

OBSTRUCTION OF STREETS AND SIDEWALKS

This order establishes policies regarding enforcement of Section 647c of the Penal Code and Section 22 of the Municipal Police Code and explains applicable guidelines and terms of each law.

I. POLICY

- A. ELEMENTS OF VIOLATION.** It is the policy of the San Francisco Police Department that officers be able to articulate specific facts that support every element of Penal Code Section 647c and Municipal Police Code Section 22 before taking enforcement action.
- B. CROWDS/DEMONSTRATIONS.** When obstructing offenses occur in lawful demonstrations or large public assemblies, officers shall warn persons to desist obstructing prior to enforcing Section 22 MPC (see DGO 8.03, *Crowd Control and Crowd Control Manual*).
- C. Both 647c PC and 22 MPC have been narrowly defined and must be narrowly enforced.** Neither section shall be used for mass arrests or "street sweeps," except as provided above.
- D. CITE VS BOOKING.** See DGO 5.06, Citation Release.

II. GUIDELINES

- A. Penal Code Section 647c is a misdemeanor and is intended to be used only when the normal access to public places is willfully and maliciously obstructed.**
- B. Municipal Police Code Section 22 is an infraction and is intended to be used when a person persists in willfully and substantially obstructing the free movement of another person in a public place.**
- C. When enforcing either law, the issue is the obstruction, not drunkenness, streetwalking, or any other suspicious or illegal activity; however, these and other disorderly conduct activities may also involve obstruction.**

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D. After issuing a citation for Section 22 MPC, the arresting officer should advise the arrested person that another violation of Section 22 MPC within 24 hours constitutes a misdemeanor pursuant to Section 23 MPC. See DGO 5.06, Citation Release.

E. REQUIRED ELEMENTS/ DEFINITION OF TERMS

1. "Willful" means a willingness to commit the act. It does not require any intent to violate the law. Confused or unintentional actions, or accidents are not willful actions.
 2. "Malice" means a wish to vex, annoy, or harass the person being obstructed. Examples of malice include, but are not limited, to:
 - a. Failure by the suspect to cease the obstructing after a repeated request.
 - b. Touching or grabbing the clothing of a person.
 - c. Intentionally placing or interposing one's body in the normal path of a person's approach.
 3. "Obstruction" means intentionally placing one's body in the normal path of a person's approach causing the person's "free movement" to be obstructed. Causing a slight deviation in a pedestrian's path does not necessarily constitute an illegal obstruction, nor does the mere presence of a person on a sidewalk. A street or sidewalk cannot be obstructed, only a person. When arrests are made for violation of either 647c PC or 22 MPC, officers shall make reasonable efforts to identify, but at least, must describe person(s) who were obstructed by the party to be arrested or cited.
 4. "Substantially" means materially as opposed to a petty annoyance or a slight inconvenience.
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