitutional violation
20 was an official with final policy-making authority; or (3) an official with final policy-making
21 authority ratified a subordinate’s unconstitutional action and the basis for it. *Trevino v. Gates*, 99
22 F.3d 911, 918 (9th Cir. 1996), *holding modified by Navarro v. Block*, 250 F.3d 729 (9th Cir. 2001)
23 (quoting *Gillette v. Delmore*, 979 F.2d 1342, 1346–47 (9th Cir. 1992), *cert. denied*, 510 U.S. 932
24 (1993)). After showing the existence of one of these conditions, a plaintiff must also prove that the
25 condition was the cause-in-fact and the proximate cause of the constitutional deprivation. *Id.* (citing
26 *Arnold v. Int’l Bus. Mach. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981)).
27
28

1 The parties do not contest that LAPD’s formal, written policies comport with the First
2 Amendment. Whiteman Decl. ¶ 11, Ex. I. But Defendants may not “avoid liability by pointing to a
3 pristine set of policies.” *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1076 n.10 (9th Cir. 2016)
4 (citing *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988)). A policy or custom “may be
5 inferred from widespread practices or evidence of repeated constitutional violations for which the
6 errant municipal officers were not discharged or reprimanded.” *Menotti v. City of Seattle*, 409 F.3d
7 1113, 1147 (9th Cir. 2005) (citation omitted).

8 Here, Plaintiffs have established that the LAPD has a consistent custom or practice of
9 dispersing the press and subjecting them to unlawful uses of force. *See supra* Part I; *Multi-Ethnic*
10 *Immigr. Workers*, 246 F.R.D. at 627 (recounting the history of “unlawful dispersal orders and
11 excessive force orders against demonstrators,” leading to “settlements that set forth standards for the
12 LAPD in regards to unlawful assemblies, dispersal orders, and treatment of the media”). Indeed, the
13 passage of sections 409.7 and 13652 were motivated (in part) by the LAPD’s long history of
14 constitutional violations against media. *See* Sen. Pub. Safety Comm. Analysis, Sen. Bill 98, 2021–
15 2022 Reg. Sess. at 5–6 (noting uses of force against media in Los Angeles); Assem. Pub. Safety
16 Comm. Analysis, Sen. Bill 48, 2021–2022 Reg. Sess. at 11 (same). The similarity of Plaintiffs’
17 allegations with the LAPD’s historical violations also suggests that Defendants’ practices were the
18 moving force behind Plaintiffs’ allegations. Given this record—and the sheer number of instances
19 proffered by Plaintiffs—the Court is satisfied that Plaintiffs have met their burden of showing a
20 likelihood of prevailing on their *Monell* claims.

21 **E. Irreparable Harm**

22 As both the Ninth Circuit and the Supreme Court have repeatedly affirmed, “[t]he loss of
23 First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable
24 injury.” *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009) (quoting *Elrod v. Burns*,
25 427 U.S. 347, 373 (1976)). “[A] party seeking preliminary injunctive relief in a First Amendment
26 context can establish irreparable injury sufficient to merit the grant of relief by demonstrating the
27 existence of a colorable First Amendment claim.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02
28 (9th Cir. 2005) (quotation marks omitted).

1 Plaintiffs have established to the Court’s satisfaction that they are likely to face continued
2 deprivation of their First Amendment rights. Even insofar as their injuries are rooted in statutory
3 claims, Plaintiffs risk—and in some cases, already suffered—serious injury or permanent disability
4 at the hands of the LAPD. Haar Decl. ¶¶ 17–28; Perez Decl. ¶ 11 (averring that he still lives with
5 chronic pain and walks with a cane); Rose Decl. ¶ 53 (averring that it is uncertain if Woodruff will
6 regain his vision); *id.* ¶ 55, Ex. 72 (averring that 82-year-old David Healy suffered a broken rib).
7 These risks in turn chill Plaintiffs’ exercise of protected activities, piling on further First Amendment
8 deprivations.

9 Accordingly, Plaintiffs have shown that they are “likely to suffer irreparable harm in the
10 absence of preliminary relief.” *See Winter*, 555 U.S. at 20.

11 **F. Balance of Equities and Public Interest**

12 Finally, the Court finds that the balance of hardships “tips sharply” in favor of Plaintiffs. *All*
13 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–32 (9th Cir. 2011). Here, Plaintiffs raise
14 “serious First Amendment questions” and face the prospect of serious injury, disability, or death if
15 they persist in protected newsgathering activities. *Cnty. House, Inc. v. City of Boise*, 490 F.3d 1041,
16 1059 (9th Cir. 2007) (citation omitted); Haar Decl. ¶¶ 17–28. In contrast, because the injunction
17 mirrors the Defendants’ own policies, compliance poses no significant hardship.

18 “It is always in the public interest to prevent the violation of a party’s constitutional rights.”
19 *Index Newspapers*, 977 F.3d at 838 (citation omitted). Insofar as Defendants’ actions hinder
20 journalists’ ability to act as “surrogates for the public,” the public is also served by injunctive relief.
21 *Richmond Newspapers*, 448 U.S. at 572–73. Defendants assert an important public interest in the
22 safety of officers and the public, but they have not made a showing that permitting journalists in
23 closed areas or limiting the use of crowd control weapons (as already required by California law)
24 poses any risk to officers or the public. *See Clark Decl.* ¶ 11. The Court’s injunction does not shield
25 anyone—even those who purport to be members of media—who engages in violent or unlawful
26 behavior. Indeed, the state legislature, after carefully weighing the interests of police, journalists,
27 and the public, found that the additional protections of sections 409.7 and 13652 were necessary to
28 adequately protect journalists and the public that relies on them. This Court agrees.

1 **G. Scope of Relief**

2 Defendants contend that Plaintiffs impermissibly seek injunctive relief on behalf of
3 nonparties. Opposition at 24. The Court disagrees.

4 The Ninth Circuit has long held that injunctive relief “must be tailored to remedy the specific
5 harm alleged.” *Melendres v. Arpaio*, 784 F.3d 1254, 1265 (9th Cir. 2015) (quoting *Lamb-Weston,*
6 *Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 974 (9th Cir. 1991)). An injunction against state actors
7 must not “require more of state officials than is necessary to assure their compliance with the
8 constitution.” *Gluth v. Kangas*, 951 F.2d 1504, 1509 (9th Cir. 1991) (internal quotation marks
9 omitted). Reacting to a surge in nationwide injunctions, the Supreme Court clarified that district
10 courts lack authority to issue orders “broader than necessary to provide complete relief to each
11 plaintiff with standing to sue.” *Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2550, 2562–63 (2025). But
12 *CASA* does not disturb the general principle that injunctions may “incidentally” benefit nonparties.
13 *Id.*; *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1244 (9th Cir. 2018) (quoting
14 *Bresgal v. Brock*, 843 F.2d 1163, 1170–71 (9th Cir. 1987)) (“[A]n injunction is not necessarily made
15 overbroad by extending benefit or protection to persons other than [the] prevailing parties in the
16 lawsuit . . . if such breadth is necessary to give prevailing parties the relief to which they are
17 entitled.”).

18 Here, an injunction restricted to members of the LA Press Club and Status Coup would be
19 wholly ineffective in affording Plaintiffs complete relief. Indeed, the nature of Defendants’
20 constitutional violations **requires** some incidental benefits to third parties. Plaintiffs allege—and
21 have shown, for preliminary purposes—that Defendants indiscriminately deployed force against
22 Plaintiffs’ members. See Part II.A.2. Defendants—confronting the exigencies of large-scale
23 protests—are unlikely to be able to determine whether an individual is a member of the LA Press
24 Club or Status Coup before using force. See *Easyriders Freedom F.I.G.H.T. v. Hannigan*, 92 F.3d
25 1486, 1502 (9th Cir. 1996). Even if they could, Plaintiffs could not be assured of any meaningful
26 protection if Defendants were nonetheless permitted to (for example) deploy a volley of rubber
27 bullets at those immediately adjacent to Plaintiffs’ members. For these reasons, the Court finds that
28

1 an injunction applying to all journalists within the LAPD's purview is necessary to afford Plaintiffs
2 complete relief.

1 **V. CONCLUSION¹⁶**

2 Accordingly, the Court ORDERS Defendants and their officers, agents, servants, employees,
3 attorneys and any person in active concert or participation with any of the foregoing persons
4 (collectively, the “LAPD”) as follows:

5 1. The LAPD is hereby ENJOINED from:

- 6 a. Arresting, detaining, or citing any journalist covering a protest in Los Angeles for
7 not dispersing following the issuance of an order to disperse; and
8 b. Interfering with the rights of journalists to cover a protest in Los Angeles;
9 retaliating against journalists for engaging in such coverage by using force against
10 them; or arresting, detaining, or citing journalists who are covering such protests.
11 c. This order does not authorize journalists to impede, block, or otherwise physically
12 interfere with lawful activities of LAPD officers.
13 d. This order does not prevent LAPD officers from detaining, arresting, or citing any
14 person, journalist or otherwise, who engages in such physical interference or
15 commits an unlawful act, other than an alleged failure of a journalist to comply
16 with a dispersal order.

17 2. If LAPD establishes a police line or rolling closure at a demonstration, march, protest, or
18 rally where individuals are engaged in activity that is protected pursuant to the First
19 Amendment to the United States Constitution or Article I of the California Constitution,
20 LAPD is ENJOINED from:

21
22
23 ¹⁶ Federal Rule of Civil Procedure 65(c) requires that, prior to granting injunctive relief, the Court
24 require a movant to pay security “in an amount that the court considers proper to pay the costs and
25 damages sustained by any party found to have been wrongfully enjoined or restrained.” “Despite the
26 seemingly mandatory language, Rule 65(c) invests the district court with discretion as to the amount
27 of security required, if any.” *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (quoting
28 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003)) (quotation modified). Accordingly, the
Court waives the bond requirement here, as it is unlikely that Defendants will incur any significant
cost and requiring a bond “would have a negative impact on plaintiff’s constitutional rights, as well
as the constitutional rights of other members of the public.” *Baca v. Moreno Valley Unified Sch.*
Dist., 936 F. Supp. 719, 738 (C.D. Cal. 1996) (citation omitted).


- a. Prohibiting a journalist from entering or remaining in the closed areas, unless access will interfere with emergency operations, in which case access may be denied for only so long and only to such an extent as is necessary to prevent actual interference.
 - b. Intentionally assaulting, interfering with, or obstructing any journalist who is gathering, receiving, or processing information for communication to the public (including by restricting journalists to areas from which they do not have sufficient opportunity to observe and report on protests, including the interaction between police and protestors).
 - c. Citing, detaining, or arresting a journalist who is in a closed area for failure to disperse, curfew violation, or obstruction of a law enforcement officer for gathering, receiving, or processing information. If LAPD detains or arrests a person who claims to be a journalist, that person shall be permitted to promptly contact a supervisory officer of the rank of captain or above for purposes of challenging that detention, unless circumstances make it impossible to do so.
3. LAPD is further ENJOINED from using less-lethal munitions (“LLMs”) and other crowd control weapons (including kinetic impact projectiles (“KIP”s), chemical irritants, batons, and flash-bangs) against journalists who are not posing a threat of imminent harm to an officer or another person. LAPD is ENJOINED from using LLMs and crowd control weapons except when objectively reasonable to defend against an imminent threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control.
 - a. Prior to the discharge of any LLMs, Defendants shall make repeated, audible announcements, announcing the intent to use kinetic energy projectiles and chemical agents. The announcements shall be documented, made from various locations, if necessary, and delivered in multiple languages, if appropriate, to ensure their communication.
 - b. Journalists shall be allowed to remain and/or allowed to move to an area outside the direct target area for the discharge of LLMs.

- c. Kinetic energy projectiles shall not be aimed at the head, neck, back, or any other vital organs (including face, eyes, kidneys, chest, groin, or spine).
 - d. Kinetic energy projectiles or chemical agents shall not be used by any law enforcement agency solely due to any of the following:
 - i. A violation of an imposed curfew.
 - ii. A verbal threat.
 - iii. Noncompliance with a law enforcement directive.
4. LAPD does not violate this Order if a journalist is incidentally exposed to crowd control devices after remaining in the area where such devices were deployed and LAPD has otherwise complied with the terms of this injunction, including legally sufficient advance notice that the LLMs will be deployed.
5. “Journalist” includes any duly authorized representative of any news service, online news service, newspaper, or radio or television station or network. To facilitate the Defendants’ identification of Journalists protected under this Order, the following shall be considered indicia of being a Journalist: visual identification as a member of the press, such as by carrying a professional or authorized press pass, carrying professional gear such as professional photographic equipment, or wearing a professional or authorized press badge or other official press credentials, or distinctive clothing, that identifies the wearer as a member of the press. It also shall be an indicium of being a Journalist under this Order that the person is standing off to the side of a protest, not engaging in protest activities, and not intermixed with persons engaged in protest activities, although these are not requirements. These indicia are not exclusive, and a person need not exhibit every indicium to be considered a Journalist under this Order. Defendants shall not be liable for unintentional violations of this Order in the case of an individual who does not carry or wear a press pass, badge, or other official press credential, professional gear, or distinctive clothing that identifies the person as a member of the press.
6. Nothing in this Order precludes LAPD from detaining or arresting a journalist who engages in any unlawful activity other than remaining in a closed area or failing to disperse as discussed above. Nothing in this order precludes LAPD from issuing

otherwise lawful crowd-dispersal orders except that members of the press are not subject to such orders.

7. To promote compliance with this Preliminary Injunction, LAPD is ordered to notify all sworn officers of the Court's issuance of the preliminary injunction within 72 hours and within this period provide a summary of the Court's findings and the specific provisions set out in the first six provisions of this Preliminary Injunction. LAPD is further ordered to incorporate such notice in all appropriate Department Manual sections and Crowd Control training materials. Nothing in this provision prevents LAPD from providing its officers with further information or training to ensure compliance with this Order and its legal obligations to protect journalists at protests from unlawful detention, arrest, and use of force. LAPD shall provide Plaintiffs with a copy of any training or notification related to this provision given to all officers or to officers assigned to protests.
8. The Department shall re-issue their policies on policing protests, along with this preliminary injunction, at least annually to all officers and shall require officers' acknowledgment that they reviewed them. The Department shall not deploy to a protest any officer that has not acknowledged review within the previous year.
9. At any protest to which LAPD deploys, the Department shall appoint at least one member of the Department at the rank of lieutenant or above, whose primary assignment shall be to ensure compliance with the terms of this Order and the Department's legal obligations as to journalists. The Department shall provide Plaintiffs with the name, email, and a cell phone number for the assigned liaison officer to allow reporting and resolution of any possible violations of this Order.

Dated: September 10, 2025


Hernán D. Vera
United States District Judge