



# DEPARTMENT NOTICE

24-070

Published: 04/26/24

Expires: 04/26/27

## **Access to Reproductive Health Care Facilities Enforcement of San Francisco Police Code, Article 43 (Update to DB 19-027)**

This purpose of this notice is to provide guidance for members when enforcing San Francisco Police Code Article 43, section 4304. Article 43 which expressly *prohibits following or harassing any person within 25 feet of the entrance of a reproductive health care facility provided that the health care facility has complied with certain procedures.*

### **Section 4302 - Definitions.**

Amplified Sound: a sound augmented by any electronic or other means that increases the sound level or volume beyond that of a conversational speaking voice.

Follow: to physically pursue an individual once that individual has indicated verbally or non-verbally, he or she does not wish to be approached or engage in conversation.

Gathering: two or more individuals.

Harass: to engage in a course of conduct directed at a specific person or persons that alarms, seriously distresses, torments, or terrorizes the person. Harassment does not include, among other things, quiet, consensual conversation conducted from a stationary position. Harassment includes, but is not limited to:

- (a) Approaching within eight feet of a person if that person indicates he or she does not want to be approached, except as necessary to enter or exit the reproductive health care facility;
- (b) Following a person if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property;
- (c) Shouting at a person within 25 feet of the entrance of a reproductive health care facility;
- (d) Intentionally touching or causing physical contact with a person without that person's consent;
- (e) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including, but not limited to (1) intentionally causing a pedestrian to take evasive action to avoid physical contact and/or (2) placing signs on the sidewalk such that the flow of pedestrian traffic is restricted. This subsection (e) shall not prohibit individuals from holding or wearing signs while using the sidewalk; or
- (f) Using violent or threatening gestures toward a person.

Impede: to obstruct, block, detain, or render passage impossible, unsafe, or difficult.

Law Enforcement Official: a member of a law enforcement agency, including but not limited to a member of a municipal, metropolitan or state police department, sheriffs, or deputy sheriffs.

Person: any individual, firm, partnership, joint venture, company, corporation, association, social club, fraternal organization, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit except the United States of America, the State of California, and any political subdivision of either.

Public Safety Official: a member of a law enforcement agency, fire department, or other state, federal, or municipal employee charged with protection of public health or safety.

Reproductive Health Care Facility: a clinic licensed under Chapter 1 (commencing with Section 1200) of Division 2 of the California Health and Safety Code, or any other facility or business that provides reproductive health care services, exclusively or in addition to other health care services. Reproductive health care facility does not include a licensed hospital, or a clinic or other facility owned or operated by a licensed hospital.

Shout: refers to any audible activity not electronically amplified originating from an individual that is beyond that of a conversational speaking voice, including vocalizations that are audible from more than 15 feet away, as well as vocalizations intended to carry from the street or public sidewalk to the inside of a reproductive health care facility.

#### **Section 4303(a) - Prohibition.**

It shall be unlawful to:

- (1) Follow or harass any person within 25 feet of the entrance of a reproductive health care facility; provided, however, that subsection (a)(1) shall not apply unless marking and notice of the boundary zone have been provided as follows: The 25-foot boundary is measured and marked by the Department of Public Works ("DPW") and a notice prepared by DPW is posted conspicuously near the 25-foot boundary.
- (2) Impede access to the door of a reproductive health care facility; or
- (3) Shout, or cause to be produced any amplified sound beyond the volume of a conversational speaking voice, including use of a loudspeaker, bullhorn, or electronic audio instrument or device that produces or reproduces amplified sound, on any public street or sidewalk within 50 feet of the property line of a property housing a reproductive health care facility; provided, however, this particular section (a)(3) shall not apply to the following:
  - (A) Vehicles in compliance with or exempted from California Vehicle Code section 27007;
  - (B) Use of a car horn or other warning device as permitted by California Vehicle Code sections 27000 to 27006; and
  - (C) Law enforcement or public safety officials acting in the scope of their employment, to the extent necessary to attend to public health/safety issues.

#### **Section 4304 - Enforcement.**

Section 4304(a) - Criminal Enforcement. Any person who violates Section 4303 of this Article 43 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by incarceration in the County Jail, fine, or both. Upon a first conviction for violation of Section 4303, the person shall be incarcerated in the County Jail for up to three months, or fined up to \$500, or both. Upon a subsequent conviction for violation of Section 4303, the person shall be incarcerated in the County Jail for up to six months, or fined up to \$1000, or both.

Section 4304(c) Dispersal Order. A law enforcement official may order the immediate dispersal of a gathering that continues to violate Section 4303 after a verbal warning. A dispersal order issued pursuant to this section shall include the following statements: (1) the gathering has substantially impeded access to or departure from the reproductive health care facility; (2) each member of the gathering shall, under the penalty of arrest and prosecution, immediately disperse and cease to stand or be located within at least 25 feet of an entrance or a driveway to the reproductive health care facility; and (3) the order shall remain in place for eight hours or until the close of business of the reproductive health facility, whichever is earlier. This section shall apply during the business hours of a reproductive health care facility and up to one hour before the posted business hours.

**Procedures:**

- (1) Members shall activate Body Worn Cameras (BWC) prior to taking enforcement action, including issuing any verbal dispersal orders.
- (2) Enforcement of Section 4303(a) shall not take into account the content of any demonstration activity. For example, officers shall treat pro-abortion and anti-abortion demonstration activity within the boundary zone as equally in violation of Section 4303(a).
- (3) Nothing in this section 4304(a) shall preclude an officer from enforcing any other state, federal, or municipal laws inside or outside of the buffer zone, including laws prohibiting sidewalk obstruction, aggressive pursuit, or excessive noise.



WILLIAM SCOTT  
Chief of Police

*Per DN 23-152, all sworn & non-sworn members shall electronically acknowledge this Department document in PowerDMS within (30) thirty calendar days of issuance. Members whose duties are relevant to this document shall be held responsible for compliance. Any questions regarding this policy should be sent to [sfpd.writtendirectives@sfgov.org](mailto:sfpd.writtendirectives@sfgov.org), who will provide additional information.*